

reprinted

MAR 16 1989

Place On Calendar

HOUSE FILE 641

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 223)

Passed House, Date 4-3-89 (p.1197) passed Senate, Date 4-11-89 (p.1343)

Vote: Ayes 100 Nays 0 Vote: Ayes 48 Nays 0

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to human immunodeficiency virus-related testing  
2 and counseling, and eliminating a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

HF 641

387amendall-

1 Section 1. Section 141.6, subsection 3, Code 1989, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. d. Devise a procedure, as a part of the  
4 partner notification program, to provide for the notification  
5 of an identifiable third party who is a sexual partner of or  
6 who shares intravenous equipment with a person who has tested  
7 positive for the human immunodeficiency virus when all of the  
8 following situations exist:

9 (1) A physician for the infected person is of the opinion  
10 that the nature of the contact poses a clear and present  
11 danger of human immunodeficiency virus infection transmission  
12 to the third party.

13 (2) When the physician has reason to believe that the  
14 infected person, despite strong encouragement, has not and  
15 will not warn the third party, or will not participate in the  
16 voluntary partner notification program.

17 Notwithstanding subsection 4, the department may reveal the  
18 identity of a person who has tested positive for the human  
19 immunodeficiency virus infection only to the extent necessary  
20 to protect the well-being of a third person. This subsection  
21 shall not be interpreted to create a duty to warn third  
22 persons of the danger of exposure to human immunodeficiency  
23 virus through contact with a person who tests positive for the  
24 human immunodeficiency virus infection.

25 Sec. 2. Section 141.10, subsection 1, Code 1989, is  
26 amended by adding the following new paragraph:

27 NEW PARAGRAPH. d. Release may be made of medical  
28 information concerning a patient pursuant to procedures  
29 established under section 141.6, subsection 3, paragraph "d".

30 Sec. 3. Section 141.10, Code 1989, is amended by adding  
31 the following new unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. A physician or health care  
33 practitioner attending a person who tests positive for the  
34 human immunodeficiency virus infection is immune from any  
35 liability, civil or criminal, for failure to notify any other

1 person of the condition of that person or of the danger of  
2 exposure to the human immunodeficiency virus infection through  
3 contact with the person.

3490

4 Sec. 4. Section 141.22, Code 1989, is amended by adding  
5 the following new subsection:

3490

6 NEW SUBSECTION. 7. When submitted the department shall  
7 review and approve pamphlets containing the information  
8 required to be provided to a subject or the subject's legal  
9 guardian pursuant to subsection 1. The department shall also  
10 prepare a model pamphlet containing this information.  
11 Provision of a pamphlet which has been prepared or approved by  
12 the department, or which is substantially similar to the model  
13 pamphlet, with an explanation, to the subject or the subject's  
14 guardian, satisfies the counseling requirements established by  
15 subsection 1.

3490

16 Sec. 5. Section 141.24, subsection 1, Code 1989, is  
17 amended by striking the subsection.

3490

18 EXPLANATION

19 Section 1 of this bill provides a mechanism to notify  
20 identifiable third parties if an HIV-infected person has not  
21 and will not notify the third parties, refuses to participate  
22 in the voluntary partner notification program and if the  
23 physician for the infected person feels that there is a clear  
24 and present danger of transmission.

25 Section 2 provides for release of medical information for  
26 the purpose of notifying such identifiable third persons of  
27 the possibility of transmission.

28 Section 3 of the bill provides that a health care provider  
29 attending a person testing positive for HIV infection will not  
30 be held liable for failing to notify any third party of the  
31 condition of that person.

32 Section 4 of the bill directs the Iowa department of public  
33 health to approve pamphlets submitted and to prepare a model  
34 pamphlet setting forth information required as a part of  
35 pretest counseling. The furnishing of a pamphlet to the

1 subject of a test or the subject's legal guardian with an  
2 explanation satisfies the counseling requirement.

