



Rep. La Shawn K. Ford

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1 AMENDMENT TO HOUSE BILL 1004

2 AMENDMENT NO. _____. Amend House Bill 1004 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by changing
5 Section 5.666 as follows:

6 (30 ILCS 105/5.666)

7 (Section scheduled to be repealed on July 1, 2016)

8 Sec. 5.666. The African-American HIV/AIDS Response Fund.

9 This Section is repealed on July 1, 2026 ~~2016~~.

10 (Source: P.A. 94-797, eff. 1-1-07; 95-331, eff. 8-21-07.)

11 Section 10. The African-American HIV/AIDS Response Act is
12 amended by changing Section 27 as follows:

13 (410 ILCS 303/27)

14 (Section scheduled to be repealed on July 1, 2016)

1 Sec. 27. African-American HIV/AIDS Response Fund.

2 (a) The African-American HIV/AIDS Response Fund is created
3 as a special fund in the State treasury. Moneys deposited into
4 the Fund shall, subject to appropriation, be used for grants
5 for programs to prevent the transmission of HIV and other
6 programs and activities consistent with the purposes of this
7 Act, including, but not limited to, preventing and treating
8 HIV/AIDS, the creation of an HIV/AIDS service delivery system,
9 and the administration of the Act. Moneys for the Fund shall
10 come from appropriations by the General Assembly, federal
11 funds, and other public resources.

12 (b) The Fund shall provide resources for communities in
13 Illinois to create an HIV/AIDS service delivery system that
14 reduces the disparity of HIV infection and AIDS cases between
15 African-Americans and other population groups in Illinois that
16 may be impacted by the disease by, including but, not limited
17 to:

18 (1) developing, implementing, and maintaining a
19 comprehensive, culturally sensitive HIV Prevention Plan
20 targeting communities that are identified as high-risk in
21 terms of the impact of the disease on African-Americans;

22 (2) developing, implementing, and maintaining a stable
23 HIV/AIDS service delivery infrastructure in Illinois
24 communities that will meet the needs of African-Americans;

25 (3) developing, implementing, and maintaining a
26 statewide HIV/AIDS testing program;

1 (4) providing funding for HIV/AIDS social and
2 scientific research to improve prevention and treatment;

3 (5) providing comprehensive technical and other
4 assistance to African-American community service
5 organizations that are involved in HIV/AIDS prevention and
6 treatment;

7 (6) developing, implementing, and maintaining an
8 infrastructure for African-American community service
9 organizations to make them less dependent on government
10 resources; and

11 (7) creating and maintaining at least 17 one-stop
12 shopping HIV/AIDS facilities across the State.

13 (c) When providing grants pursuant to this Fund, the
14 Department of Public Health shall give priority to the
15 development of comprehensive medical and social services to
16 African-Americans at risk of infection from or infected with
17 HIV/AIDS in areas of the State determined to have the greatest
18 geographic prevalence of HIV/AIDS in the African-American
19 population.

20 (d) The Section is repealed on July 1, 2026 ~~2016~~.

21 (Source: P.A. 94-797, eff. 1-1-07.)

22 Section 15. The AIDS Confidentiality Act is amended by
23 changing Sections 3, 4, and 9 as follows:

24 (410 ILCS 305/3) (from Ch. 111 1/2, par. 7303)

1 Sec. 3. Definitions. When used in this Act:

2 (a) "AIDS" means acquired immunodeficiency syndrome.

3 (b) "Authority" means the Illinois Health Information
4 Exchange Authority established pursuant to the Illinois Health
5 Information Exchange and Technology Act.

6 (c) "Business associate" has the meaning ascribed to it
7 under HIPAA, as specified in 45 CFR 160.103.

8 (d) "Covered entity" has the meaning ascribed to it under
9 HIPAA, as specified in 45 CFR 160.103.

10 (e) "De-identified information" means health information
11 that is not individually identifiable as described under HIPAA,
12 as specified in 45 CFR 164.514(b).

13 (f) "Department" means the Illinois Department of Public
14 Health or its designated agents.

15 (g) "Disclosure" has the meaning ascribed to it under
16 HIPAA, as specified in 45 CFR 160.103.

17 (h) "Health care operations" has the meaning ascribed to it
18 under HIPAA, as specified in 45 CFR 164.501.

