

1 AN ACT in relation to transplants.

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

4 Section 5. The Department of Public Health Powers and
5 Duties Law of the Civil Administrative Code of Illinois is
6 amended by changing Section 2310-330 as follows:

7 (20 ILCS 2310/2310-330) (was 20 ILCS 2310/55.46)

8 Sec. 2310-330. Sperm and tissue bank registry; AIDS test
9 for donors; penalties.

10 (a) The Department shall establish a registry of all sperm
11 banks and tissue banks operating in this State. All sperm banks
12 and tissue banks operating in this State shall register with
13 the Department by May 1 of each year. Any person, hospital,
14 clinic, corporation, partnership, or other legal entity that
15 operates a sperm bank or tissue bank in this State and fails to
16 register with the Department pursuant to this Section commits a
17 business offense and shall be subject to a fine of \$5000.

18 (b) All donors of semen for purposes of artificial
19 insemination, or donors of corneas, bones, organs, or other
20 human tissue for the purpose of injecting, transfusing, or
21 transplanting any of them in the human body, shall be tested
22 for evidence of exposure to human immunodeficiency virus (HIV)
23 and any other identified causative agent of acquired
24 immunodeficiency syndrome (AIDS) at the time of or after the
25 donation but prior to the semen, corneas, bones, organs, or
26 other human tissue being made available for that use. However,
27 when in the opinion of the attending physician the life of a
28 recipient of a bone, organ, or other human tissue donation
29 would be jeopardized by delays caused by testing for evidence
30 of exposure to HIV and any other causative agent of AIDS,
31 testing shall not be required.

32 (c) Except as otherwise provided in subsection (c-5), no

1 person may intentionally, knowingly, recklessly, or
2 negligently use the semen, corneas, bones, organs, or other
3 human tissue of a donor unless the requirements of subsection
4 (b) have been met. Except as otherwise provided in subsection
5 (c-5), no person may intentionally, knowingly, recklessly, or
6 negligently use the semen, corneas, bones, organs, or other
7 human tissue of a donor who has tested positive for exposure to
8 HIV or any other identified causative agent of AIDS. Violation
9 of this subsection (c) shall be a Class 4 felony.

10 (c-5) It is not a violation of this Section for a person to
11 perform a solid organ transplant of an organ from an HIV
12 infected donor to a person who has tested positive for exposure
13 to HIV or any other identified causative agent of AIDS and who
14 is in immediate threat of death unless the transplant is
15 performed. A tissue bank that provides an organ from an HIV
16 infected donor under this subsection (c-5) may not be
17 criminally or civilly liable for the furnishing of that organ
18 under this subsection (c-5).

19 (d) For the purposes of this Section:⁷

20 "Human tissue" shall not be construed to mean whole blood
21 or its component parts.

22 ~~For the purposes of this Section,~~ "Tissue bank" means any
23 facility or program that is involved in procuring, furnishing,
24 donating, processing, or distributing corneas, bones, organs,
25 or other human tissue for the purpose of injecting,
26 transfusing, or transplanting any of them in the human body.

27 "Solid organ transplant" means the surgical
28 transplantation of internal organs including, but not limited
29 to, the liver, kidney, pancreas, lungs, or heart. "Solid organ
30 transplant" does not mean a bone marrow based transplant or a
31 blood transfusion.

32 "HIV infected donor" means a deceased donor who was
33 infected with HIV or a living donor known to be infected with
34 HIV and who is willing to donate a part or all of one or more of
35 his or her organs. A determination of the donor's HIV infection
36 is made by the donor's medical history or by specific tests

1 that document HIV infection, such as HIV RNA or DNA, or by
2 antibodies to HIV.

3 (Source: P.A. 91-239, eff. 1-1-00.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.