3 Section 5 repeals the civil penalty provision for  
4 violations of the testing provisions prescribed under the  
5 testing section, and for violations of confidentiality.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

HOUSE FILE 641

H-3687

1 Amend House File 641 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 141.6, subsection 3, Code  
5 1989, is amended by adding the following new  
6 paragraph:

7 NEW PARAGRAPH. d. Devise a procedure, as a part  
8 of the partner notification program, to provide for  
9 the notification of an identifiable third party who is  
10 a sexual partner of or who shares intravenous  
11 equipment with a person who has tested positive for  
12 the human immunodeficiency virus, by the department or  
13 a physician, when all of the following situations  
14 exist:

15 (1) A physician for the infected person is of the  
16 good faith opinion that the nature of the continuing  
17 contact poses an imminent danger of human  
18 immunodeficiency virus infection transmission to the  
19 third party.

20 (2) When the physician believes in good faith that  
21 the infected person, despite strong encouragement, has  
22 not and will not warn the third party and will not  
23 participate in the voluntary partner notification  
24 program.

§ 72/25 Notwithstanding subsection 4, the department may  
26 reveal the identity of a person who has tested  
27 positive for the human immunodeficiency virus  
28 infection only to the extent necessary to protect a  
3747 29 third party from the direct threat of transmission.  
30 This subsection shall not be interpreted to create a  
31 duty to warn third parties of the danger of exposure  
32 to human immunodeficiency virus through contact with a  
33 person who tests positive for the human  
34 immunodeficiency virus infection.

35 Prior to notification of a third party, the  
36 physician proposing to cause the notification to be  
37 made shall make reasonable efforts to inform, in  
38 writing, the person who has tested positive for the  
39 human immunodeficiency virus infection. The written  
40 information shall state that due to the nature of the  
41 persons's continuing contact with a third party, the  
42 physician is forced to take action to provide  
43 notification to the third party. The physician, when  
44 reasonably possible, shall provide the following  
45 information to the person who has tested positive for  
46 the human immunodeficiency virus infection:

47 (a) The nature of the disclosure and the reason  
48 for the disclosure.

49 (b) The anticipated date of disclosure.

50 (c) The name of the party or parties to whom

H-3687

Page 2

1 disclosure is to be made.

2 The department shall adopt rules pursuant to  
3 chapter 17A to implement this paragraph. The rules  
4 shall provide a detailed procedure by which the  
5 department or a physician may directly notify an  
6 endangered third party.

7 Sec. 2. Section 141.10, subsection 1, Code 1989,  
8 is amended by adding the following new paragraph:

9 NEW PARAGRAPH. d. Release may be made of test  
10 results concerning a patient pursuant to procedures  
11 established under section 141.6, subsection 3,  
12 paragraph "d".

13 Sec. 3. Section 141.10, Code 1989, is amended by  
14 adding the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. A physician or health  
16 care practitioner attending a person who tests  
17 positive for the human immunodeficiency virus  
18 infection has no duty to disclose to or to warn third  
19 parties of the dangers of exposure to human  
20 immunodeficiency virus infection through contact with  
21 that person and is immune from any liability, civil or  
22 criminal, for failure to disclose to or warn third  
23 parties of the condition of that person.

24 Sec. 4. Section 141.22, subsection 4, Code 1989,  
25 is amended to read as follows:

26 4. Prior to withdrawing blood for the purpose of  
27 performing an HIV-related test, the subject shall be  
28 given written notice of the provisions of this section  
29 and of section 141.6, subsection 3, paragraph "d".

30 Sec. 5. Section 141.22, Code 1989, is amended by  
31 adding the following new subsection:

32 NEW SUBSECTION. 7. When submitted the department  
33 shall review and approve pamphlets containing the  
34 information required to be provided to a subject or  
35 the subject's legal guardian pursuant to subsection 1.  
36 The department shall also prepare a model pamphlet  
37 containing this information. This subsection does not  
38 require submission of all pamphlets containing the  
39 required information to the department for approval.