19 (i) "Health care professional" means (i) a licensed
20 physician, (ii) a physician assistant to whom the physician
21 assistant's supervising physician has delegated the provision
22 of AIDS and HIV-related health services, (iii) an advanced
23 practice registered nurse who has a written collaborative
24 agreement with a collaborating physician which authorizes the
25 provision of AIDS and HIV-related health services, (iv) an
26 advanced practice nurse or physician assistant who practices in

1 a hospital or ambulatory surgical treatment center and
2 possesses appropriate clinical privileges, (v) a licensed
3 dentist, (vi) ~~(v)~~ a licensed podiatric physician, or (vii) ~~(vi)~~
4 an individual certified to provide HIV testing and counseling
5 by a state or local public health department.

6 (j) "Health care provider" has the meaning ascribed to it
7 under HIPAA, as specified in 45 CFR 160.103.

8 (k) "Health facility" means a hospital, nursing home, blood
9 bank, blood center, sperm bank, or other health care
10 institution, including any "health facility" as that term is
11 defined in the Illinois Finance Authority Act.

12 (l) "Health information exchange" or "HIE" means a health
13 information exchange or health information organization that
14 oversees and governs the electronic exchange of health
15 information that (i) is established pursuant to the Illinois
16 Health Information Exchange and Technology Act, or any
17 subsequent amendments thereto, and any administrative rules
18 adopted thereunder; (ii) has established a data sharing
19 arrangement with the Authority; or (iii) as of August 16, 2013,
20 was designated by the Authority Board as a member of, or was
21 represented on, the Authority Board's Regional Health
22 Information Exchange Workgroup; provided that such designation
23 shall not require the establishment of a data sharing
24 arrangement or other participation with the Illinois Health
25 Information Exchange or the payment of any fee. In certain
26 circumstances, in accordance with HIPAA, an HIE will be a

1 business associate.

2 (m) "Health oversight agency" has the meaning ascribed to
3 it under HIPAA, as specified in 45 CFR 164.501.

4 (n) "HIPAA" means the Health Insurance Portability and
5 Accountability Act of 1996, Public Law 104-191, as amended by
6 the Health Information Technology for Economic and Clinical
7 Health Act of 2009, Public Law 111-05, and any subsequent
8 amendments thereto and any regulations promulgated thereunder.

9 (o) "HIV" means the human immunodeficiency virus.

10 (p) "HIV-related information" means the identity of a
11 person upon whom an HIV test is performed, the results of an
12 HIV test, as well as diagnosis, treatment, and prescription
13 information that reveals a patient is HIV-positive, including
14 such information contained in a limited data set. "HIV-related
15 information" does not include information that has been
16 de-identified in accordance with HIPAA.

17 (q) "Informed consent" means:

18 (1) a process by which an individual or their legal
19 representative receives pre-test information, has an
20 opportunity to ask questions, and consents verbally or in
21 writing to the test without undue inducement or any element
22 of force, fraud, deceit, duress, or other form of
23 constraint or coercion; or

24 (2) where a health facility has implemented opt-out
25 testing, the individual or their legal representative has
26 been notified verbally or in writing that the test is

1 planned, has received pre-test information, has been given
2 the opportunity to ask questions and the opportunity to
3 decline testing, and has not declined testing. ~~a written or~~
4 ~~verbal agreement by the subject of a test or the subject's~~
5 ~~legally authorized representative without undue inducement~~
6 ~~or any element of force, fraud, deceit, duress, or other~~
7 ~~form of constraint or coercion, which entails at least the~~
8 ~~following pre test information:~~

9 ~~(1) a fair explanation of the test, including its~~
10 ~~purpose, potential uses, limitations, and the meaning of~~
11 ~~its results;~~

12 ~~(2) a fair explanation of the procedures to be~~
13 ~~followed, including the voluntary nature of the test, the~~
14 ~~right to withdraw consent to the testing process at any~~
15 ~~time, the right to anonymity to the extent provided by law~~
16 ~~with respect to participation in the test and disclosure of~~
17 ~~test results, and the right to confidential treatment of~~
18 ~~information identifying the subject of the test and the~~
19 ~~results of the test, to the extent provided by law; and~~

20 In addition, ~~(3)~~ where the person providing informed
21 consent is a participant in an HIE, informed consent requires a
22 fair explanation that the results of the patient's HIV test
23 will be accessible through an HIE and meaningful disclosure of
24 the patient's opt-out right under Section 9.6 of this Act.

