



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB3420

Introduced 2/22/2005, by Rep. Larry McKeon

#### SYNOPSIS AS INTRODUCED:

410 ILCS 305/9	from Ch. 111 1/2, par. 7309
410 ILCS 310/Act title	
410 ILCS 310/1	from Ch. 111 1/2, par. 7351
410 ILCS 310/2	from Ch. 111 1/2, par. 7352
410 ILCS 310/3	from Ch. 111 1/2, par. 7353
410 ILCS 310/4	from Ch. 111 1/2, par. 7354

Amends the AIDS Confidentiality Act. Provides that a person may disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of such a test in a manner which permits identification of the subject of the test, to local health authorities serving a population of over 1,000,000 residents or other local health authorities as designated by the Department of Public Health, in accordance with rules for reporting and controlling the spread of disease. Provides that a local health authority shall not disclose information and records held by it relating to known or suspected cases of AIDS or HIV infection. Amends the AIDS Registry Act. Changes the short title of the Act to the "HIV/AIDS Registry Act". Changes the name of the "AIDS Registry" to the "HIV/AIDS Registry" (makes reference to "HIV" accordingly). Defines "HIV" and "registry".

LRB094 07679 RXD 37854 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning 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 Section 9 as follows:

6 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

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

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

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

32 (c) An authorized agent or employee of a health facility or

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

6 (d) The Department and local health authorities serving a  
7 population of over 1,000,000 residents or other local health  
8 authorities as designated by the Department, in accordance with  
9 rules for reporting and controlling the spread of disease, as  
10 otherwise provided by State law. ~~Neither the~~ The Department,  
11 ~~nor~~ local health authorities, and its authorized  
12 representatives shall not disclose information and records  
13 held by them relating to known or suspected cases of AIDS or  
14 HIV infection, publicly or in any action of any kind in any  
15 court or before any tribunal, board, or agency. AIDS and HIV  
16 infection data shall be protected from disclosure in accordance  
17 with the provisions of Sections 8-2101 through 8-2105 of the  
18 Code of Civil Procedure.

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

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

28 (g) (Blank).

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

35 (i) Any law enforcement officer, as defined in subsection  
36 (c) of Section 7, involved in the line of duty in a direct skin

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

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

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

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

30 Section 10. The AIDS Registry Act is amended by changing  
31 the title of the Act and Sections 1, 2, 3, and 4 as follows:

32 (410 ILCS 310/Act title)

33 An Act to create an HIV/AIDS Registry, and to amend certain  
34 Acts in relation to AIDS.

1 (410 ILCS 310/1) (from Ch. 111 1/2, par. 7351)

2 Sec. 1. This Act shall be known and may be cited as the  
3 "HIV/AIDS Registry Act".

4 (Source: P.A. 85-929.)

5 (410 ILCS 310/2) (from Ch. 111 1/2, par. 7352)

6 Sec. 2. The General Assembly finds that:

7 (1) More complete and precise statistical data than are  
8 presently available are necessary to evaluate HIV and AIDS  
9 treatment and prevention measures that are currently  
10 available; and

11 (2) The creation of an HIV/AIDS registry will provide a  
12 vital foundation for a concerted State effort to reduce the  
13 incidence of HIV and AIDS in this State.

14 (Source: P.A. 85-929.)

15 (410 ILCS 310/3) (from Ch. 111 1/2, par. 7353)

16 Sec. 3. For the purposes of this Act, unless the context  
17 requires otherwise:

18 (a) "AIDS" means acquired immunodeficiency syndrome, as  
19 defined by the Centers for Disease Control or the National  
20 Institutes of Health.

21 (b) (Blank).

22 (c) "Department" means the Illinois Department of Public  
23 Health.

24 (d) "Director" means the Director of Public Health.

25 (e) "HIV" means human immunodeficiency virus, as defined by  
26 the Centers for Disease Control and Prevention or the National  
27 Institutes of Health.

28 (f) "Registry" means an official record of reported HIV and  
29 AIDS cases.

30 (Source: P.A. 92-84, eff. 7-1-02.)

31 (410 ILCS 310/4) (from Ch. 111 1/2, par. 7354)

32 Sec. 4. (a) The Department shall establish and maintain an

1 HIV/AIDS Registry consisting of a record of cases of HIV and  
2 AIDS which occur in Illinois, and such information concerning  
3 those cases as it deems necessary or appropriate in order to  
4 conduct thorough and complete epidemiological surveys of HIV  
5 and AIDS in Illinois, and to evaluate existing control and  
6 prevention measures. Cases included in the Registry shall be  
7 identified by a code rather than by name. To the extent  
8 feasible, the Registry shall be compatible with other national  
9 models so as to facilitate the coordination of information with  
10 other data bases.

11 (b) To facilitate the collection of information relating to  
12 cases of HIV and AIDS, the Department shall have the authority  
13 to require hospitals, laboratories and other facilities which  
14 diagnose such conditions to report cases of HIV and AIDS to the  
15 Department or a local health authority if the local health  
16 authority serves a population of over 1,000,000 citizens or if  
17 the local health authority has been designated by the  
18 Department to collect such information, and to require the  
19 submission of such other information pertaining to or in  
20 connection with such reported cases as the Department deems  
21 necessary or appropriate for the purposes of this Act. The  
22 Department may promulgate rules or regulations specifying the  
23 types of information required, requirements for follow up of  
24 patients, frequency of reporting, methods of submitting such  
25 information and any other details deemed by the Department to  
26 be necessary or appropriate for the administration of this Act.  
27 Nothing in this Act shall be construed to compel any individual  
28 to submit to a medical examination or supervision.

29 (c) The Director shall by rule establish standards for  
30 ensuring the protection of information made confidential or  
31 privileged under law.

32 (Source: P.A. 92-84, eff. 7-1-02.)