

JAN 30 1996  
HUMAN RESOURCES

HOUSE FILE  
BY KREMER

2119

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to acquired immune deficiency syndrome  
2 classification, notification, and testing procedures.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2119

1 Section 1. Section 141.1, unnumbered paragraph 1, Code  
2 1995, is amended to read as follows:

3 The Iowa department of public health is designated as the  
4 lead agency in the coordination and implementation of the  
5 state comprehensive acquired immune deficiency syndrome  
6 ~~(AIDS)-related-conditions~~ (AIDS) prevention and intervention  
7 plan. As used in this subchapter, ~~"acquired-immune-deficiency~~  
8 ~~syndrome-related-conditions"-or-"AIDS-related-conditions"~~  
9 ~~means-human-immunodeficiency-virus,-acquired-immune-deficiency~~  
10 ~~syndrome,-acquired-immune-deficiency-syndrome-related-complex,~~  
11 ~~or-any-other-condition-resulting-from-the-human~~  
12 ~~immunodeficiency-virus-infection-:~~

13 1. "AIDS" means acquired immune deficiency syndrome as  
14 defined by the centers for disease control and prevention of  
15 the United States department of health and human services.

16 2. "HIV" means the human immunodeficiency virus identified  
17 as the causative agent of AIDS.

18 Sec. 2. Section 141.3, subsection 2, Code 1995, is amended  
19 to read as follows:

20 2. The program of public and professional AIDS-related  
21 education shall include the following components:

22 a. Pertinent ~~AIDS-related-conditions~~ HIV and AIDS  
23 information directed toward individuals who are at risk for an  
24 ~~AIDS-related-condition~~ HIV and AIDS.

25 b. Pertinent ~~AIDS-related-conditions~~ HIV and AIDS  
26 information directed toward all providers of health care.

27 c. Pertinent ~~AIDS-related-conditions~~ HIV and AIDS  
28 information directed toward the general public.

29 Sec. 3. Section 141.4, unnumbered paragraph 2, Code 1995,  
30 is amended to read as follows:

31 Counseling and testing shall be provided at alternative  
32 testing and counseling sites and at sexually transmitted  
33 disease clinics. The Iowa department of public health shall  
34 assist local boards of health in the development of programs  
35 which provide free ~~anonymous~~ testing to the public.

1     Sec. 4. Section 141.5, subsection 1, Code 1995, is amended  
2 to read as follows:

3     1. The conducting of informational campaigns designed to  
4 increase the understanding of AIDS-related-conditions HIV and  
5 AIDS in all segments of the population to alleviate unfounded  
6 fear and anxiety.

7     Sec. 5. Section 141.6, subsection 3, Code 1995, is amended  
8 to read as follows:

9     3. In administering the program, the Iowa department of  
10 public health shall provide for the following:

11     a. A person who tests positive for the human  
12 immunodeficiency virus infection shall receive ~~posttest~~  
13 counseling, during which time the ~~person-shall-be-encouraged~~  
14 ~~on-a-strictly-confidential-basis-to-refer-for-counseling-and~~  
15 ~~human-immunodeficiency-virus-testing-any-person-with-whom-the~~  
16 ~~person-has-had-sexual-relations-or-has-shared-intravenous~~  
17 ~~equipment~~ department shall request the person to assist the  
18 department in determining, on a strictly confidential basis,  
19 for counseling and human immunodeficiency virus testing  
20 referral, the identity of any person with whom the person has  
21 had sexual relations or has shared injection equipment.