25 A health care provider, health care professional, or health
26 facility undertaking an informed consent process for HIV

1 testing under this subsection may combine a form used to obtain
2 informed consent for HIV testing with forms used to obtain
3 written consent for general medical care or any other medical
4 test or procedure, provided that the forms make it clear that
5 the subject may consent to general medical care, tests, or
6 procedures without being required to consent to HIV testing,
7 and clearly explain how the subject may decline HIV testing.
8 Health facility clerical staff or other staff responsible for
9 the consent form for general medical care may obtain consent
10 for HIV testing through a general consent form.

11 ~~Pre-test information may be provided in writing, verbally,~~
12 ~~or by video, electronic, or other means. The subject must be~~
13 ~~offered an opportunity to ask questions about the HIV test and~~
14 ~~decline testing. Nothing in this Act shall prohibit a health~~
15 ~~care provider or health care professional from combining a form~~
16 ~~used to obtain informed consent for HIV testing with forms used~~
17 ~~to obtain written consent for general medical care or any other~~
18 ~~medical test or procedure provided that the forms make it clear~~
19 ~~that the subject may consent to general medical care, tests, or~~
20 ~~medical procedures without being required to consent to HIV~~
21 ~~testing and clearly explain how the subject may opt out of HIV~~
22 ~~testing.~~

23 (r) "Limited data set" has the meaning ascribed to it under
24 HIPAA, as described in 45 CFR 164.514(e) (2).

25 (s) "Minimum necessary" means the HIPAA standard for using,
26 disclosing, and requesting protected health information found

1 in 45 CFR 164.502(b) and 164.514(d).

2 (t) "Organized health care arrangement" has the meaning
3 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

4 (u) "Patient safety activities" has the meaning ascribed to
5 it under 42 CFR 3.20.

6 (v) "Payment" has the meaning ascribed to it under HIPAA,
7 as specified in 45 CFR 164.501.

8 (w) "Person" includes any natural person, partnership,
9 association, joint venture, trust, governmental entity, public
10 or private corporation, health facility, or other legal entity.

11 (w-5) "Pre-test information" means:

12 (1) a reasonable explanation of the test, including its
13 purpose, potential uses, limitations, and the meaning of
14 its results; and

15 (2) a reasonable explanation of the procedures to be
16 followed, including the voluntary nature of the test, the
17 availability of a qualified person to answer questions, the
18 right to withdraw consent to the testing process at any
19 time, the right to anonymity to the extent provided by law
20 with respect to participation in the test and disclosure of
21 test results, and the right to confidential treatment of
22 information identifying the subject of the test and the
23 results of the test, to the extent provided by law.

24 Pre-test information may be provided in writing, verbally,
25 or by video, electronic, or other means and may be provided as
26 designated by the supervising health care professional or the

1 health facility.

2 For the purposes of this definition, a qualified person to
3 answer questions is a health care professional or, when acting
4 under the supervision of a health care professional, a
5 registered nurse, medical assistant, or other person
6 determined to be sufficiently knowledgeable about HIV testing,
7 its purpose, potential uses, limitations, the meaning of the
8 test results, and the testing procedures in the professional
9 judgment of a supervising health care professional or as
10 designated by a health care facility.

11 (x) "Protected health information" has the meaning
12 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

13 (y) "Research" has the meaning ascribed to it under HIPAA,
14 as specified in 45 CFR 164.501.

15 (z) "State agency" means an instrumentality of the State of
16 Illinois and any instrumentality of another state that,
17 pursuant to applicable law or a written undertaking with an
18 instrumentality of the State of Illinois, is bound to protect
19 the privacy of HIV-related information of Illinois persons.

20 (aa) "Test" or "HIV test" means a test to determine the
21 presence of the antibody or antigen to HIV, or of HIV
22 infection.

23 (bb) "Treatment" has the meaning ascribed to it under
24 HIPAA, as specified in 45 CFR 164.501.

25 (cc) "Use" has the meaning ascribed to it under HIPAA, as
26 specified in 45 CFR 160.103, where context dictates.

1 (Source: P.A. 98-214, eff. 8-9-13; 98-1046, eff. 1-1-15.)