40 Sec. 6. NEW SECTION. 141.23A EMERGENCY RESPONDER  
41 TESTING PROGRAM.

42 If a person in the course of responding to an  
43 emergency renders aid to an injured person and becomes  
44 exposed to bodily fluids of the injured person, that  
45 emergency responder shall be entitled to HIV testing  
46 in accordance with the latest available medical  
47 technology to determine if infection with the human  
48 immunodeficiency virus has occurred. The costs of the  
49 test shall be paid for through the expenditure of  
50 funds appropriated to the department for AIDS-related

H-3687

Page 3

1 activities.

2 Sec. 7. Section 141.24, subsection 1, Code 1989,  
3 is amended by striking the subsection."

By HAMMOND of Story

H-3687 FILED MARCH 29, 1989

*Adopted 4-3-89 (p.1197)*

## HOUSE FILE 641

H-3721

1 Amend the amendment, H-3687, to House File 641 as  
2 follows:

3 1. Page 1, line 25, by inserting after the word  
4 "department" the following: "or a physician".

5 2. Page 1, line 28, by inserting after the word  
6 "infection" the following: "pursuant to this subsec-  
7 tion".

By HAMMOND of Story

H-3721 FILED MARCH 30, 1989

*Adopted 4-3-89 (p.1196)*

## HOUSE FILE 641

H-3747

1 Amend amendment, H-3687, to House File 641, as

2 follows:

3 1. Page 1, line 29, by inserting after the word  
4 "transmission." the following: "Notification of a  
5 person pursuant to this paragraph is subject to the  
6 disclosure provisions of section 141.23, subsection  
7 3."

By ROSENBERG of Story

H-3747 FILED MARCH 31, 1989

*Adopted 4-3-89 (p.1197)*

## HOUSE FILE 641

H-3649

1 Amend the amendment, H-3490, to House File 641, as

2 follows:

3 1. Page 1, line 50, by inserting after the word  
4 "facility" the following: ", or if the health  
5 facility is a skilled nursing facility or an  
6 intermediate care facility as defined in section  
7 135C.1, a resident's physician".

By RENAUD of Polk

H-3649 FILED MARCH 28, 1989

*Out of Order 4-3-89 (p.1197)*

## HOUSE FILE 641

H-3490

1 Amend House File 641 as follows:

2 1. Page 2, by inserting after line 3 the  
3 following:

4 "Sec. \_\_\_\_\_. Section 141.21, Code 1989, is amended  
5 by adding the following new subsection after  
6 subsection 3 and renumbering the subsequent  
7 subsections:

8 NEW SUBSECTION. 4. "Emergency medical care  
9 provider" means a trained person who is authorized by  
10 federal statute, by the Code, or by rule to provide  
11 emergency medical assistance or treatment, including,  
12 but not limited to, any of the following persons:

- 13 a. An ambulance attendant.
- 14 b. An emergency first responder.
- 15 c. An emergency medical technician.
- 16 d. A firefighter.
- 17 e. A peace officer.
- 18 f. A nurse.
- 19 g. A physician.
- 20 h. A physician's assistant.

21 Sec. \_\_\_\_\_. Section 141.21, Code 1989, is amended by  
22 adding the following new subsection:

23 NEW SUBSECTION. 11. "Significant exposure" means  
24 any of the following:

- 25 a. A penetrating wound from a needle or other  
26 sharp object which is visibly contaminated with  
27 another person's blood, blood components, or blood-  
28 containing fluids.
- 29 b. Exposure of abraded skin to another person's  
30 blood, blood components, or blood-containing fluids.
- 31 c. Exposure of mucous membrane to another person's  
32 blood, blood components, or blood-containing fluids."

33 2. Page 2, line 5, by striking the word "subsec-  
34 tion" and inserting the following: "subsections".

