

1 AMENDMENT TO SENATE BILL 1156

2 AMENDMENT NO. _____. Amend Senate Bill 1156 by replacing
3 everything after the enacting clause with the following:

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

6 (410 ILCS 305/5.5 new)

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

11 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

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

17 (a) The subject of the test or the subject's legally
18 authorized representative. A physician may notify the spouse
19 of the test subject, if the test result is positive and has
20 been confirmed pursuant to guidelines set by the Department
21 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."