

HSB 180

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HUMAN RESOURCES  
SF 100

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON HUMAN  
RESOURCES BILL BY  
CHAIRPERSON BODDICKER)

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, providing  
2 penalties, and providing for a repeal.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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~~§ 80.9~~

1 ~~Section 80.9~~ Section 80.9, subsection 2, paragraph d, Code  
2 1999, is amended to read as follows:

3 d. To collect and classify, and keep at all times  
4 available, complete information useful for the detection of  
5 crime, and the identification and apprehension of criminals.  
6 Such information shall be available for all peace officers  
7 within the state, under such regulations as the commissioner  
8 may prescribe. The provisions of chapter ~~41~~ 141A do not  
9 apply to the entry of human immunodeficiency virus-related  
10 information by criminal or juvenile justice agencies, as  
11 defined in section 692.1, into the Iowa criminal justice  
12 information system or the national crime information center  
13 system. The provisions of chapter ~~41~~ 141A also do not apply  
14 to the transmission of the same information from either or  
15 both information systems to criminal or juvenile justice  
16 agencies. The provisions of chapter ~~41~~ 141A also do not  
17 apply to the transmission of the same information from either  
18 or both information systems to employees of state correctional  
19 institutions subject to the jurisdiction of the department of  
20 corrections, employees of secure facilities for juveniles  
21 subject to the jurisdiction of the department of human  
22 services, and employees of city and county jails, if those  
23 employees have direct physical supervision over inmates of  
24 those facilities or institutions. Human immunodeficiency  
25 virus-related information shall not be transmitted over the  
26 police radio broadcasting system under chapter 693 or any  
27 other radio-based communications system. An employee of an  
28 agency receiving human immunodeficiency virus-related  
29 information under this section who communicates the  
30 information to another employee who does not have direct  
31 physical supervision over inmates, other than to a supervisor  
32 of an employee who has direct physical supervision over  
33 inmates for the purpose of conveying the information to such  
34 an employee, or who communicates the information to any person  
35 not employed by the agency or uses the information outside the

1 agency is guilty of a class "D" felony. The commissioner  
 2 shall adopt rules regarding the transmission of human  
 3 immunodeficiency virus-related information including  
 4 provisions for maintaining confidentiality of the information.  
 5 The rules shall include a requirement that persons receiving  
 6 information from the Iowa criminal justice information system  
 7 or the national crime information center system receive  
 8 training regarding confidentiality standards applicable to the  
 9 information received from the system. The commissioner shall  
 10 develop and establish, in cooperation with the department of  
 11 corrections and the Iowa department of public health, training  
 12 programs and program criteria for persons receiving human  
 13 immunodeficiency virus-related information through the Iowa  
 14 criminal justice information system or the national crime  
 15 information center system.

16 Sec. 2. Section 139B.1, subsection 1, paragraph a, Code  
 17 1999, is amended to read as follows:

18 a. "Contagious or infectious disease" means hepatitis in  
 19 any form, meningococcal disease, tuberculosis, and any other  
 20 disease with the exception of AIDS or HIV infection as defined  
 21 in section ~~141.2~~ 141A.1, determined to be life-threatening to  
 22 a person exposed to the disease as established by rules  
 23 adopted by the department based upon a determination by the  
 24 state epidemiologist and in accordance with guidelines of the  
 25 centers for disease prevention and control of the United  
 26 States department of health and human services.

27 Sec. 3. Section 139C.1, subsection 6, Code 1999, is  
 28 amended to read as follows:

29 6. "HIV" means HIV as defined in section ~~141.2~~ 141A.1.

30 Sec. 4. Section 139C.2, subsection 7, Code 1999, is  
 31 amended to read as follows:

32 7. Information relating to the HIV status of a health care  
 33 provider is confidential and subject to the provisions of  
 34 section ~~141.23~~ 141A.9. A person who intentionally or  
 35 recklessly makes an unauthorized disclosure of such

1 information is subject to a civil penalty of one thousand  
2 dollars. The attorney general or the attorney general's  
3 designee may maintain a civil action to enforce this section.  
4 Proceedings maintained under this section shall provide for  
5 the anonymity of the individual and all documentation shall be  
6 maintained in a confidential manner. Information relating to  
7 the HIV status of a health care provider is confidential and  
8 shall not be accessible to the public. Information regulated  
9 by this section, however, may be disclosed to members of the  
10 expert review panel established by the department or a panel  
11 established by hospital protocol under this section. The  
12 information may also be disclosed to the appropriate examining  
13 board by filing a report as required by this section. The  
14 examining board shall consider the report a complaint subject  
15 to the confidentiality provisions of section 272C.6. A  
16 licensee, upon the filing of a formal charge or notice of  
17 hearing by the examining board based on such a complaint, may  
18 seek a protective order from the board.

