



## 95TH GENERAL ASSEMBLY

### State of Illinois

### 2007 and 2008

### HB0193

Introduced 1/19/2007, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/27-8.1

from Ch. 122, par. 27-8.1

410 ILCS 315/1

from Ch. 111 1/2, par. 22.11

30 ILCS 805/8.31 new

Amends the School Code and the Communicable Disease Prevention Act. In a Section of the School Code involving health examinations for children, provides that the Department of Public Health shall adopt rules specifying that testing for the human immunodeficiency virus (HIV) be included in health examinations. Requires that the parent or guardian of the child be informed that such testing will be undertaken during the health examination unless the parent or guardian declines for his or her child to be tested for HIV. Also requires that the parent or guardian of the child be provided with clear and concise information about HIV testing, including an explanation about HIV infection and the meanings of positive and negative test results. Provides that HIV testing must be incorporated into the child's general health examination procedures and forms, the record of the health examination submitted to the school must indicate only that the child was tested for HIV or not, and that no HIV test result may be indicated in the record of the health examination submitted to the school. Sets forth the revised recommendations of the U.S. Centers for Disease Control and Prevention (CDC) for HIV testing. Declares to be the public policy of the State that HIV screening be conducted in accordance with the CDC recommendations and that the Department of Public Health develop and administer compliant policies and procedures as soon as possible. Makes other changes. Amends the State Mandates Act to require implementation without reimbursement.

LRB095 03915 KBJ 23948 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning public health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section  
5 27-8.1 as follows:

6 (105 ILCS 5/27-8.1) (from Ch. 122, par. 27-8.1)

7 Sec. 27-8.1. Health examinations and immunizations.

8 (1) In compliance with rules and regulations which the  
9 Department of Public Health shall promulgate, and except as  
10 hereinafter provided, all children in Illinois shall have a  
11 health examination as follows: within one year prior to  
12 entering kindergarten or the first grade of any public,  
13 private, or parochial elementary school; upon entering the  
14 fifth and ninth grades of any public, private, or parochial  
15 school; prior to entrance into any public, private, or  
16 parochial nursery school; and, irrespective of grade,  
17 immediately prior to or upon entrance into any public, private,  
18 or parochial school or nursery school, each child shall present  
19 proof of having been examined in accordance with this Section  
20 and the rules and regulations promulgated hereunder.

21 A tuberculosis skin test screening shall be included as a  
22 required part of each health examination included under this  
23 Section if the child resides in an area designated by the

1 Department of Public Health as having a high incidence of  
2 tuberculosis. Additional health examinations of pupils,  
3 including vision examinations, may be required when deemed  
4 necessary by school authorities. Parents are encouraged to have  
5 their children undergo vision examinations at the same points  
6 in time required for health examinations.

7 (1.5) In compliance with rules adopted by the Department of  
8 Public Health and except as otherwise provided in this Section,  
9 all children in kindergarten and the second and sixth grades of  
10 any public, private, or parochial school shall have a dental  
11 examination. Each of these children shall present proof of  
12 having been examined by a dentist in accordance with this  
13 Section and rules adopted under this Section before May 15th of  
14 the school year. If a child in the second or sixth grade fails  
15 to present proof by May 15th, the school may hold the child's  
16 report card until one of the following occurs: (i) the child  
17 presents proof of a completed dental examination or (ii) the  
18 child presents proof that a dental examination will take place  
19 within 60 days after May 15th. The Department of Public Health  
20 shall establish, by rule, a waiver for children who show an  
21 undue burden or a lack of access to a dentist. Each public,  
22 private, and parochial school must give notice of this dental  
23 examination requirement to the parents and guardians of  
24 students at least 60 days before May 15th of each school year.

