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1 AMENDMENT TO SENATE BILL 2377

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2377 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Occupational Therapy Practice Act  
5 is amended by changing Sections 3.1 and 19 as follows:

6 (225 ILCS 75/3.1)

7 (Section scheduled to be repealed on January 1, 2014)

8 Sec. 3.1. Referrals. A licensed occupational therapist or  
9 licensed occupational therapy assistant may consult with,  
10 educate, evaluate, and monitor services for clients concerning  
11 non-medical occupational therapy needs. Implementation of  
12 direct occupational therapy to individuals for their specific  
13 health care conditions shall be based upon a referral from a  
14 licensed physician, dentist, podiatrist, advanced practice  
15 nurse who has a written collaborative agreement with a  
16 collaborative physician that authorizes the provision of or  
17 acceptance of referrals from licensed occupational therapists,  
18 physician assistant who has been delegated authority to provide  
19 or accept referrals from or to licensed occupational  
20 therapists, or optometrist.

21 An occupational therapist shall refer to a licensed  
22 physician, dentist, optometrist, advanced practice nurse,  
23 physician assistant, or podiatrist any patient whose medical  
24 condition should, at the time of evaluation or treatment, be

1 determined to be beyond the scope of practice of the  
2 occupational therapist.

3 (Source: P.A. 92-297, eff. 1-1-02; 93-461, eff. 8-8-03.)

4 (225 ILCS 75/19) (from Ch. 111, par. 3719)

5 (Section scheduled to be repealed on January 1, 2014)

6 Sec. 19. (a) The Department may refuse to issue or renew,  
7 or may revoke, suspend, place on probation, reprimand or take  
8 other disciplinary action as the Department may deem proper,  
9 including fines not to exceed \$2,500 for each violation, with  
10 regard to any license for any one or combination of the  
11 following:

12 (1) Material misstatement in furnishing information to  
13 the Department;

14 (2) Wilfully violating this Act, or of the rules  
15 promulgated thereunder;

16 (3) Conviction of any crime under the laws of the  
17 United States or any state or territory thereof which is a  
18 felony or which is a misdemeanor, an essential element of  
19 which is dishonesty, or of any crime which is directly  
20 related to the practice of occupational therapy;

21 (4) Making any misrepresentation for the purpose of  
22 obtaining certification, or violating any provision of  
23 this Act or the rules promulgated thereunder pertaining to  
24 advertising;

25 (5) Having demonstrated unworthiness, or incompetency  
26 to act as an occupational therapist or occupational therapy  
27 assistant in such manner as to safeguard the interest of  
28 the public;

29 (6) Wilfully aiding or assisting another person, firm,  
30 partnership or corporation in violating any provision of  
31 this Act or rules;

32 (7) Failing, within 60 days, to provide information in  
33 response to a written request made by the Department;

1           (8) Engaging in dishonorable, unethical or  
2 unprofessional conduct of a character likely to deceive,  
3 defraud or harm the public;

4           (9) Habitual intoxication or addiction to the use of  
5 drugs;

6           (10) Discipline by another state, the District of  
7 Columbia, a territory, or foreign nation, if at least one  
8 of the grounds for the discipline is the same or  
9 substantially equivalent to those set forth herein;

10           (11) Directly or indirectly giving to or receiving from  
11 any person, firm, corporation, partnership or association  
12 any fee, commission, rebate or other form of compensation  
13 for professional services not actually or personally  
14 rendered;

15           (12) A finding by the Department that the license  
16 holder, after having his license disciplined, has violated  
17 the terms of the discipline;

18           (13) Wilfully making or filing false records or reports  
19 in the practice of occupational therapy, including but not  
20 limited to false records filed with the State agencies or  
21 departments;

22           (14) Physical illness, including but not limited to,  
23 deterioration through the aging process, or loss of motor  
24 skill which results in the inability to practice the  
25 profession with reasonable judgment, skill or safety;

26           (15) Solicitation of professional services other than  
27 by permitted advertising;

28           (16) Wilfully exceeding the scope of practice  
29 customarily undertaken by persons licensed under this Act,  
30 which conduct results in, or may result in, harm to the  
31 public;

32           (17) Holding one's self out to practice occupational  
33 therapy under any name other than his own or impersonation  
34 of any other occupational therapy licensee;

1 (18) Gross negligence;

2 (19) Malpractice;

3 (20) Obtaining a fee in money or gift in kind of any  
4 other items of value or in the form of financial profit or  
5 benefit as personal compensation, or as compensation, or  
6 charge, profit or gain for an employer or for any other  
7 person or persons, on the fraudulent misrepresentation  
8 that a manifestly incurable condition of sickness, disease  
9 or injury to any person can be cured;

10 (21) Accepting commissions or rebates or other forms of  
11 remuneration for referring persons to other professionals;

12 (22) Failure to file a return, or to pay the tax,  
13 penalty or interest shown in a filed return, or to pay any  
14 final assessment of tax, penalty or interest, as required  
15 by any tax Act administered by the Illinois Department of  
16 Revenue, until such time as the requirements of any such  
17 tax Act are satisfied;

18 (23) Violating the Health Care Worker Self-Referral  
19 Act; and

20 (24) Having treated patients other than by the practice  
21 of occupational therapy as defined in this Act, or having  
22 treated patients as a licensed occupational therapist  
23 independent of a referral from a physician, advanced  
24 practice nurse or physician assistant in accordance with  
25 Section 3.1, dentist, podiatrist, or optometrist, or  
26 having failed to notify the physician, advanced practice  
27 nurse, physician assistant, dentist, podiatrist, or  
28 optometrist who established a diagnosis that the patient is  
29 receiving occupational therapy pursuant to that diagnosis.

