

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 Perinatal HIV Prevention Act is amended by  
5 changing Sections 5 and 10 and by adding Sections 15, 20, 25,  
6 30, and 35 as follows:

7 (410 ILCS 335/5)

8 Sec. 5. Definitions. In this Act:

9 "Department" means the Department of Public Health.

10 "Health care professional" means a physician licensed to  
11 practice medicine in all its branches, a physician assistant  
12 who has been delegated the provision of health services by his  
13 or her supervising physician, or an advanced practice  
14 registered nurse who has a written collaborative agreement with  
15 a collaborating physician that authorizes the provision of  
16 health services.

17 "Health care facility" or "facility" means any hospital or  
18 other institution that is licensed or otherwise authorized to  
19 deliver health care services.

20 "Health care services" means any prenatal medical care or  
21 labor or delivery services to a pregnant woman and her newborn  
22 infant, including hospitalization.

23 (Source: P.A. 93-566, eff. 8-20-03.)

24 (410 ILCS 335/10)

25 Sec. 10. HIV counseling and offer of HIV testing required.

26 (a) Every health care professional who provides health care  
27 services to a pregnant woman shall provide the woman with HIV  
28 counseling and recommend ~~offer~~ HIV testing, unless she has  
29 already received an HIV test during pregnancy. HIV testing  
30 shall be provided with the woman's consent. A health care  
31 professional shall provide the counseling and recommend ~~offer~~

1 the testing as early in the woman's pregnancy as possible. For  
2 women at continued risk of exposure to HIV infection in the  
3 judgment of the health care professional, a repeat test should  
4 be recommended ~~offered~~ late in pregnancy or at the time of  
5 labor and delivery. The health care professional shall inform  
6 the pregnant woman that, should she refuse HIV testing during  
7 pregnancy, her newborn infant will be tested for HIV. The  
8 counseling and recommendation ~~offer~~ of testing shall be  
9 documented in the woman's medical record.

10 (b) Every health care professional or facility that cares  
11 for a pregnant woman during labor or delivery shall provide the  
12 woman with HIV counseling and recommend ~~offer~~ HIV testing. HIV  
13 testing shall be provided with the woman's consent. No  
14 counseling or offer of testing is required if already provided  
15 during the woman's pregnancy. The counseling and offer of  
16 testing shall be documented in the woman's medical record. The  
17 health care facility shall adopt a policy that provides that as  
18 soon as possible within medical standards after the infant's  
19 birth, the mother's HIV test result, if available, shall be  
20 noted in the newborn infant's medical record. It shall also be  
21 noted in the newborn infant's medical record if the mother's  
22 HIV test result is not available because she has not been  
23 tested or has declined testing. Any testing or test results  
24 shall be documented in accordance with the AIDS Confidentiality  
25 Act.

26 (c) Every health care professional or facility caring for a  
27 newborn infant shall, upon delivery or as soon as possible  
28 within medical standards ~~48 hours~~ after the infant's birth,  
29 provide counseling to the parent or guardian of the infant and  
30 perform rapid HIV testing on the infant, when the HIV status of  
31 the infant's mother is unknown, ~~if the parent or guardian does~~  
32 ~~not refuse.~~ ~~The health care professional or facility shall~~  
33 ~~document in the woman's medical record that counseling and the~~  
34 ~~offer of testing were given, and that no written refusal was~~  
35 ~~given.~~

36 (d) The counseling required under this Section must be

1 provided in accordance with the AIDS Confidentiality Act and  
2 must include the following:

3 (1) For the health of the pregnant woman, the voluntary  
4 nature of the testing and the ~~The~~ benefits of HIV testing,  
5 ~~for the pregnant woman,~~ including the prevention of  
6 transmission.

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

9 (3) The side effects of interventions to prevent HIV  
10 transmission.

11 (4) The statutory confidentiality provisions that  
12 relate to HIV and acquired immune deficiency syndrome  
13 ("AIDS") testing.

14 ~~(5) The voluntary nature of the testing, including the~~  
15 ~~opportunity to refuse testing of a newborn infant in~~  
16 ~~writing.~~

17 (e) All counseling and testing must be performed in  
18 accordance with the standards set forth in the AIDS  
19 Confidentiality Act, including the written informed consent  
20 provisions of Sections 4, 7, and 8 of that Act, with the  
21 exception of the requirement of consent for testing of newborn  
22 infants. Consent for testing of a newborn infant shall be  
23 presumed when a health care professional or health care  
24 facility seeks to perform a test on a newborn infant whose  
25 mother's HIV status is not known, provided that the counseling  
26 required under subsection (d) has taken place ~~and the newborn~~  
27 ~~infant's parent or guardian has not indicated in writing that~~  
28 ~~he or she refuses to allow the newborn infant to receive HIV~~  
29 ~~testing.~~

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

32 (Source: P.A. 93-566, eff. 8-20-03.)

