

1 AMENDMENT TO HOUSE BILL 2331

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2331 by replacing  
3 everything after the enacting clause with the following:

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

6 (410 ILCS 305/5) (from Ch. 111 1/2, par. 7305)

7 Sec. 5. No health care provider ~~physieian~~ may order an  
8 HIV test without making available to the person tested  
9 information about the meaning of the test results, the  
10 availability of additional or confirmatory testing, if  
11 appropriate, and the availability of referrals for further  
12 information or counseling.

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

14 (410 ILCS 305/5.5 new)

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

19 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

20 Sec. 9. No person may disclose or be compelled to

1 disclose the identity of any person upon whom a test is  
2 performed, or the results of such a test in a manner which  
3 permits identification of the subject of the test, except to  
4 the following persons:

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

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

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

32 (d) The Department, in accordance with rules for  
33 reporting and controlling the spread of disease, as otherwise  
34 provided by State law. Neither the Department nor its

1 authorized representatives shall disclose information and  
2 records held by them relating to known or suspected cases of  
3 AIDS or HIV infection, publicly or in any action of any kind  
4 in any court or before any tribunal, board, or agency. AIDS  
5 and HIV infection data shall be protected from disclosure in  
6 accordance with the provisions of Sections 8-2101 through  
7 8-2105 of the Code of Civil Procedure.

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

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

17 (g) (Blank).

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

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

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

34 (k) In the case of a minor under 18 years of age whose

1 test result is positive and has been confirmed pursuant to  
2 guidelines set by the Department by a Western Blot Assay or a  
3 ~~more--reliable-test~~, the health care provider who ordered the  
4 test shall make a reasonable effort to notify the minor's  
5 parent or legal guardian if, in the professional judgement of  
6 the health care provider, notification would be in the best  
7 interest of the child and the health care provider has first  
8 sought unsuccessfully to persuade the minor to notify the  
9 parent or legal guardian or a reasonable time after the minor  
10 has agreed to notify the parent or legal guardian, the health  
11 care provider has reason to believe that the minor has not  
12 made the notification. This subsection shall not create a  
13 duty or obligation under which a health care provider must  
14 notify the minor's parent or legal guardian of the test  
15 results, nor shall a duty or obligation be implied. No civil  
16 liability or criminal sanction under this Act shall be  
17 imposed for any notification or non-notification of a minor's  
18 test result by a health care provider acting in good faith  
19 under this subsection. For the purpose of any proceeding,  
20 civil or criminal, the good faith of any health care provider  
21 acting under this subsection shall be presumed.

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

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law."