30 (b) The determination by a circuit court that a license  
31 holder is subject to involuntary admission or judicial  
32 admission as provided in the Mental Health and Developmental  
33 Disabilities Code, as now or hereafter amended, operates as an  
34 automatic suspension. Such suspension will end only upon a

1 finding by a court that the patient is no longer subject to  
2 involuntary admission or judicial admission, an order by the  
3 court so finding and discharging the patient, and the  
4 recommendation of the Board to the Director that the license  
5 holder be allowed to resume his practice.

6 (c) The Department may refuse to issue or take disciplinary  
7 action concerning the license of any person who fails to file a  
8 return, to pay the tax, penalty, or interest shown in a filed  
9 return, or to pay any final assessment of tax, penalty, or  
10 interest as required by any tax Act administered by the  
11 Department of Revenue, until such time as the requirements of  
12 any such tax Act are satisfied as determined by the Department  
13 of Revenue.

14 (d) In enforcing this Section, the Board, upon a showing of  
15 a possible violation, may compel a licensee or applicant to  
16 submit to a mental or physical examination, or both, as  
17 required by and at the expense of the Department. The examining  
18 physicians or clinical psychologists shall be those  
19 specifically designated by the Board. The Board or the  
20 Department may order (i) the examining physician to present  
21 testimony concerning the mental or physical examination of a  
22 licensee or applicant or (ii) the examining clinical  
23 psychologist to present testimony concerning the mental  
24 examination of a licensee or applicant. No information shall be  
25 excluded by reason of any common law or statutory privilege  
26 relating to communications between a licensee or applicant and  
27 the examining physician or clinical psychologist. An  
28 individual to be examined may have, at his or her own expense,  
29 another physician or clinical psychologist of his or her choice  
30 present during all aspects of the examination. Failure of an  
31 individual to submit to a mental or physical examination, when  
32 directed, is grounds for suspension of his or her license. The  
33 license must remain suspended until the person submits to the  
34 examination or the Board finds, after notice and hearing, that

1 the refusal to submit to the examination was with reasonable  
2 cause.

3 If the Board finds an individual unable to practice because  
4 of the reasons set forth in this Section, the Board must  
5 require the individual to submit to care, counseling, or  
6 treatment by a physician or clinical psychologist approved by  
7 the Board, as a condition, term, or restriction for continued,  
8 reinstated, or renewed licensure to practice. In lieu of care,  
9 counseling, or treatment, the Board may recommend that the  
10 Department file a complaint to immediately suspend or revoke  
11 the license of the individual or otherwise discipline the  
12 licensee.

13 Any individual whose license was granted, continued,  
14 reinstated, or renewed subject to conditions, terms, or  
15 restrictions, as provided for in this Section, or any  
16 individual who was disciplined or placed on supervision  
17 pursuant to this Section must be referred to the Director for a  
18 determination as to whether the person shall have his or her  
19 license suspended immediately, pending a hearing by the Board.  
20 (Source: P.A. 93-461, eff. 8-8-03.)

21 Section 10. The Illinois Physical Therapy Act is amended by  
22 changing Sections 1 and 17 as follows:

23 (225 ILCS 90/1) (from Ch. 111, par. 4251)

24 (Section scheduled to be repealed on January 1, 2006)

25 Sec. 1. Definitions. As used in this Act:

26 (1) "Physical therapy" means the evaluation or treatment of  
27 a person by the use of the effective properties of physical  
28 measures and heat, cold, light, water, radiant energy,  
29 electricity, sound, and air; and the use of therapeutic  
30 massage, therapeutic exercise, mobilization, and the  
31 rehabilitative procedures with or without assistive devices  
32 for the purposes of preventing, correcting, or alleviating a

1 physical or mental disability, or promoting physical fitness  
2 and well-being. Physical therapy includes, but is not limited  
3 to: (a) performance of specialized tests and measurements, (b)  
4 administration of specialized treatment procedures, (c)  
5 interpretation of referrals from physicians, dentists,  
6 advanced practice nurses, physician assistants, and  
7 podiatrists, (d) establishment, and modification of physical  
8 therapy treatment programs, (e) administration of topical  
9 medication used in generally accepted physical therapy  
10 procedures when such medication is prescribed by the patient's  
11 physician, licensed to practice medicine in all its branches,  
12 the patient's physician licensed to practice podiatric  
13 medicine, the patient's advanced practice nurse, the patient's  
14 physician assistant, or the patient's dentist, and (f)  
15 supervision or teaching of physical therapy. Physical therapy  
16 does not include radiology, electrosurgery, chiropractic  
17 technique or determination of a differential diagnosis;  
18 provided, however, the limitation on determining a  
19 differential diagnosis shall not in any manner limit a physical  
20 therapist licensed under this Act from performing an evaluation  
21 pursuant to such license. Nothing in this Section shall limit a  
22 physical therapist from employing appropriate physical therapy  
23 techniques that he or she is educated and licensed to perform.  
24 A physical therapist shall refer to a licensed physician,  
25 dentist, advanced practice nurse, physician assistant, or  
26 podiatrist any patient whose medical condition should, at the  
27 time of evaluation or treatment, be determined to be beyond the  
28 scope of practice of the physical therapist.

29 (2) "Physical therapist" means a person who practices  
30 physical therapy and who has met all requirements as provided  
31 in this Act.

32 (3) "Department" means the Department of Professional  
33 Regulation.

34 (4) "Director" means the Director of Professional

1 Regulation.

2 (5) "Committee" means the Physical Therapy Examining  
3 Committee approved by the Director.

4 (6) "Referral" for the purpose of this Act means the  
5 following of guidance or direction to the physical therapist  
6 given by the physician, advanced practice nurse, physician  
7 assistant, dentist, or podiatrist who shall maintain  
8 supervision of the patient.

9 (7) "Documented current and relevant diagnosis" for the  
10 purpose of this Act means a diagnosis, substantiated by  
11 signature or oral verification of a physician, dentist,  
12 advanced practice nurse, physician assistant, or podiatrist,  
13 that a patient's condition is such that it may be treated by  
14 physical therapy as defined in this Act, which diagnosis shall  
15 remain in effect until changed by the physician, dentist,  
16 advanced practice nurse, physician assistant, or podiatrist.