25 (2) The Department of Public Health shall promulgate rules  
26 and regulations specifying the examinations and procedures

1 that constitute a health examination, which shall include the  
2 collection of data relating to obesity, (including at a  
3 minimum, date of birth, gender, height, weight, blood pressure,  
4 and date of exam), and a dental examination and may recommend  
5 by rule that certain additional examinations be performed. The  
6 rules and regulations of the Department of Public Health shall  
7 specify that a tuberculosis skin test screening shall be  
8 included as a required part of each health examination included  
9 under this Section if the child resides in an area designated  
10 by the Department of Public Health as having a high incidence  
11 of tuberculosis. The Department of Public Health shall specify  
12 that a diabetes screening as defined by rule shall be included  
13 as a required part of each health examination. Diabetes testing  
14 is not required.

15 The Department of Public Health shall adopt rules  
16 specifying that testing for the human immunodeficiency virus  
17 (HIV) be included as a required part of each health examination  
18 included under this Section, unless the parent or guardian of  
19 the child declines for his or her child to be tested for HIV.  
20 The parent or guardian of the child must be informed by the  
21 school that such testing must be undertaken during the health  
22 examination unless the parent or guardian declines for his or  
23 her child to be tested for HIV. The parent or guardian of the  
24 child must also be provided with clear and concise information  
25 about HIV testing, including an explanation about HIV infection  
26 and the meanings of positive and negative test results. This

1 informational material must be provided in the languages of the  
2 population served by the school. At the health examination, the  
3 parent or guardian and child must have the opportunity to ask  
4 questions about and decline the HIV testing.

5 Physicians licensed to practice medicine in all of its  
6 branches, advanced practice nurses who have a written  
7 collaborative agreement with a collaborating physician which  
8 authorizes them to perform health examinations, or physician  
9 assistants who have been delegated the performance of health  
10 examinations by their supervising physician shall be  
11 responsible for the performance of the health examinations,  
12 other than dental examinations and vision and hearing  
13 screening, and shall sign all report forms required by  
14 subsection (4) of this Section that pertain to those portions  
15 of the health examination for which the physician, advanced  
16 practice nurse, or physician assistant is responsible. If a  
17 registered nurse performs any part of a health examination,  
18 then a physician licensed to practice medicine in all of its  
19 branches must review and sign all required report forms.  
20 Licensed dentists shall perform all dental examinations and  
21 shall sign all report forms required by subsection (4) of this  
22 Section that pertain to the dental examinations. Physicians  
23 licensed to practice medicine in all its branches, or licensed  
24 optometrists, shall perform all vision exams required by school  
25 authorities and shall sign all report forms required by  
26 subsection (4) of this Section that pertain to the vision exam.

1 Vision and hearing screening tests, which shall not be  
2 considered examinations as that term is used in this Section,  
3 shall be conducted in accordance with rules and regulations of  
4 the Department of Public Health, and by individuals whom the  
5 Department of Public Health has certified. In these rules and  
6 regulations, the Department of Public Health shall require that  
7 individuals conducting vision screening tests give a child's  
8 parent or guardian written notification, before the vision  
9 screening is conducted, that states, "Vision screening is not a  
10 substitute for a complete eye and vision evaluation by an eye  
11 doctor. Your child is not required to undergo this vision  
12 screening if an optometrist or ophthalmologist has completed  
13 and signed a report form indicating that an examination has  
14 been administered within the previous 12 months."

15 (3) Every child shall, at or about the same time as he or  
16 she receives a health examination required by subsection (1) of  
17 this Section, present to the local school proof of having  
18 received such immunizations against preventable communicable  
19 diseases as the Department of Public Health shall require by  
20 rules and regulations promulgated pursuant to this Section and  
21 the Communicable Disease Prevention Act.

22 (4) The individuals conducting the health examination or  
23 dental examination shall record the fact of having conducted  
24 the examination, and such additional information as required,  
25 including for a health examination data relating to obesity,  
26 (including at a minimum, date of birth, gender, height, weight,

1 blood pressure, and date of exam), on uniform forms which the  
2 Department of Public Health and the State Board of Education  
3 shall prescribe for statewide use. The examiner shall summarize  
4 on the report form any condition that he or she suspects  
5 indicates a need for special services, including for a health  
6 examination factors relating to obesity. The individuals  
7 confirming the administration of required immunizations shall  
8 record as indicated on the form that the immunizations were  
9 administered.