22     ~~b.--If, following counseling, a person who tests positive~~  
23 ~~for the human immunodeficiency virus infection chooses to~~  
24 ~~disclose the identity of any sexual partners or persons with~~  
25 ~~whom the person has shared intravenous equipment, the~~  
26 ~~physician or health practitioner attending the person shall~~  
27 ~~obtain written consent which acknowledges that the person is~~  
28 ~~making the disclosure voluntarily.~~

29     ~~c.--The physician or health practitioner attending the~~  
30 ~~person shall forward any written consent forms to the Iowa~~  
31 ~~department of public health.~~

32     d. b. Devise a procedure, as a part of the partner  
33 notification program, to provide for the notification of an  
34 identifiable third party who is a sexual partner of or who  
35 shares intravenous equipment with a person who has tested

1 positive for the human immunodeficiency virus, by the  
2 department or a physician, when all of the following  
3 situations exist:

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

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

12 Notwithstanding subsection 4, the department or a physician  
13 may reveal the identity of a person who has tested positive  
14 for the human immunodeficiency virus infection pursuant to  
15 this subsection only to the extent necessary to protect a  
16 third party from the direct threat of transmission.

17 Notification of a person pursuant to this paragraph is subject  
18 to the disclosure provisions of section 141.23, subsection 3.  
19 This subsection shall not be interpreted to create a duty to  
20 warn third parties of the danger of exposure to human  
21 immunodeficiency virus through contact with a person who tests  
22 positive for the human immunodeficiency virus infection.

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

34 (a) The nature of the disclosure and the reason for the  
35 disclosure.

1 (b) The anticipated date of disclosure.

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

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

8 Sec. 6. Section 141.8, subsections 1, 2, 3, 5, and 6, Code  
9 1995, are amended to read as follows:

10 1. ~~Prior to withdrawing blood for the purpose of~~  
11 performing a human immunodeficiency virus-related test, the  
12 physician or other practitioner shall inform the subject of  
13 the test that the test is voluntary ~~and may be performed~~  
14 ~~anonymously if requested.~~ Within seven days after the testing  
15 of a person with a test result indicating human  
16 immunodeficiency virus infection which has been confirmed as  
17 positive according to prevailing medical technology, the  
18 physician or other practitioner at whose request the test was  
19 performed shall make a report to the Iowa department of public  
20 health on a form provided by the department. ~~Prior to making~~  
21 ~~the required report, the physician or other practitioner shall~~  
22 ~~provide written information regarding the partner notification~~  
23 ~~program and shall inquire if the person wishes to initiate~~  
24 ~~participation in the program by agreeing to have identifying~~  
25 ~~information reported to the department on a confidential~~  
26 ~~basis.~~

27 2. Within seven days of diagnosing a person as having an  
28 ~~AIDS-related condition~~ contracted AIDS, the diagnosing  
29 physician or other practitioner shall make a report to the  
30 Iowa department of public health on a form provided by the  
31 department.

32 3. Within seven days of the death of a person resulting  
33 from ~~an AIDS-related condition~~ AIDS, the attending physician  
34 or other practitioner shall make a report to the Iowa  
35 department of public health on a form provided by the

1 department.

2 5. Within seven days of the testing of a person with a  
3 test result indicating human immunodeficiency virus infection  
4 which has been confirmed as positive according to prevailing  
5 medical technology, the director of a clinical laboratory  
6 shall make a report to the Iowa department of public health  
7 ~~stating the person's name or a confidential form of~~  
8 ~~identification known only to the physician or other health~~  
9 ~~practitioner requesting the test and the name and address of~~  
10 ~~the physician or other health care practitioner requesting the~~  
11 ~~test on a form provided by the department.~~

12 6. The forms provided by the department pursuant to  
13 subsections ~~2 and 3~~ 1 through 5 shall contain the name, date  
14 of birth, sex, and address of the subject of the report and  
15 the name and address of the physician or other person making  
16 the report. ~~The forms provided by the department pursuant to~~  
17 ~~subsections 1, 4, and 5 may include the subject's age, race,~~  
18 ~~marital status, or other information deemed necessary by the~~  
19 ~~department for epidemiological purposes, but shall not include~~  
20 ~~the subject's name or address without the written~~  
21 ~~authorization of the subject.~~

22 ~~The subject shall be provided with information regarding~~  
23 ~~the confidentiality measures followed by the department and~~  
24 ~~may request that the department maintain the subject's~~  
25 ~~confidential file for the purposes of partner notification, or~~  
26 ~~for the inclusion of the subject in research or treatment~~  
27 ~~programs.~~

