

2/23/98 Do Pass
FILED FEB 16 1998 H 3/17/98 Nunon Lee
HUMAN RESOURCES H 3/19/98 Do Pass
H 3/26/98 Unfinished Bus. Colonies
SENATE FILE 2161
BY SZYMONIAK

Passed Senate (p. 723) Date 3/16/98
Vote: Ayes 42 Nays 6

Passed House (p. 1297) Date 4/6/98
Vote: Ayes 98 Nays 1

(p. 1155) Passed 4-9-98 Approved May 14, 1998
vote 43-4

A BILL FOR

1 An Act relating to the reporting and partner notification
2 requirements relative to the human immunodeficiency virus.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 141.4, unnumbered paragraph 2, Code
2 1997, is amended to read as follows:

3 Counseling and testing shall be provided at alternative
4 testing and counseling sites and at sexually transmitted
5 disease clinics. The Iowa department of public health shall
6 assist local boards of health in the development of programs
7 which provide free anonymous testing to the public.

8 Sec. 2. Section 141.6, subsection 3, Code 1997, is amended
9 to read as follows:

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

12 a. A person who tests positive for the human
13 immunodeficiency virus infection shall receive posttest
14 counseling, during which time the person shall be encouraged
15 on a strictly confidential basis to refer for counseling and
16 human immunodeficiency virus testing any person with whom the
17 person has had sexual relations or has shared intravenous
18 equipment.

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

26 c. b. The physician or health practitioner attending the
27 person shall forward any written consent forms provide any
28 information provided by the person regarding any person with
29 whom the tested person has had sexual relations or has shared
30 intravenous equipment to the Iowa department of public health.
31 The department disease prevention staff shall then conduct
32 partner notification in the same manner as that utilized for
33 sexually transmitted diseases.

34 d. c. Devise a procedure, as a part of the partner
35 notification program, to provide for the notification of an

1 identifiable third party who is a sexual partner of or who
2 shares intravenous equipment with a person who has tested
3 positive for the human immunodeficiency virus, by the
4 department or a physician, when all of the following
5 situations exist:

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

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

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

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

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

1 (a) The nature of the disclosure and the reason for the
2 disclosure.

3 (b) The anticipated date of disclosure.

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

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

10 Sec. 3. Section 141.8, subsections 1, 4, and 6, Code 1997,
11 are amended to read as follows:

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

29 4. Within seven days of the testing of a person with a
30 test result indicating human immunodeficiency virus infection
31 ~~which-has-been-confirmed-as-positive-according-to-prevailing~~
32 ~~medical-technology~~, the director of a blood plasma center or
33 blood bank shall make a report to the Iowa department of
34 public health on a form provided by the department.

35 6. a. The forms provided by the department pursuant to

1 subsections 2 and 3 shall contain the name, date of birth,
2 sex, and address of the subject of the report and the name and
3 address of the physician or other person making the report.
4 The forms provided by the department pursuant to subsections
5 1, 4, and 5 may include the subject's age, race, marital
6 status, or other information deemed necessary by the
7 department for epidemiological purposes, but shall not include
8 the subject's name or address without the written
9 authorization of the subject. require inclusion of all of the
10 following information:

- 11 (1) The name of the patient.
- 12 (2) The address of the patient.
- 13 (3) The patient's date of birth.
- 14 (4) The sex of the patient.
- 15 (5) The race or ethnicity of the patient.
- 16 (6) The patient's marital status.
- 17 (7) The patient's telephone number.
- 18 (8) The name and address of the laboratory, plasma center,
19 or blood center.
- 20 (9) The date the test was found to be positive and the
21 collection date.
- 22 (10) The name of the physician or medical provider who
23 performed the test.
- 24 (11) If the patient is female, whether the patient is
25 pregnant.

26 d. The subject patient shall be provided with information
27 regarding the confidentiality measures followed by the
28 department and may request that the department maintain the
29 subject's patient's confidential file ~~for the purposes of~~
30 ~~partner notification~~, or for the inclusion of the subject
31 patient in research or treatment programs.

32 Sec. 4. Section 141.10, subsection 1, paragraph d, Code
33 1997, is amended to read as follows:

34 d. Release may be made of test results concerning a
35 patient pursuant to procedures established under section.

1 141.6, subsection 3, paragraph "d" "c".

2 Sec. 5. Section 141.22, subsection 4, Code 1997, is
3 amended to read as follows:

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

8 EXPLANATION

9 This bill amends provisions relating to human
10 immunodeficiency virus (HIV) testing and partner notification.
11 The bill provides that free testing available to the public is
12 no longer anonymous and that the Iowa department of public
13 health is to be provided with any partner information for the
14 purposes of contacting and notifying a partner of a person
15 with a positive HIV result. Contact and notification are to
16 take place in the same manner as for other sexually
17 transmitted diseases. The bill also provides for the
18 information to be included in a report of a positive HIV test
19 result to the department from the person performing the test.

