



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1759

Introduced 2/23/2007, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

410 ILCS 335/10

Amends the Perinatal HIV Prevention Act. Provides that every health care professional who provides health care services to a pregnant woman shall provide the woman with HIV counseling and perform (instead of recommend) HIV testing in accordance with the Centers for Disease Control and Prevention's Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings, unless she has already received an HIV test during pregnancy or she refuses in writing to take the test. Provides that every health care professional who provides health care services to a pregnant women, prior to providing an HIV test, must provide the pregnant woman with oral or written information and inform the woman of her right to refuse the test, and, upon request, provide the woman with the necessary forms to register her refusal. Provides that every health care professional who provides health care services to a pregnant woman shall not perform HIV testing on that woman after she has refused the test in writing, unless she withdraws her refusal in writing. Provides that for women at continued risk of exposure to HIV infection in the judgment of the health care professional, a repeat test should be provided (instead of recommended) late in pregnancy or at the time of labor and delivery, unless the woman refuses to the test in writing. Provides that the provision of pre-test information or refusal of testing shall be documented in the woman's medical record. Provides that any testing, provision of pre-test information, and prenatal information must be in accordance with the Centers for Disease Control and Prevention recommendations. Makes other changes.

LRB095 09579 KBJ 29779 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public health.

2 WHEREAS, The majority of children who are infected with  
3 human immunodeficiency virus (HIV) acquire the virus from their  
4 mothers during pregnancy; and

5 WHEREAS, More than one million Americans are infected with  
6 HIV, and 40,000 new cases of HIV occur each year; and

7 WHEREAS, More than one-quarter of persons with HIV do not  
8 know they are infected and contribute to up to 70% of new cases  
9 of HIV each year; and

10 WHEREAS, Pregnant women, particularly women of color, are  
11 at high risk for acquiring HIV, but often do not know they  
12 carry the risk of transmitting the virus to their newborns; and

13 WHEREAS, More than 99% of mother-to-newborn transmissions  
14 of HIV can be prevented if a pregnant woman is tested for HIV  
15 and treated with medications before the birth of her child; and

16 WHEREAS, National recommendations for preventing  
17 mother-to-newborn HIV infection from authorities, including  
18 the Institute of Medicine, the Centers for Disease Control and  
19 Prevention, the American College of Obstetricians and  
20 Gynecologists, the American Academy of Pediatrics, the  
21 Presidential Advisory Council on HIV/AIDS, and the National

1 Congress of Black Women, indicate that the most effective way  
2 to prevent mother-to-newborn HIV transmission is through  
3 routine prenatal testing of all pregnant women with the right  
4 to refuse; and

5 WHEREAS, Nearly 300 babies have been born with HIV in  
6 Illinois since 1994 since it was demonstrated that prenatal HIV  
7 testing and treatment can prevent mother-to-newborn HIV  
8 infection; and

9 WHEREAS, The earlier in a pregnancy a woman is identified  
10 as having HIV, the greater the opportunity to provide her with  
11 more effective care for herself and prevent transmission of HIV  
12 to her newborn; therefore

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

15 Section 5. The Perinatal HIV Prevention Act is amended by  
16 changing Section 10 as follows:

17 (410 ILCS 335/10)

18 Sec. 10. HIV counseling and ~~offer of~~ HIV testing required.

19 (a) Every health care professional who provides health care  
20 services to a pregnant woman shall provide the woman with HIV  
21 counseling and perform ~~recommend~~ HIV testing in accordance with

1 the Centers for Disease Control and Prevention's Revised  
2 Recommendations for HIV Testing of Adults, Adolescents, and  
3 Pregnant Women in Health-Care Settings (September 22, 2006),  
4 unless she has already received an HIV test during pregnancy or  
5 she refuses in writing to take the test. Every health care  
6 professional who provides health care services to a pregnant  
7 woman must test the woman for HIV as early in the woman's  
8 pregnancy as possible, unless she has already received an HIV  
9 test during pregnancy or objects in writing to the test. Every  
10 health care professional who provides health care services to a  
11 pregnant women, prior to providing an HIV test, must provide  
12 the pregnant woman with oral or written information included in  
13 subsection (d) and inform the woman of her right to refuse the  
14 test, and, upon request, provide the woman with the necessary  
15 forms to register her refusal. Every health care professional  
16 who provides health care services to a pregnant woman shall not  
17 perform HIV testing on that woman after she has refused the  
18 test in writing, unless she withdraws her refusal in writing.  
19 ~~HIV testing shall be provided with the woman's consent. A~~  
20 ~~health care professional shall provide the counseling and~~  
21 ~~recommend the testing as early in the woman's pregnancy as~~  
22 ~~possible.~~ For women at continued risk of exposure to HIV  
23 infection in the judgment of the health care professional, a  
24 repeat test should be provided ~~recommended~~ late in pregnancy or  
25 at the time of labor and delivery, unless the woman refuses to  
26 the test in writing. The health care professional shall inform

