



Sen. Mike Jacobs

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09600HB1110sam001

LRB096 03921 RLC 25626 a

1 AMENDMENT TO HOUSE BILL 1110

2 AMENDMENT NO. _____. Amend House Bill 1110 by replacing
3 everything after the enacting clause with the following:

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

1 the patient to notify the spouse or that, a reasonable time
2 after the patient has agreed to make the notification, the
3 physician has reason to believe that the patient has not
4 provided the notification. This paragraph shall not create a
5 duty or obligation under which a physician must notify the
6 spouse of the test results, nor shall such duty or obligation
7 be implied. No civil liability or criminal sanction under this
8 Act shall be imposed for any disclosure or non-disclosure of a
9 test result to a spouse by a physician acting in good faith
10 under this paragraph. For the purpose of any proceedings, civil
11 or criminal, the good faith of any physician acting under this
12 paragraph shall be presumed.

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

16 (c) An authorized agent or employee of a health facility or
17 health care provider if the health facility or health care
18 provider itself is authorized to obtain the test results, the
19 agent or employee provides patient care or handles or processes
20 specimens of body fluids or tissues, and the agent or employee
21 has a need to know such information.

22 (d) The Department and local health authorities serving a
23 population of over 1,000,000 residents or other local health
24 authorities as designated by the Department, in accordance with
25 rules for reporting and controlling the spread of disease, as
26 otherwise provided by State law. The Department, local health

1 authorities, and authorized representatives shall not disclose
2 information and records held by them relating to known or
3 suspected cases of AIDS or HIV infection, publicly or in any
4 action of any kind in any court or before any tribunal, board,
5 or agency. AIDS and HIV infection data shall be protected from
6 disclosure in accordance with the provisions of Sections 8-2101
7 through 8-2105 of the Code of Civil Procedure.

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

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

17 (f-5) A court in accordance with the provisions of Section
18 12-16.2 of the Criminal Code of 1961.

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 in his medical judgment.

26 (i) Any law enforcement officer, as defined in subsection

1 (c) of Section 7, involved in the line of duty in a direct skin
2 or mucous membrane contact with the blood or bodily fluids of
3 an individual which is of a nature that may transmit HIV, as
4 determined by a physician in his medical judgment.

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

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

1 purpose of any proceeding, civil or criminal, the good faith of
2 any health care provider acting under this subsection shall be
3 presumed.

4 (Source: P.A. 93-482, eff. 8-8-03; 94-102, eff. 1-1-06; revised
5 10-28-08.)

6 Section 10. The Criminal Code of 1961 is amended by
7 changing Section 12-16.2 as follows:

8 (720 ILCS 5/12-16.2) (from Ch. 38, par. 12-16.2)

9 Sec. 12-16.2. Criminal Transmission of HIV. (a) A person
10 commits criminal transmission of HIV when he or she, knowing
11 that he or she is infected with HIV:

12 (1) engages in intimate contact with another;

13 (2) transfers, donates, or provides his or her blood,
14 tissue, semen, organs, or other potentially infectious body
15 fluids for transfusion, transplantation, insemination, or
16 other administration to another; or

17 (3) dispenses, delivers, exchanges, sells, or in any other
18 way transfers to another any nonsterile intravenous or
19 intramuscular drug paraphernalia.

20 (b) For purposes of this Section:

21 "HIV" means the human immunodeficiency virus or any other
22 identified causative agent of acquired immunodeficiency
23 syndrome.

24 "Intimate contact with another" means the direct skin or

1 mucous membrane contact with the blood or bodily fluids of an
2 individual which is of a nature that may reasonably transmit
3 HIV exposure of the body of one person to a bodily fluid of
4 another person in a manner that could result in the
5 transmission of HIV.

6 "Intravenous or intramuscular drug paraphernalia" means
7 any equipment, product, or material of any kind which is
8 peculiar to and marketed for use in injecting a substance into
9 the human body.

10 (c) Nothing in this Section shall be construed to require
11 that an infection with HIV has occurred in order for a person
12 to have committed criminal transmission of HIV.

13 (d) It shall be an affirmative defense that the person
14 exposed knew that the infected person was infected with HIV,
15 knew that the action could result in infection with HIV, and
16 consented to the action with that knowledge.

17 (d-5) A prosecuting entity may issue a subpoena duces tecum
18 for the records of a person charged with the offense of
19 criminal transmission of HIV or a subpoena for the attendance
20 of a person with relevant knowledge thereof so long as the
21 return of the records or attendance of the person pursuant to
22 the subpoena is submitted initially to the court for an in
23 camera inspection. Only upon a finding by the court that the
24 records or proffered testimony are relevant to the pending
25 offense, the information sought by the subpoena shall be
26 disclosed to the prosecuting entity and admissible if otherwise

1 permitted by law.

2 (e) A person who commits criminal transmission of HIV
3 commits a Class 2 felony.

4 (Source: P.A. 86-897.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.".