



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 2800

2 AMENDMENT NO. _____. Amend House Bill 2800 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Perinatal HIV Prevention Act is amended by
5 changing Sections 5, 10, 15, 30, and 35 as follows:

6 (410 ILCS 335/5)

7 Sec. 5. Definitions. In this Act:

8 "Birth center" means a facility licensed by the Department
9 under paragraph (6) of Section 35 of the Alternative Health
10 Care Delivery Act.

11 "Department" means the Department of Public Health.

12 "Health care professional" means a physician licensed to
13 practice medicine in all its branches, a licensed physician
14 assistant, or a licensed advanced practice nurse.

15 "Health care facility" or "facility" means any hospital,
16 birth center, or other institution that is licensed or

1 otherwise authorized to deliver health care services.

2 "Health care services" means any prenatal medical care or
3 labor or delivery services to a pregnant woman and her newborn
4 infant, including hospitalization.

5 "Opt-out testing" means an approach in which an HIV test is
6 offered to the patient, such that the patient is notified that
7 HIV testing may occur unless the patient opts out by declining
8 the test.

9 "Third trimester" means the 27th week of pregnancy through
10 delivery.

11 (Source: P.A. 99-173, eff. 7-29-15.)

12 (410 ILCS 335/10)

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

14 (a) Every health care professional who provides health care
15 services to a pregnant woman shall, unless she already has a
16 documented negative HIV status ~~has already been tested~~ during
17 the third trimester of the current pregnancy, or is already
18 documented to be HIV-positive, provide the woman with HIV
19 counseling, as described in subpart (d) of this Section, and
20 shall test her for HIV on an opt-out basis unless she refuses.
21 The counseling and testing or refusal of testing shall comply
22 with the requirements for informed consent in the AIDS
23 Confidentiality Act and be documented in the pregnant woman's
24 medical record as required by the AIDS Confidentiality Act. ~~A~~
25 ~~refusal may be verbal or in writing.~~

1 A health care professional shall provide the first opt-out
2 HIV testing ~~counseling and recommend the testing~~ as early in
3 the woman's pregnancy as possible. The health care professional
4 providing health care services to a pregnant woman in the third
5 trimester shall perform a second round of opt-out HIV testing,
6 ideally by the 36th week of pregnancy, unless the pregnant
7 woman already has a documented negative HIV status from the
8 third trimester of the current pregnancy, or is already
9 documented to be HIV-positive. ~~For women at continued risk of~~
10 ~~exposure to HIV infection in the judgment of the health care~~
11 ~~professional, a repeat test should be recommended late in~~
12 ~~pregnancy or at the time of labor and delivery. The counseling~~
13 ~~and testing or refusal of testing shall be documented in the~~
14 ~~woman's medical record.~~

15 (b) Every health care professional or facility that cares
16 for a pregnant woman during labor or delivery shall, unless she
17 ~~has~~ already has a documented negative HIV status from been
18 ~~tested during~~ the third trimester of the current pregnancy, or
19 is already documented to be HIV-positive, provide the woman
20 with HIV counseling, as described in subpart (d) of this
21 Section, and rapid opt-out HIV testing ~~unless she refuses.~~ The
22 woman in labor or delivery may refuse the HIV test verbally or
23 in writing. ~~A refusal may be verbal or in writing.~~ The
24 counseling and testing or refusal of testing shall be
25 documented in the laboring or delivering woman's medical
26 record. The health care facility shall adopt a policy that

1 provides that as soon as possible within medical standards
2 after the infant's birth, the delivering mother's HIV test
3 result, if available, shall be noted in the newborn infant's
4 medical record. It shall also be noted in the newborn infant's
5 medical record if the mother's third trimester HIV test result
6 is not available because she was not tested in the third
7 trimester ~~has not been tested~~ or has declined testing. Any
8 testing or test results shall be documented in accordance with
9 the AIDS Confidentiality Act.

10 (c) Every health care professional or facility caring for a
11 newborn infant shall, upon delivery or as soon as possible
12 within medical standards after the infant's birth, provide
13 counseling as described in subsection (d) of this Section to
14 the parent or guardian of the infant and perform rapid HIV
15 testing on the infant, when the HIV status of the infant's
16 mother is unknown, or if the delivering woman did not undergo
17 HIV testing in the third trimester of the current pregnancy.

18 (d) The counseling required under this Section must be
19 provided in accordance with the AIDS Confidentiality Act and
20 must include the following:

21 (1) For the health of the pregnant woman, the voluntary
22 nature of the testing, the benefits of HIV testing,
23 including the prevention of transmission, and the
24 requirement that HIV testing be performed unless she
25 refuses and the methods by which she can refuse.

26 (2) The benefit of HIV testing for herself and the

1 newborn infant, including interventions to prevent HIV
2 transmission.

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

5 (4) The statutory confidentiality provisions that
6 relate to HIV and acquired immune deficiency syndrome
7 ("AIDS") testing.

