

AN ACT in relation to health.

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

Section 5. The AIDS Confidentiality Act is amended by
changing Sections 3, 5, and 9 and adding Section 5.5 as
follows:

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

Sec. 3. When used in this Act:

(a) "Department" means the Illinois Department of Public
Health.

(b) "AIDS" means acquired immunodeficiency syndrome.

(c) "HIV" means the Human Immunodeficiency Virus or any
other identified causative agent of AIDS.

(d) "Written informed consent" means an agreement in
writing executed by the subject of a test or the subject's
legally authorized representative without undue inducement or
any element of force, fraud, deceit, duress or other form of
constraint or coercion, which entails at least the following:

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

(2) a fair explanation of the procedures to be followed,
including the voluntary nature of the test, the right to
withdraw consent to the testing process at any time, the
right to anonymity to the extent provided by law with respect
to participation in the test and disclosure of test results,
and the right to confidential treatment of information
identifying the subject of the test and the results of the
test, to the extent provided by law.

(e) "Health facility" means a hospital, nursing home,
blood bank, blood center, sperm bank, or other health care

institution, including any "health facility" as that term is defined in the Illinois Health Facilities Authority Act.

(f) "Health care provider" means any health care professional physician, nurse, paramedic, psychologist or other person providing medical, nursing, psychological, or other health care services of any kind.

(f-5) "Health care professional" means (i) a licensed physician, (ii) a physician assistant to whom the physician assistant's supervising physician has delegated the provision of AIDS and HIV-related health services, (iii) an advanced practice registered nurse who has a written collaborative agreement with a collaborating physician which authorizes the provision of AIDS and HIV-related health services, (iv) a licensed dentist, (v) a licensed podiatrist, or (vi) an individual certified to provide HIV testing and counseling by a state or local public health department.

(g) "Test" or "HIV test" means a test to determine the presence of the antibody or antigen to HIV, or of HIV infection.

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

(Source: P.A. 85-677; 85-679.)

(410 ILCS 305/5) (from Ch. 111 1/2, par. 7305)

Sec. 5. No health care professional physician may order an HIV test without making available to the person tested information about the meaning of the test results, the availability of additional or confirmatory testing, if appropriate, and the availability of referrals for further information or counseling.

(Source: P.A. 85-677; 85-679.)

(410 ILCS 305/5.5 new)

Sec. 5.5. Rapid testing. The Department shall adopt rules to allow for the implementation of HIV/AIDS rapid testing. The rules must include, but need not be limited to, standards for ordering and administration of testing and counseling and dissemination of test results.

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

Sec. 9. No person may disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of such a test in a manner which permits identification of the subject of the test, except to the following persons:

(a) The subject of the test or the subject's legally authorized representative. A physician may notify the spouse of the test subject, if the test result is positive and has been confirmed pursuant to rules adopted by the Department by a-Western-Blot-Assay-or-more-reliable-test, provided that the physician has first sought unsuccessfully to persuade the patient to notify the spouse or that, a reasonable time after the patient has agreed to make the notification, the physician has reason to believe that the patient has not provided the notification. This paragraph shall not create a duty or obligation under which a physician must notify the spouse of the test results, nor shall such duty or obligation be implied. No civil liability or criminal sanction under this Act shall be imposed for any disclosure or non-disclosure of a test result to a spouse by a physician acting in good faith under this paragraph. For the purpose of any proceedings, civil or criminal, the good faith of any physician acting under this paragraph shall be presumed.

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

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

(d) The Department, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by State law. Neither the Department nor its authorized representatives shall disclose information and records held by them relating to known or suspected cases of AIDS or HIV infection, publicly or in any action of any kind in any court or before any tribunal, board, or agency. AIDS and HIV infection data shall be protected from disclosure in accordance with the provisions of Sections 8-2101 through 8-2105 of the Code of Civil Procedure.

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

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

(g) (Blank).

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

(i) Any law enforcement officer, as defined in subsection (c) of Section 7, involved in the line of duty in

a direct skin or mucous membrane contact with the blood or bodily fluids of an individual which is of a nature that may transmit HIV, as determined by a physician in his medical judgment.

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

(k) In the case of a minor under 18 years of age whose test result is positive and has been confirmed pursuant to rules adopted by the Department by a Western-Blot-Assay or a more-reliable-test, the health care provider who ordered the test shall make a reasonable effort to notify the minor's parent or legal guardian if, in the professional judgement of the health care provider, notification would be in the best interest of the child and the health care provider has first sought unsuccessfully to persuade the minor to notify the parent or legal guardian or a reasonable time after the minor has agreed to notify the parent or legal guardian, the health care provider has reason to believe that the minor has not made the notification. This subsection shall not create a duty or obligation under which a health care provider must notify the minor's parent or legal guardian of the test results, nor shall a duty or obligation be implied. No civil liability or criminal sanction under this Act shall be imposed for any notification or non-notification of a minor's test result by a health care provider acting in good faith under this subsection. For the purpose of any proceeding, civil or criminal, the good faith of any health care provider acting under this subsection shall be presumed.

(Source: P.A. 88-45; 89-381, eff. 8-18-95.)

Section 99. Effective date. This Act takes effect upon

Public Act 093-0482
SB1156 Enrolled

LRB093 07767 DRJ 07956 b

becoming law.