17 (8) "State" includes:

18 (a) the states of the United States of America;

19 (b) the District of Columbia; and

20 (c) the Commonwealth of Puerto Rico.

21 (9) "Physical therapist assistant" means a person licensed  
22 to assist a physical therapist and who has met all requirements  
23 as provided in this Act and who works under the supervision of  
24 a licensed physical therapist to assist in implementing the  
25 physical therapy treatment program as established by the  
26 licensed physical therapist. The patient care activities  
27 provided by the physical therapist assistant shall not include  
28 the interpretation of referrals, evaluation procedures, or the  
29 planning or major modification of patient programs.

30 (10) "Physical therapy aide" means a person who has  
31 received on the job training, specific to the facility in which  
32 he is employed, but who has not completed an approved physical  
33 therapist assistant program.

34 (11) "Advanced practice nurse" means a person licensed



1 under the Nursing and Advanced Practice Nursing Act who has a  
2 collaborative agreement with a collaborating physician that  
3 authorizes referrals to physical thereapists.

4 (12) "Physician assistant" means a person licensed under  
5 the Physician Assistant Practice Act of 1987 who has been  
6 delegated authority to make referrals to physical therapists.

7 (Source: P.A. 92-651, eff. 7-11-02.)

8 (225 ILCS 90/17) (from Ch. 111, par. 4267)

9 (Section scheduled to be repealed on January 1, 2006)

10 Sec. 17. (1) The Department may refuse to issue or to  
11 renew, or may revoke, suspend, place on probation, reprimand,  
12 or take other disciplinary action as the Department deems  
13 appropriate, including the issuance of fines not to exceed  
14 \$5000, with regard to a license for any one or a combination of  
15 the following:

16 A. Material misstatement in furnishing information to  
17 the Department or otherwise making misleading, deceptive,  
18 untrue, or fraudulent representations in violation of this  
19 Act or otherwise in the practice of the profession;

20 B. Violations of this Act, or of the rules or  
21 regulations promulgated hereunder;

22 C. Conviction of any crime under the laws of the United  
23 States or any state or territory thereof which is a felony  
24 or which is a misdemeanor, an essential element of which is  
25 dishonesty, or of any crime which is directly related to  
26 the practice of the profession; conviction, as used in this  
27 paragraph, shall include a finding or verdict of guilty, an  
28 admission of guilt or a plea of nolo contendere;

29 D. Making any misrepresentation for the purpose of  
30 obtaining licenses, or violating any provision of this Act  
31 or the rules promulgated thereunder pertaining to  
32 advertising;

33 E. A pattern of practice or other behavior which

1 demonstrates incapacity or incompetency to practice under  
2 this Act;

3 F. Aiding or assisting another person in violating any  
4 provision of this Act or Rules;

5 G. Failing, within 60 days, to provide information in  
6 response to a written request made by the Department;

7 H. Engaging in dishonorable, unethical or  
8 unprofessional conduct of a character likely to deceive,  
9 defraud or harm the public. Unprofessional conduct shall  
10 include any departure from or the failure to conform to the  
11 minimal standards of acceptable and prevailing physical  
12 therapy practice, in which proceeding actual injury to a  
13 patient need not be established;

14 I. Unlawful distribution of any drug or narcotic, or  
15 unlawful conversion of any drug or narcotic not belonging  
16 to the person for such person's own use or benefit or for  
17 other than medically accepted therapeutic purposes;

18 J. Habitual or excessive use or addiction to alcohol,  
19 narcotics, stimulants, or any other chemical agent or drug  
20 which results in a physical therapist's or physical  
21 therapist assistant's inability to practice with  
22 reasonable judgment, skill or safety;

23 K. Revocation or suspension of a license to practice  
24 physical therapy as a physical therapist or physical  
25 therapist assistant or the taking of other disciplinary  
26 action by the proper licensing authority of another state,  
27 territory or country;

28 L. Directly or indirectly giving to or receiving from  
29 any person, firm, corporation, partnership or association  
30 any fee, commission, rebate or other form of compensation  
31 for any professional services not actually or personally  
32 rendered;

33 M. A finding by the Committee that the licensee after  
34 having his or her license placed on probationary status has

1 violated the terms of probation;

2 N. Abandonment of a patient;

3 O. Willfully failing to report an instance of suspected  
4 child abuse or neglect as required by the Abused and  
5 Neglected Child Reporting Act;

6 P. Willfully failing to report an instance of suspected  
7 elder abuse or neglect as required by the Elder Abuse  
8 Reporting Act;

9 Q. Physical illness, including but not limited to,  
10 deterioration through the aging process, or loss of motor  
11 skill which results in the inability to practice the  
12 profession with reasonable judgement, skill or safety;

13 R. The use of any words (such as physical therapy,  
14 physical therapist physiotherapy or physiotherapist),  
15 abbreviations, figures or letters with the intention of  
16 indicating practice as a licensed physical therapist  
17 without a valid license as a physical therapist issued  
18 under this Act;

19 S. The use of the term physical therapist assistant, or  
20 abbreviations, figures, or letters with the intention of  
21 indicating practice as a physical therapist assistant  
22 without a valid license as a physical therapist assistant  
23 issued under this Act;

24 T. Willfully violating or knowingly assisting in the  
25 violation of any law of this State relating to the practice  
26 of abortion;

27 U. Continued practice by a person knowingly having an  
28 infectious, communicable or contagious disease;

29 V. Having treated ailments of human beings otherwise  
30 than by the practice of physical therapy as defined in this  
31 Act, or having treated ailments of human beings as a  
32 licensed physical therapist independent of a documented  
33 referral or a documented current and relevant diagnosis  
34 from a physician, dentist, advanced practice nurse,

1       physician assistant, or podiatrist, or having failed to  
2       notify the physician, dentist, advanced practice nurse,  
3       physician assistant, or podiatrist who established a  
4       documented current and relevant diagnosis that the patient  
5       is receiving physical therapy pursuant to that diagnosis;