8 (5) The requirement for mandatory testing of the
9 newborn if the mother's HIV status during the third
10 trimester of pregnancy is not documented and the mother was
11 not rapidly tested for HIV at delivery ~~unknown at the time~~
12 ~~of delivery.~~

13 (6) An explanation of the test, including its purpose,
14 limitations, and the meaning of its results.

15 (7) An explanation of the procedures to be followed.

16 (8) The availability of additional or confirmatory
17 testing, if appropriate. Counseling may be provided in
18 writing, verbally, or by video, electronic, or other means.
19 The pregnant or delivering woman must be offered an
20 opportunity to ask questions about testing and to decline
21 testing ~~for herself.~~

22 (e) All counseling and testing must be performed in
23 accordance with the standards set forth in the AIDS
24 Confidentiality Act, including the informed consent provisions
25 of Sections 4, 7, and 8 of that Act, with the exception of the
26 requirement of consent for testing of newborn infants.

1 Consent for testing of a newborn infant shall be presumed
2 when a health care professional or health care facility seeks
3 to perform a test on a newborn infant whose mother's HIV status
4 is not documented either in the third trimester of pregnancy or
5 at delivery ~~known~~, provided that the counseling required under
6 subsection (d) of this Section and the AIDS Confidentiality Act
7 has taken place.

8 (f) The Illinois Department of Public Health shall adopt
9 necessary rules to implement this Act by July 1, 2008.

10 (Source: P.A. 94-910, eff. 6-23-06; 95-702, eff. 6-1-08.)

11 (410 ILCS 335/15)

12 Sec. 15. Reporting.

13 (a) Health ~~A health~~ care facilities ~~facility~~ shall adopt a
14 policy that provides that a report of a preliminarily
15 HIV-positive woman identified by a rapid HIV test or ~~and~~ a
16 report of a preliminarily HIV-exposed newborn infant
17 identified by a rapid HIV test ~~conducted during labor and~~
18 ~~delivery or after delivery~~ shall be made to the Department's
19 Perinatal HIV Hotline within 12 hours but not later than 24
20 hours of the test result ~~after birth~~. Section 15 of the AIDS
21 Confidentiality Act applies to reporting under this Act, except
22 that the immunities set forth in that Section do not apply in
23 cases of willful or wanton misconduct.

24 (b) The Department shall adopt rules specifying the
25 information required in reporting the preliminarily

1 HIV-positive pregnant or post-partum woman and preliminarily
2 HIV-exposed newborn infant and the method of reporting. In
3 adopting the rules, the Department shall consider the need for
4 information, protections for the privacy and confidentiality
5 of the infant and parents, the need to provide access to care
6 and follow-up services to the infant, and procedures for
7 destruction of records maintained by the Department if, through
8 subsequent HIV testing, the pregnant or post-partum woman or
9 newborn infant is found to be HIV-negative.

10 (c) The confidentiality provisions of the AIDS
11 Confidentiality Act shall apply to the reports of cases of
12 perinatal HIV made pursuant to this Section.

13 (d) Health care facilities shall monthly report aggregate
14 statistics to the Department that include the number of
15 pregnant or delivering ~~infected~~ women who presented with known
16 HIV status;; the number of pregnant women rapidly tested for
17 HIV in labor and delivery as either a first HIV test or a
18 repeat third trimester HIV test; the number of newborn infants
19 rapidly tested for HIV-exposure because the HIV status of the
20 delivering woman was unknown in the third trimester, or the
21 delivering woman refused testing; the number of preliminarily
22 HIV-positive pregnant or delivering women and preliminarily
23 HIV-exposed newborn infants identified;; the number of
24 families referred to case management;; and other information
25 the Department determines is necessary to measure progress
26 under the provisions of this Act. Health care facilities must

1 report the confirmatory test result when it becomes available
2 for each preliminarily positive rapid HIV test performed on the
3 pregnant or delivering woman and on a newborn.

4 (e) The Department or its authorized representative shall
5 provide case management services to the preliminarily positive
6 pregnant or post-partum woman or the parent or guardian of the
7 preliminarily positive newborn infant to ensure access to
8 treatment and care and other services where the pregnant or
9 post-partum woman or the ~~as appropriate if the~~ parent or
10 guardian of the newborn infant has consented to the services.

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

21 (Source: P.A. 94-910, eff. 6-23-06; 95-702, eff. 6-1-08.)

22 (410 ILCS 335/30)

23 Sec. 30. Objections of parent or guardian to test. The
24 provisions of this Act requiring testing for HIV shall not
25 apply when a parent or guardian of a child objects to HIV

1 testing thereto on the grounds that the test conflicts with the
2 parent's ~~his or her~~ religious tenets and practices. A written
3 statement of the objection shall be presented to the physician
4 or other person whose duty it is to administer and report the
5 tests under the provisions of this Act.

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

7 (410 ILCS 335/35)

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

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".