35 3. Page 2, by inserting after line 15 the  
36 following:

37 "NEW SUBSECTION. 8. a. A health care provider,  
38 emergency medical care provider, or other person who  
39 receives a significant exposure shall notify the  
40 person's employer, if any, within twenty-four hours of  
41 the significant exposure. Upon notification of a  
42 significant exposure, the employer, if any, or the  
43 exposed person shall notify each health facility known  
44 to be currently providing care for the person believed  
45 to be the source of the significant exposure. The  
46 notification shall include but is not limited to the  
47 name of the person who received the significant  
48 exposure and the name of the person believed to be the  
49 source of the significant exposure. Upon notification  
50 of a significant exposure, the health facility shall

H-3490

Page 2

1 perform both of the following:

2 (1) Release to the exposed person any known  
3 diagnosis of reportable infectious or contagious  
4 disease in the medical record of the person believed  
5 to be the source of the significant exposure.

6 (2) Notify the exposed person of the need to seek  
7 appropriate medical attention.

8 b. Notification required under this subsection  
9 shall be conducted in a manner that protects the  
10 confidentiality of the person believed to be the  
11 source of the significant exposure and of the exposed  
12 person."

13 4. Page 2, by inserting after line 17 the  
14 following:

15 "Sec. \_\_\_\_ . Section 356.48, Code 1989, is amended  
16 to read as follows:

17 356.48 REQUIRED TEST.

18 A person confined to a jail or a person in the  
19 custody of or being taken into custody by a peace  
20 officer, who bites another person, who causes an  
21 exchange of bodily fluids with another person, or who  
22 causes any bodily secretion to be cast upon another  
23 person, shall submit to the withdrawal of a bodily  
24 specimen for testing to determine if the person is  
25 infected with a contagious infectious disease. The  
26 bodily specimen to be taken shall be determined by the  
27 attending physician of that jail or the county medical  
28 examiner. The specimen taken shall be sent to the  
29 state hygienic laboratory at the state university at  
30 Iowa City or some other laboratory approved by the  
31 Iowa department of public health. If a person to be  
32 tested pursuant to this section refuses to submit to  
33 the withdrawal of a bodily specimen, application may  
34 be made by the sheriff, peace officer taking custody,  
35 or person in charge of the jail to the district court  
36 for an order compelling the person to submit to the  
37 withdrawal and, if infected, to available treatment.  
38 An order authorizing the withdrawal of a specimen for  
39 testing may be issued only by a district judge or  
40 district associate judge upon application by the  
41 sheriff, peace officer taking custody, or person in  
42 charge of the jail.

43 A person who fails to comply with an order issued  
44 pursuant to this section is guilty of a serious  
45 misdemeanor.

46 Personnel The person exposed shall be notified of  
47 the test results and personnel at the jail shall be  
48 notified if a person confined is found to have a  
49 contagious infectious disease.

3647-50 The sheriff, peace officer taking custody, or

H-3490

Page 3

1 person in charge of the jail shall take any  
2 appropriate measure to prevent the transmittal of a  
3 contagious infectious disease to other persons,  
4 including the segregation of a confined person who  
5 tests positive for acquired immune deficiency syndrome  
6 from other confined persons.

7 For purposes of this section, "infectious disease"  
8 means any infectious condition which if spread by  
9 contamination would place others at serious health  
10 risk.

11 Sec. \_\_\_\_ . NEW SECTION. 356.49 HUMAN  
12 IMMUNODEFICIENCY VIRUS-RELATED MATTERS -- EXEMPTION.

13 The provisions of chapter 141 relating to knowledge  
14 and consent do not apply to a person tested pursuant  
15 to section 356.48."

16 5. By renumbering as necessary.

