

1 AN ACT concerning public health.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The AIDS Confidentiality Act is amended by  
5 changing Sections 5 and 9 and adding Section 5.5 as follows:

6 (410 ILCS 305/5) (from Ch. 111 1/2, par. 7305)

7 Sec. 5. No health care provider ~~physician~~ may order an  
8 HIV test without making available to the person tested  
9 information about the meaning of the test results, the  
10 availability of additional or confirmatory testing, if  
11 appropriate, and the availability of referrals for further  
12 information or counseling.

13 (Source: P.A. 85-677; 85-679.)

14 (410 ILCS 305/5.5 new)

15 Sec. 5.5 Rapid testing. The Department shall adopt rules  
16 to allow for the implementation of HIV/AIDS rapid testing.  
17 The rules must include, but need not be limited to, standards  
18 for testing and counseling and dissemination of test results.

19 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

20 Sec. 9. No person may disclose or be compelled to  
21 disclose the identity of any person upon whom a test is  
22 performed, or the results of such a test in a manner which  
23 permits identification of the subject of the test, except to  
24 the following persons:

25 (a) The subject of the test or the subject's legally  
26 authorized representative. A physician may notify the spouse  
27 of the test subject, if the test result is positive and has  
28 been confirmed pursuant to guidelines set by the Department  
29 by-a-Western-Blot-Assay-or-more-reliable-test, provided that

1 the physician has first sought unsuccessfully to persuade the  
2 patient to notify the spouse or that, a reasonable time after  
3 the patient has agreed to make the notification, the  
4 physician has reason to believe that the patient has not  
5 provided the notification. This paragraph shall not create a  
6 duty or obligation under which a physician must notify the  
7 spouse of the test results, nor shall such duty or obligation  
8 be implied. No civil liability or criminal sanction under  
9 this Act shall be imposed for any disclosure or  
10 non-disclosure of a test result to a spouse by a physician  
11 acting in good faith under this paragraph. For the purpose  
12 of any proceedings, civil or criminal, the good faith of any  
13 physician acting under this paragraph shall be presumed.

14 (b) Any person designated in a legally effective release  
15 of the test results executed by the subject of the test or  
16 the subject's legally authorized representative.

17 (c) An authorized agent or employee of a health facility  
18 or health care provider if the health facility or health care  
19 provider itself is authorized to obtain the test results, the  
20 agent or employee provides patient care or handles or  
21 processes specimens of body fluids or tissues, and the agent  
22 or employee has a need to know such information.

23 (d) The Department, in accordance with rules for  
24 reporting and controlling the spread of disease, as otherwise  
25 provided by State law. Neither the Department nor its  
26 authorized representatives shall disclose information and  
27 records held by them relating to known or suspected cases of  
28 AIDS or HIV infection, publicly or in any action of any kind  
29 in any court or before any tribunal, board, or agency. AIDS  
30 and HIV infection data shall be protected from disclosure in  
31 accordance with the provisions of Sections 8-2101 through  
32 8-2105 of the Code of Civil Procedure.

33 (e) A health facility or health care provider which  
34 procures, processes, distributes or uses: (i) a human body

1 part from a deceased person with respect to medical  
2 information regarding that person; or (ii) semen provided  
3 prior to the effective date of this Act for the purpose of  
4 artificial insemination.

5 (f) Health facility staff committees for the purposes of  
6 conducting program monitoring, program evaluation or service  
7 reviews.

8 (g) (Blank).

9 (h) Any health care provider or employee of a health  
10 facility, and any firefighter or EMT-A, EMT-P, or EMT-I,  
11 involved in an accidental direct skin or mucous membrane  
12 contact with the blood or bodily fluids of an individual  
13 which is of a nature that may transmit HIV, as determined by  
14 a physician in his medical judgment.

15 (i) Any law enforcement officer, as defined in  
16 subsection (c) of Section 7, involved in the line of duty in  
17 a direct skin or mucous membrane contact with the blood or  
18 bodily fluids of an individual which is of a nature that may  
19 transmit HIV, as determined by a physician in his medical  
20 judgment.

21 (j) A temporary caretaker of a child taken into  
22 temporary protective custody by the Department of Children  
23 and Family Services pursuant to Section 5 of the Abused and  
24 Neglected Child Reporting Act, as now or hereafter amended.

25 (k) In the case of a minor under 18 years of age whose  
26 test result is positive and has been confirmed pursuant to  
27 guidelines set by the Department by-a-Western-Blot-Assay-or-a  
28 more-reliable-test, the health care provider who ordered the  
29 test shall make a reasonable effort to notify the minor's  
30 parent or legal guardian if, in the professional judgement of  
31 the health care provider, notification would be in the best  
32 interest of the child and the health care provider has first  
33 sought unsuccessfully to persuade the minor to notify the  
34 parent or legal guardian or a reasonable time after the minor

1 has agreed to notify the parent or legal guardian, the health  
2 care provider has reason to believe that the minor has not  
3 made the notification. This subsection shall not create a  
4 duty or obligation under which a health care provider must  
5 notify the minor's parent or legal guardian of the test  
6 results, nor shall a duty or obligation be implied. No civil  
7 liability or criminal sanction under this Act shall be  
8 imposed for any notification or non-notification of a minor's  
9 test result by a health care provider acting in good faith  
10 under this subsection. For the purpose of any proceeding,  
11 civil or criminal, the good faith of any health care provider  
12 acting under this subsection shall be presumed.

13 (Source: P.A. 88-45; 89-381, eff. 8-18-95.)

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.