19 Sec. 5. NEW SECTION. 141A.1 DEFINITIONS.

20 As used in this chapter, unless the context otherwise  
21 requires:

- 22 1. "AIDS" means acquired immune deficiency syndrome as  
23 defined by the centers for disease control and prevention of  
24 the United States department of health and human services.
- 25 2. "AIDS-related conditions" means the human  
26 immunodeficiency virus, or any other condition resulting from  
27 the human immunodeficiency virus infection.
- 28 3. "Blinded epidemiological studies" means studies in  
29 which specimens which were collected for other purposes are  
30 selected according to established criteria, are permanently  
31 stripped of personal identifiers, and are then tested.
- 32 4. "Blood bank" means a facility for the collection,  
33 processing, or storage of human blood or blood derivatives,  
34 including blood plasma, or from which or by means of which  
35 human blood or blood derivatives are distributed or otherwise

1 made available.

2 5. "Care provider" means any emergency care provider,  
3 health care provider, or any other person providing health  
4 care services of any kind.

5 6. "Department" means the Iowa department of public  
6 health.

7 7. "Emergency care provider" means a person who is trained  
8 and authorized by federal or state law to provide emergency  
9 medical assistance or treatment, for compensation or in a  
10 voluntary capacity, including but not limited to all of the  
11 following:

12 (1) An emergency medical care provider as defined in  
13 section 147A.1.

14 (2) A health care provider.

15 (3) A fire fighter.

16 (4) A peace officer.

17 "Emergency care provider" also includes a person who  
18 renders emergency aid without compensation.

19 8. "Good faith" means objectively reasonable and not in  
20 violation of clearly established statutory rights or other  
21 rights of a person which a reasonable person would know or  
22 should have known.

23 9. "Health care provider" means a person licensed or  
24 certified under chapter 148, 148C, 150, 150A, 152, or 153 to  
25 provide professional health care service to a person during  
26 the person's medical care, treatment, or confinement.

27 10. "Health facility" means a hospital, health care  
28 facility, clinic, blood bank, blood center, sperm bank,  
29 laboratory organ transplant center and procurement agency, or  
30 other health care institution.

31 11. "HIV" means the human immunodeficiency virus  
32 identified as the causative agent of AIDS.

33 12. "HIV-related test" means a diagnostic test conducted  
34 by a laboratory approved pursuant to the federal Clinical  
35 Laboratory Improvements Act for determining the presence of

1 HIV.

2 13. "Infectious bodily fluids" means bodily fluids capable  
3 of transmitting HIV infection as determined by the centers for  
4 disease control and prevention of the United States department  
5 of health and human services and adopted by rule of the  
6 department.

7 14. "Legal guardian" means a person appointed by a court  
8 pursuant to chapter 633 or an attorney in fact as defined in  
9 section 144B.1. In the case of a minor, "legal guardian" also  
10 means a parent or other person responsible for the care of the  
11 minor.

12 15. "Nonblinded epidemiological studies" means studies in  
13 which specimens are collected for the express purpose of  
14 testing for the HIV infection and persons included in the  
15 nonblinded study are selected according to established  
16 criteria.

17 16. "Release of test results" means a written  
18 authorization for disclosure of HIV-related test results which  
19 is signed and dated, and which specifies to whom disclosure is  
20 authorized and the time period during which the release is to  
21 be effective.

22 17. "Sample" means a human specimen obtained for the  
23 purpose of conducting an HIV-related test.

24 18. "Significant exposure" means the risk of contracting  
25 HIV infection by means of exposure to a person's infectious  
26 bodily fluids in a manner capable of transmitting HIV  
27 infection as determined by the centers for disease control and  
28 prevention of the United States department of health and human  
29 services and adopted by rule of the department.

30 Sec. 6. NEW SECTION. 141A.2 LEAD AGENCY.

31 1. The department is designated as the lead agency in the  
32 coordination and implementation of the state comprehensive  
33 AIDS-related conditions prevention and intervention plan.

34 2. The department shall adopt rules pursuant to chapter  
35 17A to implement and enforce this chapter. The rules may

1 include procedures for taking appropriate action with regard  
2 to health facilities or health care providers which violate  
3 this chapter or the rules adopted pursuant to this chapter.

4 3. The department shall adopt rules pursuant to chapter  
5 17A which require that if a health care provider attending a  
6 person prior to the person's death determines that the person  
7 suffered from or was suspected of suffering from a contagious  
8 or infectious disease, the health care provider shall place  
9 with the remains written notification of the condition for the  
10 information of any person handling the body of the deceased  
11 person subsequent to the person's death. For purposes of this  
12 subsection, "contagious or infectious disease" means hepatitis  
13 in any form, meningococcal disease, tuberculosis, and any  
14 other disease including AIDS or HIV infection, determined to  
15 be life-threatening to a person exposed to the disease as  
16 established by rules adopted by the department based upon a  
17 determination by the state epidemiologist and in accordance  
18 with guidelines of the centers for disease prevention and  
19 control of the United States department of health and human  
20 services.

21 4. The department, in cooperation with the department of  
22 public safety, and persons who represent those who attend dead  
23 bodies shall establish for all care providers, including  
24 paramedics, ambulance personnel, physicians, nurses, hospital  
25 personnel, first responders, peace officers, and fire  
26 fighters, who provide care services to a person, and for all  
27 persons who attend dead bodies, protocol and procedures for  
28 the use of universal precautions to prevent the transmission  
29 of contagious and infectious diseases.