By RENAUD of Polk

H-3490 FILED MARCH 20, 1989

*cut of order 43-89 (p.197)*

Sen Human Res.  
DO PASS 4-6-89 (p. 1239)

HOUSE FILE 641  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 223)

(As Amended and Passed by the House April 3, 1989)

Passed House, Date 4/3/89 (p. 1197) Passed Senate, Date 4/11/89 (p. 1343)  
Vote: Ayes 100 Nays 0 Vote: Ayes 48 Nays 0  
Approved May 24, 1989

**A BILL FOR**

1 An Act relating to human immunodeficiency virus-related testing  
2 and counseling, and eliminating a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

House Amendments \_\_\_\_\_

1 Section 1. Section 141.6, subsection 3, Code 1989, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. d. Devise a procedure, as a part of the  
4 partner notification program, to provide for the notification  
5 of an identifiable third party who is a sexual partner of or  
6 who shares intravenous equipment with a person who has tested  
7 positive for the human immunodeficiency virus, by the  
8 department or a physician, when all of the following  
9 situations exist:

10 (1) A physician for the infected person is of the good  
11 faith opinion that the nature of the continuing contact poses  
12 an imminent danger of human immunodeficiency virus infection  
13 transmission to the third party.

14 (2) When the physician believes in good faith that the  
15 infected person, despite strong encouragement, has not and  
16 will not warn the third party and will not participate in the  
17 voluntary partner notification program.

18 Notwithstanding subsection 4, the department or a physician  
19 may reveal the identity of a person who has tested positive  
20 for the human immunodeficiency virus infection pursuant to  
21 this subsection only to the extent necessary to protect a  
22 third party from the direct threat of transmission.

23 Notification of a person pursuant to this paragraph is subject  
24 to the disclosure provisions of section 141.23, subsection 3.  
25 This subsection shall not be interpreted to create a duty to  
26 warn third parties of the danger of exposure to human  
27 immunodeficiency virus through contact with a person who tests  
28 positive for the human immunodeficiency virus infection.

29 Prior to notification of a third party, the physician  
30 proposing to cause the notification to be made shall make  
31 reasonable efforts to inform, in writing, the person who has  
32 tested positive for the human immunodeficiency virus  
33 infection. The written information shall state that due to  
34 the nature of the persons's continuing contact with a third  
35 party, the physician is forced to take action to provide

1 notification to the third party. The physician, when  
2 reasonably possible, shall provide the following information  
3 to the person who has tested positive for the human  
4 immunodeficiency virus infection:

5 (a) The nature of the disclosure and the reason for the  
6 disclosure.

7 (b) The anticipated date of disclosure.

8 (c) The name of the party or parties to whom disclosure is  
9 to be made.

10 The department shall adopt rules pursuant to chapter 17A to  
11 implement this paragraph. The rules shall provide a detailed  
12 procedure by which the department or a physician may directly  
13 notify an endangered third party.

14 Sec. 2. Section 141.10, subsection 1, Code 1989, is  
15 amended by adding the following new paragraph:

16 NEW PARAGRAPH. d. Release may be made of test results  
17 concerning a patient pursuant to procedures established under  
18 section 141.6, subsection 3, paragraph "d".

19 Sec. 3. Section 141.10, Code 1989, is amended by adding  
20 the following new unnumbered paragraph:

21 NEW UNNUMBERED PARAGRAPH. A physician or health care  
22 practitioner attending a person who tests positive for the  
23 human immunodeficiency virus infection has no duty to disclose  
24 to or to warn third parties of the dangers of exposure to  
25 human immunodeficiency virus infection through contact with  
26 that person and is immune from any liability, civil or  
27 criminal, for failure to disclose to or warn third parties of  
28 the condition of that person.

29 Sec. 4. Section 141.22, subsection 4, Code 1989, is  
30 amended to read as follows:

31 4. Prior to withdrawing blood for the purpose of  
32 performing an HIV-related test, the subject shall be given  
33 written notice of the provisions of this section and of  
34 section 141.6, subsection 3, paragraph "d".

35 Sec. 5. Section 141.22, Code 1989, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 7. When submitted the department shall  
3 review and approve pamphlets containing the information  
4 required to be provided to a subject or the subject's legal  
5 guardian pursuant to subsection 1. The department shall also  
6 prepare a model pamphlet containing this information. This  
7 subsection does not require submission of all pamphlets  
8 containing the required information to the department for  
9 approval.