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SENATE FILE 2161

H-8550

1 Amend Senate File 2161, as passed by the Senate, as
2 follows:

3 1. Page 1, by striking line 27 and inserting the
4 following: "person shall-forward-any-written-consent
5 forms may provide any relevant".

By BLODGETT of Cerro Gordo

H-8550 FILED MARCH 23, 1998

Adopted 4-6-98 (p1296)

SENATE FILE 2161

H-8934

1 Amend Senate File 2161, as passed by the Senate, as
2 follows:

3 1. Page 4, by inserting after line 31 the
4 following:

5 "c. The department shall develop an informational
6 brochure for patients who may have blood withdrawn for
7 the purpose of performing an HIV test. The
8 information, at a minimum, shall include a summary of
9 the patient's rights and responsibilities under the
10 law."

By MASCHER of Johnson

H-8934 FILED APRIL 6, 1998

Adopted 4-6-98 (p1297)

HOUSE AMENDMENT TO
SENATE FILE 2161

S-5533

1 Amend Senate File 2161, as passed by the Senate, as
2 follows:

3 1. Page 1, by striking line 27 and inserting the
4 following: "person shall-forward-any-written-consent
5 forms may provide any relevant".

6 2. Page 4, by inserting after line 31 the
7 following:

8 "c. The department shall develop an informational
9 brochure for patients who may have blood withdrawn for
10 the purpose of performing an HIV test. The
11 information, at a minimum, shall include a summary of
12 the patient's rights and responsibilities under the
13 law."

14 3. By renumbering, relettering, or redesignating
15 and correcting internal references as necessary.

Senate Concurred 4/9/98 RECEIVED FROM THE HOUSE

S-5533 FILED APRIL 6, 1998

(P. 1155)

SENATE FILE 2161

AN ACT

RELATING TO THE REPORTING AND PARTNER NOTIFICATION REQUIREMENTS RELATIVE TO THE HUMAN IMMUNODEFICIENCY VIRUS.

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

Section 1. Section 141.4, unnumbered paragraph 2, Code 1997, is amended to read as follows:

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

Sec. 2. Section 141.6, subsection 3, Code 1997, is amended to read as follows:

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

a. A person who tests positive for the human immunodeficiency virus infection shall receive posttest counseling, during which time the person shall be encouraged on a strictly confidential basis to refer for counseling and human immunodeficiency virus testing any person with whom the person has had sexual relations or has shared intravenous equipment.

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

~~e. b.~~ The physician or health practitioner attending the person shall forward any written consent forms may provide any relevant information provided by the person regarding any person with whom the tested person has had sexual relations or

has shared intravenous equipment to the Iowa department of public health. The department disease prevention staff shall then conduct partner notification in the same manner as that utilized for sexually transmitted diseases.

d. c. 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. 3. Section 141.8, subsections 1, 4, and 6, Code 1997, are amended to read as follows:

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

4. Within seven days of the testing of a person with a test result indicating human immunodeficiency virus infection which has been confirmed as positive according to prevailing medical technology, the director of a blood plasma center or blood bank shall make a report to the Iowa department of public health on a form provided by the department.

6. a. The forms provided by the department pursuant to subsections 2 and 3 shall contain the name, date of birth, sex, and address of the subject of the report and the name and address of the physician or other person making the report. ~~The forms provided by the department pursuant to subsections 1, 4, and 5 may include the subject's age, race, marital status, or other information deemed necessary by the department for epidemiological purposes, but shall not include the subject's name or address without the written authorization of the subject.~~ require inclusion of all of the following information:

- (1) The name of the patient.
- (2) The address of the patient.
- (3) The patient's date of birth.
- (4) The sex of the patient.
- (5) The race or ethnicity of the patient.
- (6) The patient's marital status.
- (7) The patient's telephone number.
- (8) The name and address of the laboratory, plasma center, or blood center.
- (9) The date the test was found to be positive and the collection date.
- (10) The name of the physician or medical provider who performed the test.
- (11) If the patient is female, whether the patient is pregnant.

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

c. The department shall develop an informational brochure for patients who may have blood withdrawn for the purpose of performing an HIV test. The information, at a minimum, shall include a summary of the patient's rights and responsibilities under the law.

Sec. 4. Section 141.10, subsection 1, paragraph d, Code 1997, is amended to read as follows:

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

Sec. 5. Section 141.22, subsection 4, Code 1997, 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" "c".

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2161, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved May 14, 1998

TERRY E. BRANSTAD
Governor