6           W. Being named as a perpetrator in an indicated report  
7       by the Department of Children and Family Services pursuant  
8       to the Abused and Neglected Child Reporting Act, and upon  
9       proof by clear and convincing evidence that the licensee  
10      has caused a child to be an abused child or neglected child  
11      as defined in the Abused and Neglected Child Reporting Act;

12          X. Interpretation of referrals, performance of  
13      evaluation procedures, planning or making major  
14      modifications of patient programs by a physical therapist  
15      assistant;

16          Y. Failure by a physical therapist assistant and  
17      supervising physical therapist to maintain continued  
18      contact, including periodic personal supervision and  
19      instruction, to insure safety and welfare of patients;

20          Z. Violation of the Health Care Worker Self-Referral  
21      Act.

22          (2) The determination by a circuit court that a licensee is  
23      subject to involuntary admission or judicial admission as  
24      provided in the Mental Health and Developmental Disabilities  
25      Code operates as an automatic suspension. Such suspension will  
26      end only upon a finding by a court that the patient is no  
27      longer subject to involuntary admission or judicial admission  
28      and the issuance of an order so finding and discharging the  
29      patient; and upon the recommendation of the Committee to the  
30      Director that the licensee be allowed to resume his practice.

31          (3) The Department may refuse to issue or may suspend the  
32      license of any person who fails to file a return, or to pay the  
33      tax, penalty or interest shown in a filed return, or to pay any  
34      final assessment of tax, penalty or interest, as required by

1 any tax Act administered by the Illinois Department of Revenue,  
2 until such time as the requirements of any such tax Act are  
3 satisfied.

4 (Source: P.A. 89-387, eff. 1-1-96.)

5 Section 15. The Sexual Assault Survivors Emergency  
6 Treatment Act is amended by changing Sections 2.2, 5, and 6.4  
7 as follows:

8 (410 ILCS 70/2.2)

9 Sec. 2.2. Emergency contraception.

10 (a) The General Assembly finds:

11 (1) Crimes of sexual violence cause significant  
12 physical, emotional, and psychological trauma to the  
13 victims. This trauma is compounded by a victim's fear of  
14 becoming pregnant and bearing a child as a result of the  
15 sexual assault.

16 (2) Each year over 32,000 women become pregnant in the  
17 United States as the result of rape and approximately 50%  
18 of these pregnancies end in abortion.

19 (3) As approved for use by the Federal Food and Drug  
20 Administration (FDA), emergency contraception can  
21 significantly reduce the risk of pregnancy if taken within  
22 72 hours after the sexual assault.

23 (4) By providing emergency contraception to rape  
24 victims in a timely manner, the trauma of rape can be  
25 significantly reduced.

26 (b) Within 120 days after the effective date of this  
27 amendatory Act of the 92nd General Assembly, every hospital  
28 providing services to alleged sexual assault survivors in  
29 accordance with a plan approved under Section 2 must develop a  
30 protocol that ensures that each survivor of sexual assault will  
31 receive medically and factually accurate and written and oral  
32 information about emergency contraception; the indications and

1 counter-indications and risks associated with the use of  
2 emergency contraception; and a description of how and when  
3 victims may be provided emergency contraception upon the  
4 written order of a physician licensed to practice medicine in  
5 all its branches, an advanced practice nurse who has a written  
6 collaborative agreement with a collaborating physician that  
7 authorizes prescription of emergency contraception, or a  
8 physician assistant who has been delegated authority to  
9 prescribe emergency contraception. The Department shall  
10 approve the protocol if it finds that the implementation of the  
11 protocol would provide sufficient protection for survivors of  
12 an alleged sexual assault.

13 The hospital shall implement the protocol upon approval by  
14 the Department. The Department shall adopt rules and  
15 regulations establishing one or more safe harbor protocols and  
16 setting minimum acceptable protocol standards that hospitals  
17 may develop and implement. The Department shall approve any  
18 protocol that meets those standards. The Department may provide  
19 a sample acceptable protocol upon request.

20 (Source: P.A. 92-156, eff. 1-1-02.)

21 (410 ILCS 70/5) (from Ch. 111 1/2, par. 87-5)

22 Sec. 5. Minimum requirements for hospitals providing  
23 emergency service to sexual assault survivors.

24 (a) Every hospital providing emergency hospital services  
25 to an alleged sexual assault survivor under this Act shall, as  
26 minimum requirements for such services, provide, with the  
27 consent of the alleged sexual assault survivor, and as ordered  
28 by the attending physician, an advanced practice nurse who has  
29 a written collaborative agreement with a collaborating  
30 physician that authorizes provision of emergency services, or a  
31 physician assistant who has been delegated authority to provide  
32 emergency services, the following:

33 (1) appropriate medical examinations and laboratory

1 tests required to ensure the health, safety, and welfare of  
2 an alleged sexual assault survivor or which may be used as  
3 evidence in a criminal proceeding against a person accused  
4 of the sexual assault, or both; and records of the results  
5 of such examinations and tests shall be maintained by the  
6 hospital and made available to law enforcement officials  
7 upon the request of the alleged sexual assault survivor;

8 (2) appropriate oral and written information  
9 concerning the possibility of infection, sexually  
10 transmitted disease and pregnancy resulting from sexual  
11 assault;

12 (3) appropriate oral and written information  
13 concerning accepted medical procedures, medication, and  
14 possible contraindications of such medication available  
15 for the prevention or treatment of infection or disease  
16 resulting from sexual assault;

17 (4) such medication as deemed appropriate by the  
18 attending physician, an advanced practice nurse, or a  
19 physician assistant;

20 (5) a blood test to determine the presence or absence  
21 of sexually transmitted disease;

22 (6) written and oral instructions indicating the need  
23 for a second blood test 6 weeks after the sexual assault to  
24 determine the presence or absence of sexually transmitted  
25 disease; and

26 (7) appropriate counseling as determined by the  
27 hospital, by trained personnel designated by the hospital.