10 Sec. 6. NEW SECTION. 141.23A EMERGENCY RESPONDER TESTING  
11 PROGRAM.

12 If a person in the course of responding to an emergency  
13 renders aid to an injured person and becomes exposed to bodily  
14 fluids of the injured person, that emergency responder shall  
15 be entitled to HIV testing in accordance with the latest  
16 available medical technology to determine if infection with  
17 the human immunodeficiency virus has occurred. The costs of  
18 the test shall be paid for through the expenditure of funds  
19 appropriated to the department for AIDS-related activities.

20 Sec. 7. Section 141.24, subsection 1, Code 1989, is  
21 amended by striking the subsection.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

HUMAN RESOURCES

HOUSE FILE 1641

BY (PROPOSED COMMITTEE ON HUMAN RESOURCES BILL)

Clay, Chaw  
Hammond  
Hawland  
Nelson  
Plauer  
Carpenter  
Hester

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to human immunodeficiency virus-related testing  
2 and counseling, and eliminating certain penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. Section 141.6, subsection 3, Code 1989, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. d. Devise a procedure for an attending  
4 physician or other health care practitioner to report  
5 situations of endangerment to identifiable third persons to  
6 the department. The procedure shall address situations in  
7 which a person who tests positive for the human  
8 immunodeficiency virus infection chooses not to disclose the  
9 identity of sexual partners or persons with whom the person  
10 shares intravenous equipment, and the physician or health care  
11 practitioner attending the person has determined that the  
12 person who has tested positive is currently engaging in or is  
13 likely to engage in conduct reasonably likely to endanger  
14 identifiable third persons. Notwithstanding subsection 4, the  
15 department may reveal the identity of a person who has tested  
16 positive for the human immunodeficiency virus infection when  
17 necessary to protect the well-being of a third person. This  
18 subsection shall not be interpreted to create a duty to warn  
19 third persons of danger of exposure to human immunodeficiency  
20 virus through contact with a person who tests positive for the  
21 human immunodeficiency virus infection.

22 Sec. 2. Section 141.10, Code 1989, is amended by adding  
23 the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. A physician or health care  
25 practitioner attending a person who tests positive for the  
26 human immunodeficiency virus infection is immune from any  
27 liability, civil or criminal, for failure to notify any other  
28 person of the condition of that person or of the danger of  
29 exposure to the human immunodeficiency virus infection through  
30 contact with the person.

31 Sec. 3. Section 141.22, Code 1989, is amended by adding  
32 the following new subsection:

33 NEW SUBSECTION. 7. The department shall review and  
34 approve pamphlets containing the information required to be  
35 provided to a subject or the subject's legal guardian pursuant

1 to subsection 1. The department shall also prepare a model  
2 pamphlet containing this information. Provision of a pamphlet  
3 approved or prepared by the department to the subject or the  
4 subject's guardian satisfies the counseling requirements  
5 established by subsection 1.

6 Sec. 4. Section 141.24, Code 1989, is repealed.

7 EXPLANATION

8 Section 1 of this bill provides a mechanism to notify known  
9 endangered third persons if an HIV-infected person refuses to  
10 notify the other persons and refuses to participate in the  
11 voluntary partner notification program.

12 Section 2 of the bill provides that a health care provider  
13 attending a person testing positive for HIV infection will not  
14 be held liable for failing to notify any third party of the  
15 condition of that person.

16 Section 3 of the bill directs the department of public  
17 health to prepare a model pamphlet setting forth information  
18 required as a part of pretest counseling and to review and  
19 approve the pamphlets prepared by others. The furnishing of a  
20 pamphlet to the subject of a test or the subject's legal  
21 guardian satisfies the counseling requirement.

22 Section 4 repeals the penalty provisions for violations of  
23 the testing provisions prescribed under the testing section,  
24 and for violations of confidentiality. The repeal also  
25 removes a statute of limitations of two years for the bringing  
26 of an action under the chapter, and the provision that  
27 disclosure of HIV-related test results, made in accordance  
28 with the requests of the Iowa department of public health or  
29 the centers for disease control of the United States public  
30 health service, are not to be construed to impose civil  
31 liability or criminal sanction.

