



Rep. Mary E. Flowers

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LRB095 09579 KBJ 34989 a

1 AMENDMENT TO HOUSE BILL 1759

2 AMENDMENT NO. _____. Amend House Bill 1759, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Perinatal HIV Prevention Act is amended by
6 changing Sections 10 and 15 as follows:

7 (410 ILCS 335/10)

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

9 (a) Every health care professional who provides health care
10 services to a pregnant woman shall provide the woman with HIV
11 counseling and recommend HIV testing, unless she declines in
12 writing or she has already received an HIV test during
13 pregnancy. ~~HIV testing shall be provided with the woman's~~
14 ~~consent.~~ A health care professional shall provide the
15 counseling and provide ~~recommend~~ the testing as early in the
16 woman's pregnancy as possible. For women at continued risk of

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

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

6 (d) The counseling required under this Section must be
7 provided in accordance with the AIDS Confidentiality Act and
8 must include the following:

9 (1) For the health of the pregnant woman, the
10 requirement that HIV testing be performed unless it is
11 declined in writing.

12 (2) A woman's right to decline testing and how to do so
13 and the voluntary nature of the testing and the benefits of
14 HIV testing, including the prevention of transmission.

15 (3) ~~(2)~~ The benefit of HIV testing for the newborn
16 infant, including interventions to prevent HIV
17 transmission.

18 (4) ~~(3)~~ The side effects of interventions to prevent
19 HIV transmission.

20 (5) ~~(4)~~ The statutory confidentiality provisions that
21 relate to HIV and acquired immune deficiency syndrome
22 ("AIDS") testing.

23 (e) Notwithstanding any other provision of law, including,
24 but not limited to the AIDS Confidentiality Act, consent for
25 HIV testing of a pregnant women is established when:

26 (1) the pregnant women signs a general consent for

1 prenatal or medical care that includes:

2 (A) specific information regarding HIV testing;

3 and

4 (B) the option to decline such testing in writing;

5 and

6 (2) the counseling as set forth in subsection (d) of
7 this Section and the AIDS Confidentiality Act has been
8 provided; and

9 (3) the pregnant woman has not declined the testing in
10 writing.

11 ~~All counseling and testing must be performed in accordance with~~
12 ~~the standards set forth in the AIDS Confidentiality Act,~~
13 ~~including the written informed consent provisions of Sections~~
14 ~~4, 7, and 8 of that Act, with the exception of the requirement~~
15 ~~of consent for testing of newborn infants.~~

16 Consent for testing of a newborn infant shall be presumed
17 when a health care professional or health care facility seeks
18 to perform a test on a newborn infant whose mother's HIV status
19 is not known, provided that the counseling required under
20 subsection (d) of this Section and the AIDS Confidentiality Act
21 has taken place.

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

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

1 Sec. 15. Reporting.

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

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

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

25 (d) Health care facilities shall monthly report aggregate
26 statistics to the Department that include the number of

1 infected women who presented with known HIV status, the number
2 of pregnant women rapidly tested for HIV in labor and delivery,
3 the number of newborn infants rapidly tested for HIV-exposure,
4 the number of preliminarily HIV-positive pregnant women and
5 preliminarily HIV-exposed newborn infants identified, the
6 number of families referred to case management, and other
7 information the Department determines is necessary to measure
8 progress under the provisions of this Act. Health care
9 facilities must report the confirmatory test result when it
10 becomes available for each preliminarily positive rapid HIV
11 test performed on the woman and newborn.

12 (e) The Department or its authorized representative shall
13 provide case management services to the preliminarily positive
14 pregnant woman or the parent or guardian of the preliminarily
15 positive newborn infant to ensure access to treatment and care
16 and other services as appropriate if the parent or guardian has
17 consented to the services.

18 (f) Every health care facility caring for a newborn infant
19 whose mother had been diagnosed HIV positive prior to labor and
20 delivery shall report a case of perinatal HIV exposure in
21 accordance with the HIV/AIDS Registry Act, the Illinois
22 Sexually Transmissible Disease Control Act, and rules to be
23 developed by the Department. If after 18 months from the date
24 that the report was submitted, a newborn infant is determined
25 to not have HIV or AIDS, the Department shall remove the
26 newborn infant's name from all reports, records, and files

1 collected or created under this subsection (f).

2 (Source: P.A. 94-910, eff. 6-23-06.)".