28 (b) Any minor who is an alleged survivor of sexual assault  
29 who seeks emergency services under this Act shall be provided  
30 such services without the consent of the parent, guardian or  
31 custodian of the minor.

32 (Source: P.A. 91-888, eff. 7-6-00.)

33 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)

1           Sec. 6.4. Sexual assault evidence collection program.

2           (a) There is created a statewide sexual assault evidence  
3 collection program to facilitate the prosecution of persons  
4 accused of sexual assault. This program shall be administered  
5 by the Illinois State Police. The program shall consist of the  
6 following: (1) distribution of sexual assault evidence  
7 collection kits which have been approved by the Illinois State  
8 Police to hospitals that request them, or arranging for such  
9 distribution by the manufacturer of the kits, (2) collection of  
10 the kits from hospitals after the kits have been used to  
11 collect evidence, (3) analysis of the collected evidence and  
12 conducting of laboratory tests, and (4) maintaining the chain  
13 of custody and safekeeping of the evidence for use in a legal  
14 proceeding. The standardized evidence collection kit for the  
15 State of Illinois shall be the State Police Evidence Collection  
16 Kit, also known as "S.P.E.C.K.". A sexual assault evidence  
17 collection kit may not be released by a hospital without the  
18 written consent of the sexual assault survivor. In the case of  
19 a survivor who is a minor 13 years of age or older, evidence  
20 and information concerning the alleged sexual assault may be  
21 released at the written request of the minor. If the survivor  
22 is a minor who is under 13 years of age, evidence and  
23 information concerning the alleged sexual assault may be  
24 released at the written request of the parent, guardian,  
25 investigating law enforcement officer, or Department of  
26 Children and Family Services. Any health care professional,  
27 including any physician, advanced practice nurse, physician  
28 assistant, or nurse, sexual assault nurse examiner, and any  
29 health care institution, including any hospital, who provides  
30 evidence or information to a law enforcement officer pursuant  
31 to a written request as specified in this Section is immune  
32 from any civil or professional liability that might arise from  
33 those actions, with the exception of willful or wanton  
34 misconduct. The immunity provision applies only if all of the



1 requirements of this Section are met.

2 (b) The Illinois State Police shall administer a program to  
3 train hospitals and hospital personnel participating in the  
4 sexual assault evidence collection program, in the correct use  
5 and application of the sexual assault evidence collection kits.  
6 A sexual assault nurse examiner may conduct examinations using  
7 the sexual assault evidence collection kits, without the  
8 presence or participation of a physician. The Department of  
9 Public Health shall cooperate with the Illinois State Police in  
10 this program as it pertains to medical aspects of the evidence  
11 collection.

12 (c) In this Section, "sexual assault nurse examiner" means  
13 a registered nurse who has completed a sexual assault nurse  
14 examiner (SANE) training program that meets the Forensic Sexual  
15 Assault Nurse Examiner Education Guidelines established by the  
16 International Association of Forensic Nurses.

17 (Source: P.A. 91-888, eff. 7-6-00; 92-514, eff. 1-1-02.)

18 Section 20. The Prenatal and Newborn Care Act is amended by  
19 changing Sections 2 and 6 as follows:

20 (410 ILCS 225/2) (from Ch. 111 1/2, par. 7022)

21 Sec. 2. Definitions. As used in this Act, unless the  
22 context otherwise requires:

23 "Advanced practice nurse" or "APN" means an advanced  
24 practice nurse licensed under the Nursing and Advanced Practice  
25 Nursing Act who has a written collaborative agreement with a  
26 collaborating physician that authorizes the provision of  
27 prenatal and newborn care.

28 ~~(a)~~ "Department" means the Illinois Department of Human  
29 Services.

30 ~~(b)~~ "Early and Periodic Screening, Diagnosis and Treatment  
31 (EPSDT)" means the provision of preventative health care under  
32 42 C.F.R. 441.50 et seq., including medical and dental

1 services, needed to assess growth and development and detect  
2 and treat health problems.

3 ~~(e)~~ "Hospital" means a hospital as defined under the  
4 Hospital Licensing Act.

5 ~~(d)~~ "Local health authority" means the full-time official  
6 health department or board of health, as recognized by the  
7 Illinois Department of Public Health, having jurisdiction over  
8 a particular area.

9 ~~(e)~~ "Nurse" means a nurse licensed under the Nursing and  
10 Advanced Practice Nursing Act.

11 ~~(f)~~ "Physician" means a physician licensed to practice  
12 medicine in all of its branches.

13 "Physician assistant" means a physician assistant licensed  
14 under the Physician Assistant Practice Act of 1987 who has been  
15 delegated authority to provide prenatal and newborn care.

16 ~~(g)~~ "Postnatal visit" means a visit occurring after birth,  
17 with reference to the newborn.

18 ~~(h)~~ "Prenatal visit" means a visit occurring before birth.

19 ~~(i)~~ "Program" means the Prenatal and Newborn Care Program  
20 established pursuant to this Act.

21 (Source: P.A. 89-507, eff. 7-1-97; 90-742, eff. 8-13-98.)

22 (410 ILCS 225/6) (from Ch. 111 1/2, par. 7026)

23 Sec. 6. Covered services.

24 (a) Covered services under the program may include, but are  
25 not necessarily limited to, the following:

26 (1) Laboratory services related to a recipient's  
27 pregnancy, performed or ordered by a physician, advanced  
28 practice nurse, or physician assistant.

29 (2) Screening and treatment for sexually transmitted  
30 disease.

31 (3) Prenatal visits to a physician in the physician's  
32 office, an advanced practice nurse in the advanced practice  
33 nurse's office, a physician assistant in the physician

1 assistant's office, or to a hospital outpatient prenatal  
2 clinic, local health department maternity clinic, or  
3 community health center.