1 the pregnant woman that, should she refuse HIV testing during  
2 pregnancy, her newborn infant will be tested for HIV. The  
3 provision of pre-test information and any written refusal  
4 relating to testing ~~counseling and recommendation of testing~~  
5 shall be documented in the woman's medical record.

6 (b) Every health care professional or facility that cares  
7 for a pregnant woman during labor or delivery shall provide the  
8 woman with ~~HIV counseling and recommend~~ HIV testing, unless she  
9 refuses in writing to the testing. HIV testing shall be  
10 provided with the woman's consent. No ~~counseling or offer of~~  
11 testing is required if already provided during the woman's  
12 pregnancy. The provision of pre-test information or refusal of  
13 testing ~~counseling and offer of testing~~ shall be documented in  
14 the woman's medical record. The health care facility shall  
15 adopt a policy that provides that as soon as possible within  
16 medical standards after the infant's birth, the mother's HIV  
17 test result, if available, shall be noted in the newborn  
18 infant's medical record. It shall also be noted in the newborn  
19 infant's medical record if the mother's HIV test result is not  
20 available because she has not been tested or has refused  
21 ~~declined~~ testing. Any testing or test results shall be  
22 documented in accordance with the Centers for Disease Control  
23 and Prevention's Revised Recommendations for HIV Testing of  
24 Adults, Adolescents, and Pregnant Women in Health-Care  
25 Settings (September 22, 2006) ~~AIDS Confidentiality Act~~.

26 (c) Every health care professional or facility caring for a

1 newborn infant shall, upon delivery or as soon as possible  
2 within medical standards after the infant's birth, provide  
3 pre-test information ~~counseling~~ to the parent or guardian of  
4 the infant and perform rapid HIV testing on the infant, when  
5 the HIV status of the infant's mother is unknown.

6 (d) The pre-test information ~~counseling~~ required under  
7 this Section must be provided in accordance with the Centers  
8 for Disease Control and Prevention's Revised Recommendations  
9 for HIV Testing of Adults, Adolescents, and Pregnant Women in  
10 Health-Care Settings (September 22, 2006) ~~AIDS Confidentiality~~  
11 ~~Act~~ and must include the following:

12 (1) For the health of the pregnant woman, the voluntary  
13 nature of the testing (the right to refuse HIV testing) and  
14 the benefits of HIV testing, including the prevention of  
15 transmission.

16 (2) The benefit of HIV testing for the newborn infant,  
17 including interventions to prevent HIV transmission.

18 (3) The side effects of interventions to prevent HIV  
19 transmission.

20 (4) The statutory confidentiality provisions that  
21 relate to HIV and acquired immune deficiency syndrome  
22 ("AIDS") testing.

23 (e) All prenatal information ~~counseling~~ and testing must be  
24 performed in accordance with the standards set forth in the  
25 Centers for Disease Control and Prevention's Revised  
26 Recommendations for HIV Testing of Adults, Adolescents, and

1 Pregnant Women in Health-Care Settings (September 22, 2006)  
2 ~~AIDS Confidentiality Act, including the written informed~~  
3 ~~consent provisions of Sections 4, 7, and 8 of that Act, with~~  
4 ~~the exception of the requirement of consent for testing of~~  
5 ~~newborn infants.~~ No additional process or written  
6 documentation of informed consent beyond what is required for  
7 other routine prenatal tests is required for HIV testing.

8 Consent for testing of a newborn infant shall be presumed when  
9 a health care professional or health care facility seeks to  
10 perform a test on a newborn infant whose mother's HIV status is  
11 not known, provided that the provision of the pre-test  
12 information ~~counseling~~ required under subsection (d) has taken  
13 place.

14 (f) The Illinois Department of Public Health shall adopt  
15 necessary rules to implement this Act.

16 (Source: P.A. 93-566, eff. 8-20-03; 94-910, eff. 6-23-06.)