10 HIV testing must be incorporated into the child's general  
11 health examination procedures and forms. The record of the  
12 health examination submitted to the school must indicate only  
13 that the child was tested for HIV or not. In the event that the  
14 parent or guardian declines the HIV testing for the child, that  
15 decision must be indicated in the record. No HIV test result  
16 may be indicated in the record of the health examination  
17 submitted to the school. The Department of Public Health shall  
18 adopt rules specifying the manner and form for recording and  
19 reporting test results, which shall protect the privacy and  
20 confidentiality of the child and the child's parents or  
21 guardian, the need to provide access to care and follow-up  
22 services for the child, and the destruction of records in the  
23 event of an HIV-negative test result. The confidentiality  
24 provisions of the AIDS Confidentiality Act shall apply to any  
25 report of HIV infection under this paragraph.

26 (5) If a child does not submit proof of having had either

1 the health examination or the immunization as required, then  
2 the child shall be examined or receive the immunization, as the  
3 case may be, and present proof by October 15 of the current  
4 school year, or by an earlier date of the current school year  
5 established by a school district. To establish a date before  
6 October 15 of the current school year for the health  
7 examination or immunization as required, a school district must  
8 give notice of the requirements of this Section 60 days prior  
9 to the earlier established date. If for medical reasons one or  
10 more of the required immunizations must be given after October  
11 15 of the current school year, or after an earlier established  
12 date of the current school year, then the child shall present,  
13 by October 15, or by the earlier established date, a schedule  
14 for the administration of the immunizations and a statement of  
15 the medical reasons causing the delay, both the schedule and  
16 the statement being issued by the physician, advanced practice  
17 nurse, physician assistant, registered nurse, or local health  
18 department that will be responsible for administration of the  
19 remaining required immunizations. If a child does not comply by  
20 October 15, or by the earlier established date of the current  
21 school year, with the requirements of this subsection, then the  
22 local school authority shall exclude that child from school  
23 until such time as the child presents proof of having had the  
24 health examination as required and presents proof of having  
25 received those required immunizations which are medically  
26 possible to receive immediately. During a child's exclusion



1 from school for noncompliance with this subsection, the child's  
2 parents or legal guardian shall be considered in violation of  
3 Section 26-1 and subject to any penalty imposed by Section  
4 26-10. This subsection (5) does not apply to dental  
5 examinations.

6 (6) Every school shall report to the State Board of  
7 Education by November 15, in the manner which that agency shall  
8 require, the number of children who have received the necessary  
9 immunizations and the health examination (other than a dental  
10 examination) as required, indicating, of those who have not  
11 received the immunizations and examination as required, the  
12 number of children who are exempt from health examination and  
13 immunization requirements on religious or medical grounds as  
14 provided in subsection (8). Every school shall report to the  
15 State Board of Education by June 30, in the manner that the  
16 State Board requires, the number of children who have received  
17 the required dental examination, indicating, of those who have  
18 not received the required dental examination, the number of  
19 children who are exempt from the dental examination on  
20 religious grounds as provided in subsection (8) of this Section  
21 and the number of children who have received a waiver under  
22 subsection (1.5) of this Section. This reported information  
23 shall be provided to the Department of Public Health by the  
24 State Board of Education.

25 (7) Upon determining that the number of pupils who are  
26 required to be in compliance with subsection (5) of this

1 Section is below 90% of the number of pupils enrolled in the  
2 school district, 10% of each State aid payment made pursuant to  
3 Section 18-8.05 to the school district for such year shall be  
4 withheld by the regional superintendent until the number of  
5 students in compliance with subsection (5) is the applicable  
6 specified percentage or higher.