4 (4) Radiology services which are directly related to  
5 the pregnancy, are determined to be medically necessary and  
6 are ordered by a physician, an advanced practice nurse, or  
7 a physician assistant.

8 (5) Pharmacy services related to the pregnancy.

9 (6) Other medical consultations related to the  
10 pregnancy.

11 (7) Physician, advanced practice nurse, physician  
12 assistant, or nurse services associated with delivery.

13 (8) One postnatal office visit within 60 days after  
14 delivery.

15 (9) Two EPSDT-equivalent screenings for the infant  
16 within 90 days after birth.

17 (10) Social and support services.

18 (11) Nutrition services.

19 (12) Case management services.

20 (b) The following services shall not be covered under the  
21 program:

22 (1) Services determined by the Department not to be  
23 medically necessary.

24 (2) Services not directly related to the pregnancy,  
25 except for the 2 covered EPSDT-equivalent screenings.

26 (3) Hospital inpatient services.

27 (4) Anesthesiologist and radiologist services during a  
28 period of hospital inpatient care.

29 (5) Physician, advanced practice nurse, and physician  
30 assistant hospital visits.

31 (6) Services considered investigational or  
32 experimental.

33 (Source: P.A. 89-187, eff. 7-19-95.)

1 Section 25. The AIDS Confidentiality Act is amended by  
2 changing Sections 7, 8, and 9 as follows:

3 (410 ILCS 305/7) (from Ch. 111 1/2, par. 7307)

4 Sec. 7. (a) Notwithstanding the provisions of Sections 4, 5  
5 and 6 of this Act, written informed consent is not required for  
6 a health care provider or health facility to perform a test  
7 when the health care provider or health facility procures,  
8 processes, distributes or uses a human body part donated for a  
9 purpose specified under the Uniform Anatomical Gift Act, or  
10 semen provided prior to the effective date of this Act for the  
11 purpose of artificial insemination, and such a test is  
12 necessary to assure medical acceptability of such gift or semen  
13 for the purposes intended.

14 (b) Written informed consent is not required for a health  
15 care provider or health facility to perform a test when a  
16 health care provider or employee of a health facility, or a  
17 firefighter or an EMT-A, EMT-I or EMT-P, is involved in an  
18 accidental direct skin or mucous membrane contact with the  
19 blood or bodily fluids of an individual which is of a nature  
20 that may transmit HIV, as determined by a physician, by an  
21 advanced practice nurse as defined in item (iii) of subsection  
22 (f-5) of Section 3, or by a physician assistant as defined in  
23 item (ii) of subsection (f-5) of Section 3 ~~in his medical~~  
24 ~~judgment~~. Should such test prove to be positive, the patient  
25 and the health care provider, health facility employee,  
26 firefighter, EMT-A, EMT-I, or EMT-P shall be provided  
27 appropriate counseling consistent with this Act.

28 (c) Written informed consent is not required for a health  
29 care provider or health facility to perform a test when a law  
30 enforcement officer is involved in the line of duty in a direct  
31 skin or mucous membrane contact with the blood or bodily fluids  
32 of an individual which is of a nature that may transmit HIV, as  
33 determined by a physician, by an advanced practice nurse as

1 defined in item (iii) of subsection (f-5) of Section 3 by a  
2 physician assistant as defined in item (ii) of subsection (f-5)  
3 of Section 3 in his medical judgment. Should such test prove to  
4 be positive, the patient shall be provided appropriate  
5 counseling consistent with this Act. For purposes of this  
6 subsection (c), "law enforcement officer" means any person  
7 employed by the State, a county or a municipality as a  
8 policeman, peace officer, auxiliary policeman, correctional  
9 officer or in some like position involving the enforcement of  
10 the law and protection of the public interest at the risk of  
11 that person's life.

12 (Source: P.A. 86-887; 86-891; 86-1028; 87-459.)

13 (410 ILCS 305/8) (from Ch. 111 1/2, par. 7308)

14 Sec. 8. Notwithstanding the provisions of Sections 4 and 5  
15 of this Act, written informed consent, information and  
16 counseling are not required for the performance of an HIV test:  
17 (a) for the purpose of research, if the testing is performed in  
18 such a way that the identity of the test subject is not known  
19 and may not be retrieved by the researcher, and in such a way  
20 that the test subject is not informed of the results of the  
21 testing, or (b) when in the judgment of the physician, advanced  
22 practice nurse, or physician assistant, such testing is  
23 ~~medically~~ indicated to provide appropriate diagnosis and  
24 treatment to the subject of the test, provided that the subject  
25 of the test has otherwise provided his or her consent to such  
26 physician, advanced practice nurse, or physician assistant for  
27 ~~medical~~ treatment.

28 (Source: P.A. 85-1399.)

29 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

30 Sec. 9. No person may disclose or be compelled to disclose  
31 the identity of any person upon whom a test is performed, or  
32 the results of such a test in a manner which permits

1 identification of the subject of the test, except to the  
2 following persons:

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

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

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

34 (d) The Department, in accordance with rules for reporting

1 and controlling the spread of disease, as otherwise provided by  
2 State law. Neither the Department nor its authorized  
3 representatives shall disclose information and records held by  
4 them relating to known or suspected cases of AIDS or HIV  
5 infection, publicly or in any action of any kind in any court  
6 or before any tribunal, board, or agency. AIDS and HIV  
7 infection data shall be protected from disclosure in accordance  
8 with the provisions of Sections 8-2101 through 8-2105 of the  
9 Code of Civil Procedure.

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

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

19 (g) (Blank).

20 (h) Any health care provider or employee of a health  
21 facility, and any firefighter or EMT-A, EMT-P, or EMT-I,  
22 involved in an accidental direct skin or mucous membrane  
23 contact with the blood or bodily fluids of an individual which  
24 is of a nature that may transmit HIV, as determined by a  
25 physician, by an advanced practice nurse as defined in item  
26 (iii) of subsection (f-5) of Section 3, or by a physician  
27 assistant as defined in item (ii) of subsection (f-5) of  
28 Section 3 in his medical judgment.