33 (410 ILCS 335/15 new)

34 Sec. 15. Reporting.

35 (a) A health care facility shall adopt a policy that

1 provides that a report of a preliminarily HIV-positive woman  
2 and a report of a preliminarily HIV-exposed newborn infant  
3 identified by a rapid HIV test conducted during labor and  
4 delivery or after delivery shall be made to the Department's  
5 Perinatal HIV Hotline within 24 hours after birth. Section 15  
6 of the AIDS Confidentiality Act applies to reporting under this  
7 Act, except that the immunities set forth in that Section do  
8 not apply in cases of willful or wanton misconduct.

9 (b) The Department shall adopt rules specifying the  
10 information required in reporting the preliminarily  
11 HIV-positive woman and preliminarily HIV-exposed newborn  
12 infant and the method of reporting. In adopting the rules, the  
13 Department shall consider the need for information,  
14 protections for the privacy and confidentiality of the infant  
15 and parents, the need to provide access to care and follow-up  
16 services to the infant, and procedures for destruction of  
17 records maintained by the Department if, through subsequent HIV  
18 testing, the woman or newborn infant is found to be  
19 HIV-negative.

20 (c) The confidentiality provisions of the AIDS  
21 Confidentiality Act shall apply to the reports of cases of  
22 perinatal HIV made pursuant to this Section.

23 (d) Health care facilities shall monthly report aggregate  
24 statistics to the Department that include the number of  
25 infected women who presented with known HIV status, the number  
26 of pregnant women rapidly tested for HIV in labor and delivery,  
27 the number of newborn infants rapidly tested for HIV-exposure,  
28 the number of preliminarily HIV-positive pregnant women and  
29 preliminarily HIV-exposed newborn infants identified, the  
30 number of families referred to case management, and other  
31 information the Department determines is necessary to measure  
32 progress under the provisions of this Act. Health care  
33 facilities must report the confirmatory test result when it  
34 becomes available for each preliminarily positive rapid HIV  
35 test performed on the woman and newborn.

36 (e) The Department or its authorized representative shall

1 provide case management services to the preliminarily positive  
2 pregnant woman or the parent or guardian of the preliminarily  
3 positive newborn infant to ensure access to treatment and care  
4 and other services as appropriate if the parent or guardian has  
5 consented to the services.

6 (410 ILCS 335/20 new)

7 Sec. 20. 24-hour Perinatal HIV Hotline.

8 (a) The Department of Public Health or its authorized  
9 representative shall establish and maintain a 24-hour  
10 Perinatal HIV Hotline. The purpose of the hotline is to provide  
11 linkage to case management and ensure consultation to help  
12 prevent the following:

13 (1) transmission of HIV during labor and delivery; and

14 (2) HIV infection of the newborn infant.

15 (b) The hotline must provide to health care professionals  
16 perinatal HIV treatment information in accordance with  
17 guidelines established by the U.S. Public Health Service or  
18 other nationally-recognized experts, as determined by the  
19 Department. An electronic reporting system may replace the  
20 telephone hotline if the Department determines the same  
21 services can be provided more effectively.

22 (410 ILCS 335/25 new)

23 Sec. 25. Treatment information. A health care facility  
24 shall adopt a policy that provides that when an HIV test  
25 performed under this Act shows that a newborn infant is  
26 preliminarily HIV-exposed, the infant's parent or guardian  
27 shall be informed of the importance of obtaining timely  
28 treatment for the infant in order to prevent the newborn from  
29 becoming HIV infected, and the mother of the newborn infant  
30 shall be informed of the importance of obtaining treatment for  
31 her HIV infection. The Department shall provide to health care  
32 professionals and health care facilities written information  
33 that may be used to satisfy their obligation under this  
34 Section.

1 (410 ILCS 335/30 new)

2 Sec. 30. Objections of parent or guardian to test. The  
3 provisions of this Act shall not apply when a parent or  
4 guardian of a child objects thereto on the grounds that the  
5 test conflicts with his or her religious tenets and practices.  
6 A written statement of the objection shall be presented to the  
7 physician or other person whose duty it is to administer and  
8 report the tests under the provisions of this Act.

9 (410 ILCS 335/35 new)

10 Sec. 35. Department report. The Department of Public Health  
11 shall prepare an annual report for the Governor and the General  
12 Assembly on the implementation of this Act that includes  
13 information on the number of HIV-positive women who presented  
14 with known HIV status, the number of pregnant women rapidly  
15 tested for HIV in labor and delivery, the number of newborn  
16 infants rapidly tested for HIV exposure, the number of  
17 preliminarily HIV-positive pregnant women and preliminarily  
18 HIV-exposed newborn infants identified, the confirmatory test  
19 result for each preliminarily positive rapid HIV test performed  
20 on the woman and newborn, the number of families referred to  
21 case management, and other information the Department  
22 determines is necessary to measure progress under the  
23 provisions of this Act. The Department shall assess the needs  
24 of health care professionals and facilities for ongoing  
25 training in implementation of the provisions of this Act and  
26 make recommendations to improve the program.

27 Section 99. Effective date. This Act takes effect upon  
28 becoming law.