7 (8) Parents or legal guardians who object to health or  
8 dental examinations or any part thereof, or to immunizations,  
9 on religious grounds shall not be required to submit their  
10 children or wards to the examinations or immunizations to which  
11 they so object if such parents or legal guardians present to  
12 the appropriate local school authority a signed statement of  
13 objection, detailing the grounds for the objection. A parent or  
14 guardian does not need to provide this signed statement for  
15 objecting to HIV testing. If the physical condition of the  
16 child is such that any one or more of the immunizing agents  
17 should not be administered, the examining physician, advanced  
18 practice nurse, or physician assistant responsible for the  
19 performance of the health examination shall endorse that fact  
20 upon the health examination form. Exempting a child from the  
21 health or dental examination does not exempt the child from  
22 participation in the program of physical education training  
23 provided in Sections 27-5 through 27-7 of this Code.

24 (9) For the purposes of this Section, "nursery schools"  
25 means those nursery schools operated by elementary school  
26 systems or secondary level school units or institutions of

1 higher learning.

2 (Source: P.A. 92-703, eff. 7-19-02; 93-504, eff. 1-1-04;  
3 93-530, eff. 1-1-04; 93-946, eff. 7-1-05; 93-966, eff. 1-1-05;  
4 revised 12-1-05.)

5 Section 10. The Communicable Disease Prevention Act is  
6 amended by changing Section 1 as follows:

7 (410 ILCS 315/1) (from Ch. 111 1/2, par. 22.11)

8 Sec. 1. (a) Certain communicable diseases such as measles,  
9 poliomyelitis and tetanus, may and do result in serious  
10 physical and mental disability including mental retardation,  
11 permanent paralysis, encephalitis, convulsions, pneumonia, and  
12 not infrequently, death.

13 Most of these diseases attack young children, and if they  
14 have not been immunized, may spread to other susceptible  
15 children and possibly, adults, thus, posing serious threats to  
16 the health of the community. Effective, safe and widely used  
17 vaccines and immunization procedures have been developed and  
18 are available to prevent these diseases and to limit their  
19 spread. Even though such immunization procedures are  
20 available, many children fail to receive this protection either  
21 through parental oversight, lack of concern, knowledge or  
22 interest, or lack of available facilities or funds. The  
23 existence of susceptible children in the community constitutes  
24 a health hazard to the individual and to the public at large by

1 serving as a focus for the spread of these communicable  
2 diseases.

3 It is declared to be the public policy of this State that  
4 all children shall be protected, as soon after birth as  
5 medically indicated, by the appropriate vaccines and  
6 immunizing procedures to prevent communicable diseases which  
7 are or which may in the future become preventable by  
8 immunization.

9 (b) The human immunodeficiency virus (HIV) and acquired  
10 immunodeficiency syndrome (AIDS) are leading causes of illness  
11 and death. Effective September 2006, the U.S. Centers for  
12 Disease Control and Prevention (CDC) revised its  
13 recommendations for HIV testing due to the changing  
14 demographics of the persons who have become infected since the  
15 1980's, which include increasing proportions of persons less  
16 than 20 years of age, women, members of racial and ethnic  
17 minority populations, persons who reside outside metropolitan  
18 areas, and heterosexual men and women who frequently are  
19 unaware that they are at risk for HIV. The CDC reports that  
20 prevention strategies that incorporate universal HIV screening  
21 have been highly effective and recommends screening for HIV  
22 infection for all persons 13 to 64 years of age.

23 It is declared to be the public policy of this State that  
24 HIV screening be conducted in accordance with the  
25 recommendations of the U.S. Centers for Disease Control and  
26 Prevention and that the Department of Public Health develop and

1 administer compliant policies and procedures as soon as  
2 possible.

3 (Source: P.A. 78-255; 78-303; 78-1297.)

4 Section 90. The State Mandates Act is amended by adding  
5 Section 8.31 as follows:

6 (30 ILCS 805/8.31 new)

7 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8  
8 of this Act, no reimbursement by the State is required for the  
9 implementation of any mandate created by this amendatory Act of  
10 the 95th General Assembly.