32

33

34

35

HOUSE FILE 641

AN ACT

RELATING TO HUMAN IMMUNODEFICIENCY VIRUS-RELATED TESTING AND  
COUNSELING, AND ELIMINATING A PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 141.6, subsection 3, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Devise a procedure, as a part of the partner notification program, to provide for the notification of an identifiable third party who is a sexual partner of or who shares intravenous equipment with a person who has tested positive for the human immunodeficiency virus, by the department or a physician, when all of the following situations exist:

(1) A physician for the infected person is of the good faith opinion that the nature of the continuing contact poses an imminent danger of human immunodeficiency virus infection transmission to the third party.

(2) When the physician believes in good faith that the infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program.

Notwithstanding subsection 4, the department or a physician may reveal the identity of a person who has tested positive

for the human immunodeficiency virus infection pursuant to this subsection only to the extent necessary to protect a third party from the direct threat of transmission. Notification of a person pursuant to this paragraph is subject to the disclosure provisions of section 141.23, subsection 3. This subsection shall not be interpreted to create a duty to warn third parties of the danger of exposure to human immunodeficiency virus through contact with a person who tests positive for the human immunodeficiency virus infection.

Prior to notification of a third party, the physician proposing to cause the notification to be made shall make reasonable efforts to inform, in writing, the person who has tested positive for the human immunodeficiency virus infection. The written information shall state that due to the nature of the person's continuing contact with a third party, the physician is forced to take action to provide notification to the third party. The physician, when reasonably possible, shall provide the following information to the person who has tested positive for the human immunodeficiency virus infection:

- (a) The nature of the disclosure and the reason for the disclosure.
- (b) The anticipated date of disclosure.
- (c) The name of the party or parties to whom disclosure is to be made.

The department shall adopt rules pursuant to chapter 17A to implement this paragraph. The rules shall provide a detailed procedure by which the department or a physician may directly notify an endangered third party.

Sec. 2. Section 141.10, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Release may be made of test results concerning a patient pursuant to procedures established under section 141.6, subsection 3, paragraph "d".

HF 641

Sec. 3. Section 141.10, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A physician or health care practitioner attending a person who tests positive for the human immunodeficiency virus infection has no duty to disclose to or to warn third parties of the dangers of exposure to human immunodeficiency virus infection through contact with that person and is immune from any liability, civil or criminal, for failure to disclose to or warn third parties of the condition of that person.

Sec. 4. Section 141.22, subsection 4, Code 1989, is amended to read as follows:

4. Prior to withdrawing blood for the purpose of performing an HIV-related test, the subject shall be given written notice of the provisions of this section and of section 141.6, subsection 3, paragraph "d".

Sec. 5. Section 141.22, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. When submitted the department shall review and approve pamphlets containing the information required to be provided to a subject or the subject's legal guardian pursuant to subsection 1. The department shall also prepare a model pamphlet containing this information. This subsection does not require submission of all pamphlets containing the required information to the department for approval.

Sec. 6. NEW SECTION. 141.23A EMERGENCY RESPONDER TESTING PROGRAM.

If a person in the course of responding to an emergency renders aid to an injured person and becomes exposed to bodily fluids of the injured person, that emergency responder shall be entitled to HIV testing in accordance with the latest available medical technology to determine if infection with the human immunodeficiency virus has occurred. The costs of the test shall be paid for through the expenditure of funds appropriated to the department for AIDS-related activities.

Sec. 7. Section 141.24, subsection 1, Code 1989, is amended by striking the subsection.

-----  
DONALD D. AVENSON  
Speaker of the House

-----  
JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 641, Seventy-third General Assembly.

-----  
JOSEPH O'HERN  
Chief Clerk of the House

Approved May 26, 1989

-----  
TERRY E. BRANSTAD  
Governor