

JAN 7 9 1999
HUMAN RESOURCES

HOUSE FILE 101
BY CARROLL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the authority of a person designated as an
2 attorney in fact under a durable power of attorney for health
3 care relative to HIV-related testing.

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

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HF 101

1 Section 1. Section 141.22, subsection 1, unnumbered
2 paragraph 1, Code 1999, is amended to read as follows:

3 Prior to withdrawing blood for the purpose of performing an
4 HIV-related test, the subject of the test, or the subject's
5 legal guardian, or the subject's attorney in fact designated
6 pursuant to chapter 144B, except when the provisions of
7 subsection 6 apply, shall be provided with preliminary
8 counseling which shall include but is not limited to the
9 following:

10 Sec. 2. Section 141.22, subsection 7, Code 1999, is
11 amended to read as follows:

12 7. When submitted, the department shall review and approve
13 pamphlets containing the information required to be provided
14 to a subject, or the subject's legal guardian, or the
15 subject's attorney in fact designated pursuant to chapter 144B
16 pursuant to subsection 1. The department shall also prepare a
17 model pamphlet containing this information. This subsection
18 does not require submission of all pamphlets containing the
19 required information to the department for approval.

20 Sec. 3. Section 141.23, subsection 1, paragraphs a, b, and
21 i, Code 1999, are amended to read as follows:

22 a. The subject of the test, or the subject's legal
23 guardian, or the subject's attorney in fact designated
24 pursuant to chapter 144B, subject to the provisions of section
25 141.22, subsection 6, when applicable.

26 b. Any person who secures a written release of test
27 results executed by the subject of the test, or the subject's
28 legal guardian, or the subject's attorney in fact designated
29 pursuant to chapter 144B.

30 i. The convicted or alleged offender, the physician or
31 other practitioner who orders the test of the convicted or
32 alleged offender, the victim, the parent, guardian, or
33 custodian of the victim if the victim is a minor, the victim's
34 attorney in fact designated pursuant to chapter 144B, the
35 physician of the victim, the victim counselor or person

1 requested by the victim who is authorized to provide the
2 counseling required pursuant to section 141.22, the victim's
3 spouse, persons with whom the victim has engaged in vaginal,
4 anal, or oral intercourse subsequent to the sexual assault, or
5 members of the victim's family within the third degree of
6 consanguinity, and the county attorney who may use the results
7 as evidence in the prosecution of sexual assault or
8 prosecution of the offense of criminal transmission of HIV
9 under chapter 709C. For the purposes of this paragraph,
10 "victim" means victim as defined in section 915.40.

11 Sec. 4. Section 915.40, subsection 9, Code 1999, is
12 amended to read as follows:

13 9. "Petitioner" means a person who is the victim of a
14 sexual assault which resulted in alleged significant exposure
15 or the parent, guardian, or custodian of a victim if the
16 victim is a minor, or the victim's attorney in fact designated
17 pursuant to chapter 144B, for whom the county attorney files a
18 petition with the district court to require the convicted
19 offender to undergo an HIV-related test.

20 Sec. 5. Section 915.43, subsection 4, Code 1999, is
21 amended to read as follows:

22 4. Results of a test performed under this subchapter,
23 except as provided in subsection 13, shall be disclosed only
24 to the physician or other practitioner who orders the test of
25 the convicted or alleged offender, the convicted or alleged
26 offender, the victim, the victim counselor or person requested
27 by the victim who is authorized to provide the counseling
28 required pursuant to section 141.22, the physician of the
29 victim if requested by the victim, the parent, guardian, or
30 custodian of the victim, if the victim is a minor, the
31 victim's attorney in fact designated pursuant to chapter 144B,
32 and the county attorney who filed the petition for HIV-related
33 testing under this chapter, who may use the results to file
34 charges of criminal transmission of HIV under chapter 709C.
35 Results of a test performed under this subchapter shall not be

1 disclosed to any other person without the written informed
 2 consent of the convicted or alleged offender. A person to
 3 whom the results of a test have been disclosed under this
 4 subchapter is subject to the confidentiality provisions of
 5 section 141.23, and shall not disclose the results to another
 6 person except as authorized by section 141.23, subsection 1.

7 EXPLANATION

8 This bill provides authority to a person, designated as an
 9 attorney in fact under a durable power of attorney, relative
 10 to the HIV-related testing of a person who is the principal
 11 under the durable power of attorney for health care, to be
 12 provided with counseling, information, and the results of the
 13 HIV-related test. This authority is similar to the authority
 14 of a parent or legal guardian of the subject of an HIV-related
 15 test. The bill also authorizes the attorney in fact under a
 16 durable power of attorney to petition the district court to
 17 require a convicted or alleged offender to undergo an HIV-
 18 related test and authorizes the attorney in fact to be
 19 provided the results of the test.

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