

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 3, 5, and 9 and adding Section 5.5 as
6 follows:

7 (410 ILCS 305/3) (from Ch. 111 1/2, par. 7303)

8 Sec. 3. When used in this Act:

9 (a) "Department" means the Illinois Department of Public
10 Health.

11 (b) "AIDS" means acquired immunodeficiency syndrome.

12 (c) "HIV" means the Human Immunodeficiency Virus or any
13 other identified causative agent of AIDS.

14 (d) "Written informed consent" means an agreement in
15 writing executed by the subject of a test or the subject's
16 legally authorized representative without undue inducement or
17 any element of force, fraud, deceit, duress or other form of
18 constraint or coercion, which entails at least the following:

19 (1) a fair explanation of the test, including its
20 purpose, potential uses, limitations and the meaning of its
21 results; and

22 (2) a fair explanation of the procedures to be followed,
23 including the voluntary nature of the test, the right to
24 withdraw consent to the testing process at any time, the
25 right to anonymity to the extent provided by law with respect
26 to participation in the test and disclosure of test results,
27 and the right to confidential treatment of information
28 identifying the subject of the test and the results of the
29 test, to the extent provided by law.

30 (e) "Health facility" means a hospital, nursing home,
31 blood bank, blood center, sperm bank, or other health care

1 institution, including any "health facility" as that term is
2 defined in the Illinois Health Facilities Authority Act.

3 (f) "Health care provider" means any health care
4 professional physician, nurse, paramedic, psychologist or
5 other person providing medical, nursing, psychological, or
6 other health care services of any kind.

7 (f-5) "Health care professional" means (i) a licensed
8 physician, (ii) a physician assistant to whom the physician
9 assistant's supervising physician has delegated the provision
10 of AIDS and HIV-related health services, (iii) an advanced
11 practice registered nurse who has a written collaborative
12 agreement with a collaborating physician which authorizes the
13 provision of AIDS and HIV-related health services, (iv) a
14 licensed dentist, (v) a licensed podiatrist, or (vi) an
15 individual certified to provide HIV testing and counseling by
16 a state or local public health department.

17 (g) "Test" or "HIV test" means a test to determine the
18 presence of the antibody or antigen to HIV, or of HIV
19 infection.

20 (h) "Person" includes any natural person, partnership,
21 association, joint venture, trust, governmental entity,
22 public or private corporation, health facility or other legal
23 entity.

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

25 (410 ILCS 305/5) (from Ch. 111 1/2, par. 7305)

26 Sec. 5. No health care professional physician may order
27 an HIV test without making available to the person tested
28 information about the meaning of the test results, the
29 availability of additional or confirmatory testing, if
30 appropriate, and the availability of referrals for further
31 information or counseling.

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

1 (410 ILCS 305/5.5 new)

2 Sec. 5.5. Rapid testing. The Department shall adopt
3 rules to allow for the implementation of HIV/AIDS rapid
4 testing. The rules must include, but need not be limited to,
5 standards for ordering and administration of testing and
6 counseling and dissemination of test results.

7 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

8 Sec. 9. No person may disclose or be compelled to
9 disclose the identity of any person upon whom a test is
10 performed, or the results of such a test in a manner which
11 permits identification of the subject of the test, except to
12 the following persons:

13 (a) The subject of the test or the subject's legally
14 authorized representative. A physician may notify the spouse
15 of the test subject, if the test result is positive and has
16 been confirmed pursuant to rules adopted by the Department by
17 a-Western-Blot-Assay-or-more-reliable-test, provided that the
18 physician has first sought unsuccessfully to persuade the
19 patient to notify the spouse or that, a reasonable time after
20 the patient has agreed to make the notification, the
21 physician has reason to believe that the patient has not
22 provided the notification. This paragraph shall not create a
23 duty or obligation under which a physician must notify the
24 spouse of the test results, nor shall such duty or obligation
25 be implied. No civil liability or criminal sanction under
26 this Act shall be imposed for any disclosure or
27 non-disclosure of a test result to a spouse by a physician
28 acting in good faith under this paragraph. For the purpose
29 of any proceedings, civil or criminal, the good faith of any
30 physician acting under this paragraph shall be presumed.

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

1 (c) An authorized agent or employee of a health facility
2 or health care provider if the health facility or health care
3 provider itself is authorized to obtain the test results, the
4 agent or employee provides patient care or handles or
5 processes specimens of body fluids or tissues, and the agent
6 or employee has a need to know such information.

7 (d) The Department, in accordance with rules for
8 reporting and controlling the spread of disease, as otherwise
9 provided by State law. Neither the Department nor its
10 authorized representatives shall disclose information and
11 records held by them relating to known or suspected cases of
12 AIDS or HIV infection, publicly or in any action of any kind
13 in any court or before any tribunal, board, or agency. AIDS
14 and HIV infection data shall be protected from disclosure in
15 accordance with the provisions of Sections 8-2101 through
16 8-2105 of the Code of Civil Procedure.

17 (e) A health facility or health care provider which
18 procures, processes, distributes or uses: (i) a human body
19 part from a deceased person with respect to medical
20 information regarding that person; or (ii) semen provided
21 prior to the effective date of this Act for the purpose of
22 artificial insemination.

23 (f) Health facility staff committees for the purposes of
24 conducting program monitoring, program evaluation or service
25 reviews.

26 (g) (Blank).

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

33 (i) Any law enforcement officer, as defined in
34 subsection (c) of Section 7, involved in the line of duty in

1 a direct skin or mucous membrane contact with the blood or
2 bodily fluids of an individual which is of a nature that may
3 transmit HIV, as determined by a physician in his medical
4 judgment.

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

9 (k) In the case of a minor under 18 years of age whose
10 test result is positive and has been confirmed pursuant to
11 rules adopted by the Department by a Western Blot Assay or a
12 more-reliable test, the health care provider who ordered the
13 test shall make a reasonable effort to notify the minor's
14 parent or legal guardian if, in the professional judgement of
15 the health care provider, notification would be in the best
16 interest of the child and the health care provider has first
17 sought unsuccessfully to persuade the minor to notify the
18 parent or legal guardian or a reasonable time after the minor
19 has agreed to notify the parent or legal guardian, the health
20 care provider has reason to believe that the minor has not
21 made the notification. This subsection shall not create a
22 duty or obligation under which a health care provider must
23 notify the minor's parent or legal guardian of the test
24 results, nor shall a duty or obligation be implied. No civil
25 liability or criminal sanction under this Act shall be
26 imposed for any notification or non-notification of a minor's
27 test result by a health care provider acting in good faith
28 under this subsection. For the purpose of any proceeding,
29 civil or criminal, the good faith of any health care provider
30 acting under this subsection shall be presumed.

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

32 Section 99. Effective date. This Act takes effect upon

1 becoming law.