28 Sec. 7. Section 141.21, subsection 2, Code 1995, is  
29 amended by striking the subsection.

30 Sec. 8. Section 141.22, subsection 1, Code 1995, is  
31 amended to read as follows:

32 1. ~~Prior to withdrawing blood for the purpose of~~  
33 performing an HIV-related test, the subject of the test or the  
34 subject's legal guardian, except when the provisions of  
35 subsection 6 apply, shall be provided with preliminary

1 counseling which shall include but is not limited to the  
2 following:

3 a. An explanation of the test, including the test's  
4 purposes, potential uses, limitations, and the meaning of both  
5 positive and negative results.

6 b. An explanation of the nature of HIV and AIDS and-ARE,  
7 including the relationship between the test results and the  
8 diseases disease.

9 c. An explanation of the procedures to be followed,  
10 including the fact that the test is entirely voluntary and-can  
11 be-performed-anonymously-if-requested.

12 d. Information concerning behavioral patterns known to  
13 expose a person to the possibility of contracting AIDS and  
14 methods for minimizing the risk of exposure.

15 Sec. 9. Section 141.22, subsection 2, Code 1995, is  
16 amended by striking the subsection.

17 Sec. 10. Section 141.22, subsection 4, Code 1995, is  
18 amended to read as follows:

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

23 Sec. 11. Section 141.22A, subsection 1, paragraph d, Code  
24 Supplement 1995, is amended to read as follows:

25 d. "Infectious bodily fluids" means bodily fluids capable  
26 of transmitting HIV infection as determined by the centers for  
27 disease control and prevention of the United States department  
28 of health and human services and adopted by rule of the  
29 department.

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#### EXPLANATION

31 This bill changes provisions relating to acquired immune  
32 deficiency syndrome classification, testing confidentiality  
33 and methodology, third-party notification procedures, and  
34 reporting procedures to the Iowa department of public health.

35 The bill deletes reference throughout Iowa Code chapter 141

1 to "acquired immune deficiency syndrome-related complex",  
2 substituting the terms "HIV" and "AIDS" to reflect current  
3 terminology utilized by the national centers for disease  
4 control and prevention regarding the conditions of human  
5 immunodeficiency virus infection and acquired immune  
6 deficiency syndrome diagnosis.

7 The bill removes the previously available option of  
8 anonymous testing and reporting of results by physicians,  
9 blood plasma centers and blood banks, and clinical  
10 laboratories to the Iowa department of public health. Within  
11 seven days after confirmation of a positive test for human  
12 immunodeficiency virus infection, a physician or health  
13 practitioner requesting the test, or the director of a blood  
14 plasma center, blood bank, or clinical laboratory, shall make  
15 a report to the Iowa department of public health on a form  
16 provided by the department of public health containing the  
17 name, date of birth, sex, and address of the subject of the  
18 report, along with the name and address of the physician or  
19 health practitioner making the report. This procedure also  
20 applies to a physician or health practitioner making a  
21 diagnosis of acquired immune deficiency syndrome, or an  
22 attending physician or health practitioner reporting a death  
23 therefrom.

24 The bill provides that individuals testing positive for  
25 human immunodeficiency virus infection shall be requested to  
26 assist the department on a confidential basis in determining  
27 the identity of sexual or injected drug use partners  
28 potentially infected. The requirement that a physician or  
29 other health practitioner obtain written consent that such  
30 disclosures are being given voluntarily is removed. Partner  
31 notification will no longer be contingent upon the good faith  
32 opinion of a physician that the nature of continued contact  
33 poses an imminent danger of transmission and that voluntary  
34 partner notification will not take place. Written  
35 notification by a physician of a positive test and the intent

1 to notify partners will no longer be required to be supplied  
2 to the subject of the test. Instead, a reasonable effort to  
3 inform standard applies.

4 The bill deletes reference to "withdrawing blood" when  
5 referring to performing a human immunodeficiency virus-related  
6 test, in recognition of an expanded testing methodology.

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