29 (i) Any law enforcement officer, as defined in subsection  
30 (c) of Section 7, involved in the line of duty in a direct skin  
31 or mucous membrane contact with the blood or bodily fluids of  
32 an individual which is of a nature that may transmit HIV, as  
33 determined by a physician in his medical judgment, by an  
34 advanced practice nurse as defined in item (iii) of subsection

1 (f-5) of Section 3, or by a physician assistant as defined in  
2 item (ii) of subsection (f-5) of Section 3.

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

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

28 (Source: P.A. 93-482, eff. 8-8-03.)

29 Section 30. The Illinois Sexually Transmissible Disease  
30 Control Act is amended by changing Sections 4 and 5.5 as  
31 follows:

32 (410 ILCS 325/4) (from Ch. 111 1/2, par. 7404)



1           Sec. 4. Reporting required.

2           (a) A physician licensed under the provisions of the  
3 Medical Practice Act of 1987, an advanced practice nurse  
4 licensed under the provisions of the Nursing and Advanced  
5 Practice Nursing Act who has a written collaborative agreement  
6 with a collaborating physician that authorizes the provision of  
7 services for a sexually transmissible disease, or a physician  
8 assistant licensed under the provisions of the Physician  
9 Assistant Practice Act of 1987 who has been delegated authority  
10 to provide services for a sexually transmissible disease who  
11 makes a diagnosis of or treats a person with a sexually  
12 transmissible disease and each laboratory that performs a test  
13 for a sexually transmissible disease which concludes with a  
14 positive result shall report such facts as may be required by  
15 the Department by rule, within such time period as the  
16 Department may require by rule, but in no case to exceed 2  
17 weeks.

18           (b) The Department shall adopt rules specifying the  
19 information required in reporting a sexually transmissible  
20 disease, the method of reporting and specifying a minimum time  
21 period for reporting. In adopting such rules, the Department  
22 shall consider the need for information, protections for the  
23 privacy and confidentiality of the patient, and the practical  
24 abilities of persons and laboratories to report in a reasonable  
25 fashion.

26           (c) Any person who knowingly or maliciously disseminates  
27 any false information or report concerning the existence of any  
28 sexually transmissible disease under this Section is guilty of  
29 a Class A misdemeanor.

30           (d) Any person who violates the provisions of this Section  
31 or the rules adopted hereunder may be fined by the Department  
32 up to \$500 for each violation. The Department shall report each  
33 violation of this Section to the regulatory agency responsible  
34 for licensing a health care professional or a laboratory to

1 which these provisions apply.

2 (Source: P.A. 90-14, eff. 7-1-97.)

3 (410 ILCS 325/5.5) (from Ch. 111 1/2, par. 7405.5)

4 Sec. 5.5. Risk assessment.

5 (a) Whenever the Department receives a report of HIV  
6 infection or AIDS pursuant to this Act and the Department  
7 determines that the subject of the report may present or may  
8 have presented a possible risk of HIV transmission, the  
9 Department shall, when medically appropriate, investigate the  
10 subject of the report and that person's contacts as defined in  
11 subsection (c), to assess the potential risks of transmission.  
12 Any investigation and action shall be conducted in a timely  
13 fashion. All contacts other than those defined in subsection  
14 (c) shall be investigated in accordance with Section 5 of this  
15 Act.

16 (b) If the Department determines that there is or may have  
17 been potential risks of HIV transmission from the subject of  
18 the report to other persons, the Department shall afford the  
19 subject the opportunity to submit any information and comment  
20 on proposed actions the Department intends to take with respect  
21 to the subject's contacts who are at potential risk of  
22 transmission of HIV prior to notification of the subject's  
23 contacts. The Department shall also afford the subject of the  
24 report the opportunity to notify the subject's contacts in a  
25 timely fashion who are at potential risk of transmission of HIV  
26 prior to the Department taking any steps to notify such  
27 contacts. If the subject declines to notify such contacts or if  
28 the Department determines the notices to be inadequate or  
29 incomplete, the Department shall endeavor to notify such other  
30 persons of the potential risk, and offer testing and counseling  
31 services to these individuals. When the contacts are notified,  
32 they shall be informed of the disclosure provisions of the AIDS  
33 Confidentiality Act and the penalties therein and this Section.

1 (c) Contacts investigated under this Section shall in the  
2 case of HIV infection include (i) individuals who have  
3 undergone invasive procedures performed by an HIV infected  
4 health care provider and (ii) health care providers who have  
5 performed invasive procedures for persons infected with HIV,  
6 provided the Department has determined that there is or may  
7 have been potential risk of HIV transmission from the health  
8 care provider to those individuals or from infected persons to  
9 health care providers. The Department shall have access to the  
10 subject's records to review for the identity of contacts. The  
11 subject's records shall not be copied or seized by the  
12 Department.

13 For purposes of this subsection, the term "invasive  
14 procedures" means those procedures termed invasive by the  
15 Centers for Disease Control in current guidelines or  
16 recommendations for the prevention of HIV transmission in  
17 health care settings, and the term "health care provider" means  
18 any physician, dentist, podiatrist, advanced practice nurse,  
19 physician assistant, nurse, or other person providing health  
20 care services of any kind.

21 (d) All information and records held by the Department and  
22 local health authorities pertaining to activities conducted  
23 pursuant to this Section shall be strictly confidential and  
24 exempt from copying and inspection under the Freedom of  
25 Information Act. Such information and records shall not be  
26 released or made public by the Department or local health  
27 authorities, and shall not be admissible as evidence, nor  
28 discoverable in any action of any kind in any court or before  
29 any tribunal, board, agency or person and shall be treated in  
30 the same manner as the information and those records subject to  
31 the provisions of Part 21 of the Code of Civil Procedure except  
32 under the following circumstances:

33 (1) When made with the written consent of all persons  
34 to whom this information pertains;

1           (2) When authorized under Section 8 to be released  
2 under court order or subpoena pursuant to Section 12-16.2  
3 of the Criminal Code of 1961; or

4           (3) When made by the Department for the purpose of  
5 seeking a warrant authorized by Sections 6 and 7 of this  
6 Act. Such disclosure shall conform to the requirements of  
7 subsection (a) of Section 8 of this Act.

