

1 AN ACT in relation to 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
16 rules to allow for the implementation of HIV/AIDS rapid
17 testing. The rules must include, but need not be limited to,
18 standards for testing and counseling and dissemination of
19 test results.

20 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

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

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

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

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

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

24 (d) The Department, in accordance with rules for
25 reporting and controlling the spread of disease, as otherwise
26 provided by State law. Neither the Department nor its
27 authorized representatives shall disclose information and
28 records held by them relating to known or suspected cases of
29 AIDS or HIV infection, publicly or in any action of any kind
30 in any court or before any tribunal, board, or agency. AIDS
31 and HIV infection data shall be protected from disclosure in
32 accordance with the provisions of Sections 8-2101 through
33 8-2105 of the Code of Civil Procedure.

34 (e) A health facility or health care provider which

1 procures, processes, distributes or uses: (i) a human body
2 part from a deceased person with respect to medical
3 information regarding that person; or (ii) semen provided
4 prior to the effective date of this Act for the purpose of
5 artificial insemination.

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

9 (g) (Blank).

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

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

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

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

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

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

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