2 (410 ILCS 305/4) (from Ch. 111 1/2, par. 7304)

3 Sec. 4. Informed consent. No person may order an HIV test
4 without first providing pre-test information, as defined under
5 subsection (w-5) of Section 3 of this Act, and receiving the
6 ~~documented~~ informed consent of the subject of the test or the
7 subject's legally authorized representative in accordance with
8 paragraph (1) or (2) of subsection (q) of Section 3 of this
9 Act. Health care facilities or providers obtaining informed
10 consent pursuant to paragraph (1) of subsection (q) of Section
11 3 shall document verbal or written consent in the general
12 consent for medical care, a separate consent form, or elsewhere
13 in the medical record. Health care facilities or providers
14 offering opt-out testing pursuant to paragraph (2) of
15 subsection (q) of Section 3 shall document the subject's or the
16 subject's legally authorized representative's declination of
17 the test in the medical record and shall establish and document
18 their procedure for providing pre-test information, as that
19 term is defined under subsection (w-5) of Section 3 of this
20 Act. A health care facility or provider may offer opt-out HIV
21 ~~testing where the subject or the subject's legally authorized~~
22 ~~representative is informed that the subject will be tested for~~
23 ~~HIV unless he or she refuses. The health care facility or~~
24 ~~provider must document the provision of informed consent,~~
25 ~~including pre test information, and whether the subject or the~~

1 ~~subject's legally authorized representative declined the offer~~
2 ~~of HIV testing.~~

3 (Source: P.A. 95-7, eff. 6-1-08.)

4 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

5 Sec. 9. (1) No person may disclose or be compelled to
6 disclose HIV-related information, except to the following
7 persons:

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

1 faith of any physician acting under this paragraph shall be
2 presumed.

3 (b) Any person designated in a legally effective
4 authorization for release of the HIV-related information
5 executed by the subject of the HIV-related information or
6 the subject's legally authorized representative.

7 (c) An authorized agent or employee of a health
8 facility or health care provider if the health facility or
9 health care provider itself is authorized to obtain the
10 test results, the agent or employee provides patient care
11 or handles or processes specimens of body fluids or
12 tissues, and the agent or employee has a need to know such
13 information.

14 (d) The Department and local health authorities
15 serving a population of over 1,000,000 residents or other
16 local health authorities as designated by the Department,
17 in accordance with rules for reporting, preventing, and
18 controlling the spread of disease and the conduct of public
19 health surveillance, public health investigations, and
20 public health interventions, as otherwise provided by
21 State law. The Department, local health authorities, and
22 authorized representatives shall not disclose HIV test
23 results and HIV-related information, publicly or in any
24 action of any kind in any court or before any tribunal,
25 board, or agency. HIV test results and HIV-related
26 information shall be protected from disclosure in

1 accordance with the provisions of Sections 8-2101 through
2 8-2105 of the Code of Civil Procedure.

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

9 (f) Health facility staff committees for the purposes
10 of conducting program monitoring, program evaluation or
11 service reviews.

12 (f-5) A court in accordance with the provisions of
13 Section 12-5.01 of the Criminal Code of 2012.

14 (g) (Blank).

15 (h) Any health care provider, health care
16 professional, or employee of a health facility, and any
17 firefighter or EMR, EMT, A-EMT, paramedic, PHRN, or EMT-I,
18 involved in an accidental direct skin or mucous membrane
19 contact with the blood or bodily fluids of an individual
20 which is of a nature that may transmit HIV, as determined
21 by a physician in his medical judgment.

22 (i) Any law enforcement officer, as defined in
23 subsection (c) of Section 7, involved in the line of duty
24 in a direct skin or mucous membrane contact with the blood
25 or bodily fluids of an individual which is of a nature that
26 may transmit HIV, as determined by a physician in his

1 medical judgment.

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

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

1 care professional acting under this subsection shall be
2 presumed.

3 (2) All information and records held by a State agency,
4 local health authority, or health oversight agency pertaining
5 to HIV-related information shall be strictly confidential and
6 exempt from copying and inspection under the Freedom of
7 Information Act. The information and records shall not be
8 released or made public by the State agency, local health
9 authority, or health oversight agency, shall not be admissible
10 as evidence nor discoverable in any action of any kind in any
11 court or before any tribunal, board, agency, or person, and
12 shall be treated in the same manner as the information and
13 those records subject to the provisions of Part 21 of Article
14 VIII of the Code of Civil Procedure, except under the following
15 circumstances:

16 (A) when made with the written consent of all persons
17 to whom the information pertains; or

18 (B) when authorized by Section 5-4-3 of the Unified
19 Code of Corrections.

20 Disclosure shall be limited to those who have a need to
21 know the information, and no additional disclosures may be
22 made.

23 (Source: P.A. 97-1046, eff. 8-21-12; 97-1150, eff. 1-25-13;
24 98-973, eff. 8-15-14; 98-1046, eff. 1-1-15; revised 10-1-14.)

25 (410 ILCS 305/5 rep.)

1 Section 20. The AIDS Confidentiality Act is amended by
2 repealing Section 5."