8           (e) Any person who knowingly or maliciously disseminates  
9 any information or report concerning the existence of any  
10 disease under this Section is guilty of a Class A misdemeanor.

11 (Source: P.A. 87-763.)

12           Section 35. The Consent by Minors to Medical Procedures Act  
13 is amended by changing Sections 1, 2, 3, and 5 as follows:

14           (410 ILCS 210/1) (from Ch. 111, par. 4501)

15           Sec. 1. Consent by minor. The consent to the performance of  
16 a medical or surgical procedure by a physician licensed to  
17 practice medicine and surgery, an advanced practice nurse who  
18 has a written collaborative agreement with a collaborating  
19 physician that authorizes provision of services for minors, or  
20 a physician assistant who has been delegated authority to  
21 provide services for minors executed by a married person who is  
22 a minor, by a parent who is a minor, by a pregnant woman who is  
23 a minor, or by any person 18 years of age or older, is not  
24 voidable because of such minority, and, for such purpose, a  
25 married person who is a minor, a parent who is a minor, a  
26 pregnant woman who is a minor, or any person 18 years of age or  
27 older, is deemed to have the same legal capacity to act and has  
28 the same powers and obligations as has a person of legal age.

29 (Source: P.A. 89-187, eff. 7-19-95.)

30           (410 ILCS 210/2) (from Ch. 111, par. 4502)

31           Sec. 2. Any parent, including a parent who is a minor, may

1 consent to the performance upon his or her child of a medical  
2 or surgical procedure by a physician licensed to practice  
3 medicine and surgery, an advanced practice nurse who has a  
4 written collaborative agreement with a collaborating physician  
5 that authorizes provision of services for minors, or a  
6 physician assistant who has been delegated authority to provide  
7 services for minors or a dental procedure by a licensed  
8 dentist. The consent of a parent who is a minor shall not be  
9 voidable because of such minority, but, for such purpose, a  
10 parent who is a minor shall be deemed to have the same legal  
11 capacity to act and shall have the same powers and obligations  
12 as has a person of legal age.

13 (Source: P.A. 77-1661.)

14 (410 ILCS 210/3) (from Ch. 111, par. 4503)

15 Sec. 3. (a) Where a hospital, ~~or~~ a physician, licensed to  
16 practice medicine or surgery, an advanced practice nurse who  
17 has a written collaborative agreement with a collaborating  
18 physician that authorizes provision of services for minors, or  
19 a physician assistant who has been delegated authority to  
20 provide services for minors renders emergency treatment or  
21 first aid or a licensed dentist renders emergency dental  
22 treatment to a minor, consent of the minor's parent or legal  
23 guardian need not be obtained if, in the sole opinion of the  
24 physician, advanced practice nurse, physician assistant,  
25 dentist, or hospital, the obtaining of consent is not  
26 reasonably feasible under the circumstances without adversely  
27 affecting the condition of such minor's health.

28 (b) Where a minor is the victim of a predatory criminal  
29 sexual assault of a child, aggravated criminal sexual assault,  
30 criminal sexual assault, aggravated criminal sexual abuse or  
31 criminal sexual abuse, as provided in Sections 12-13 through  
32 12-16 of the Criminal Code of 1961, as now or hereafter  
33 amended, the consent of the minor's parent or legal guardian

1 need not be obtained to authorize a hospital, physician,  
2 advanced practice nurse, physician assistant, or other medical  
3 personnel to furnish medical care or counseling related to the  
4 diagnosis or treatment of any disease or injury arising from  
5 such offense. The minor may consent to such counseling,  
6 diagnosis or treatment as if the minor had reached his or her  
7 age of majority. Such consent shall not be voidable, nor  
8 subject to later disaffirmance, because of minority.

9 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

10 (410 ILCS 210/5) (from Ch. 111, par. 4505)

11 Sec. 5. Counseling; informing parent or guardian. Any  
12 physician, advanced practice nurse, or physician assistant,  
13 who provides diagnosis or treatment or any licensed clinical  
14 psychologist or professionally trained social worker with a  
15 master's degree or any qualified person employed (i) by an  
16 organization licensed or funded by the Department of Human  
17 Services, (ii) by units of local government, or (iii) by  
18 agencies or organizations operating drug abuse programs funded  
19 or licensed by the Federal Government or the State of Illinois  
20 or any qualified person employed by or associated with any  
21 public or private alcoholism or drug abuse program licensed by  
22 the State of Illinois who provides counseling to a minor  
23 patient who has come into contact with any sexually transmitted  
24 disease referred to in Section 4 of this Act may, but shall not  
25 be obligated to, inform the parent, parents, or guardian of the  
26 minor as to the treatment given or needed. Any person described  
27 in this Section who provides counseling to a minor who abuses  
28 drugs or alcohol or has a family member who abuses drugs or  
29 alcohol shall not inform the parent, parents, guardian, or  
30 other responsible adult of the minor's condition or treatment  
31 without the minor's consent unless that action is, in the  
32 person's judgment, necessary to protect the safety of the  
33 minor, a family member, or another individual.

1           Any such person shall, upon the minor's consent, make  
2 reasonable efforts to involve the family of the minor in his or  
3 her treatment, if the person furnishing the treatment believes  
4 that the involvement of the family will not be detrimental to  
5 the progress and care of the minor. Reasonable effort shall be  
6 extended to assist the minor in accepting the involvement of  
7 his or her family in the care and treatment being given.

8           (Source: P.A. 89-187, eff. 7-19-95; 89-507, eff. 7-1-97.)

9           Section 99. Effective date. This Act takes effect upon  
10 becoming law.".