

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 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 ~~physieian~~ 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

1 disclose the identity of any person upon whom a test is
2 performed, or the results of such a test in a manner which
3 permits identification of the subject of the test, except to
4 the following persons:

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

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

26 (c) An authorized agent or employee of a health facility
27 or health care provider if the health facility or health care
28 provider itself is authorized to obtain the test results, the
29 agent or employee provides patient care or handles or
30 processes specimens of body fluids or tissues, and the agent
31 or employee has a need to know such information.

32 (d) The Department, in accordance with rules for
33 reporting and controlling the spread of disease, as otherwise
34 provided by State law. Neither the Department nor its

1 authorized representatives shall disclose information and
2 records held by them relating to known or suspected cases of
3 AIDS or HIV infection, publicly or in any action of any kind
4 in any court or before any tribunal, board, or agency. AIDS
5 and HIV infection data shall be protected from disclosure in
6 accordance with the provisions of Sections 8-2101 through
7 8-2105 of the Code of Civil Procedure.

8 (e) A health facility or health care provider which
9 procures, processes, distributes or uses: (i) a human body
10 part from a deceased person with respect to medical
11 information regarding that person; or (ii) semen provided
12 prior to the effective date of this Act for the purpose of
13 artificial insemination.

14 (f) Health facility staff committees for the purposes of
15 conducting program monitoring, program evaluation or service
16 reviews.

17 (g) (Blank).

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

24 (i) Any law enforcement officer, as defined in
25 subsection (c) of Section 7, involved in the line of duty in
26 a direct skin or mucous membrane contact with the blood or
27 bodily fluids of an individual which is of a nature that may
28 transmit HIV, as determined by a physician in his medical
29 judgment.

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

34 (k) In the case of a minor under 18 years of age whose

1 test result is positive and has been confirmed pursuant to
2 guidelines set by the Department by a Western Blot Assay or a
3 ~~more--reliable-test~~, the health care provider who ordered the
4 test shall make a reasonable effort to notify the minor's
5 parent or legal guardian if, in the professional judgement of
6 the health care provider, notification would be in the best
7 interest of the child and the health care provider has first
8 sought unsuccessfully to persuade the minor to notify the
9 parent or legal guardian or a reasonable time after the minor
10 has agreed to notify the parent or legal guardian, the health
11 care provider has reason to believe that the minor has not
12 made the notification. This subsection shall not create a
13 duty or obligation under which a health care provider must
14 notify the minor's parent or legal guardian of the test
15 results, nor shall a duty or obligation be implied. No civil
16 liability or criminal sanction under this Act shall be
17 imposed for any notification or non-notification of a minor's
18 test result by a health care provider acting in good faith
19 under this subsection. For the purpose of any proceeding,
20 civil or criminal, the good faith of any health care provider
21 acting under this subsection shall be presumed.

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."