30 5. The department shall coordinate efforts with local  
31 health officers to investigate sources of HIV infection and  
32 use every appropriate means to prevent the spread of the  
33 infection.

34 6. The department, with the approval of the state board of  
35 health, may conduct epidemiological blinded and nonblinded

1 studies to determine the incidence and prevalence of the HIV  
2 infection. Initiation of any new epidemiological studies  
3 shall be contingent upon the receipt of funding sufficient to  
4 cover all the costs associated with the studies. The informed  
5 consent, reporting, and counseling requirements of this  
6 chapter shall not apply to blinded studies.

7 Sec. 7. NEW SECTION. 141A.3 DUTIES OF THE DEPARTMENT.

8 1. All federal and state moneys appropriated to the  
9 department for AIDS-related activities shall be allocated in  
10 accordance with a prioritized schedule developed by rule of  
11 the department, and grants shall be awarded to the maximum  
12 extent feasible to community-based organizations.

13 2. The department shall do all of the following:

14 a. Provide consultation to agencies and organizations  
15 regarding appropriate policies for testing, education,  
16 confidentiality, and infection control.

17 b. Conduct health information programs for the public  
18 relating to HIV infection, including information about how the  
19 infection is transmitted and how transmittal can be prevented.  
20 The department shall prepare, for free distribution, printed  
21 information relating to HIV infection and prevention.

22 c. Provide educational programs concerning HIV infection  
23 in the workplace.

24 d. Develop and implement HIV education risk-reduction  
25 programs for specific populations at high risk for infection.

26 e. Provide an informational brochure for patients who  
27 provide samples for purposes of performing an HIV test which,  
28 at a minimum, shall include a summary of the patient's rights  
29 and responsibilities under the law.

30 f. In cooperation with the department of education,  
31 develop and update a medically correct AIDS prevention  
32 curriculum for use at the discretion of secondary and middle  
33 schools.

34 3. The department shall, in cooperation with the  
35 department of education and other agencies, organizations,



1 coalitions, and local health departments, develop and  
2 implement a program of public and professional AIDS-related  
3 education.

4 4. School districts shall provide to every elementary,  
5 middle school, and secondary school student, with parental  
6 consent, instruction concerning HIV infection and AIDS and its  
7 prevention.

8 Sec. 8. NEW SECTION. 141A.4 TESTING AND COUNSELING.

9 1. HIV testing and counseling shall be offered to the  
10 following:

11 a. All persons seeking treatment for a sexually  
12 transmitted disease.

13 b. All persons seeking treatment for intravenous drug  
14 abuse or having a history of intravenous drug abuse.

15 c. All persons who consider themselves at risk for the HIV  
16 infection.

17 d. Male and female prostitutes.

18 2. Pregnant women shall be provided information about HIV  
19 prevention, risk reduction, and treatment opportunities to  
20 reduce the possible transmission of HIV to a fetus. Pregnant  
21 women who report one or more recognized risk factors for HIV  
22 shall be strongly encouraged to undergo HIV-related testing.  
23 A pregnant woman who requests testing shall be tested  
24 regardless of the absence of risk factors.

25 Sec. 9. NEW SECTION. 141A.5 PARTNER NOTIFICATION PROGRAM  
26 -- HIV.

27 1. The department shall maintain a partner notification  
28 program for persons known to have tested positive for the HIV  
29 infection.

30 2. The department shall initiate the program at  
31 alternative testing and counseling sites and at sexually  
32 transmitted disease clinics.

33 3. In administering the program, the department shall  
34 provide for the following:

35 a. A person who tests positive for the HIV infection shall

1 receive posttest counseling, during which time the person  
2 shall be encouraged to refer for counseling and HIV testing  
3 any person with whom the person has had sexual relations or  
4 has shared intravenous equipment.

5 b. The physician or other health care provider attending  
6 the person may provide to the department any relevant  
7 information provided by the person regarding any person with  
8 whom the tested person has had sexual relations or has shared  
9 intravenous equipment. The department disease prevention  
10 staff shall then conduct partner notification in the same  
11 manner as that utilized for sexually transmitted diseases  
12 consistent with the provisions of this chapter.

13 c. Devise a procedure, as a part of the partner  
14 notification program, to provide for the notification of an  
15 identifiable third party who is a sexual partner of or who  
16 shares intravenous equipment with a person who has tested  
17 positive for HIV, by the department or a physician, when all  
18 of the following situations exist:

19 (1) A physician for the infected person is of the good  
20 faith opinion that the nature of the continuing contact poses  
21 an imminent danger of HIV infection transmission to the third  
22 party.

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

27 Notwithstanding subsection 4, the department or a physician  
28 may reveal the identity of a person who has tested positive  
29 for the HIV infection pursuant to this subsection only to the  
30 extent necessary to protect a third party from the direct  
31 threat of transmission. This subsection shall not be  
32 interpreted to create a duty to warn third parties of the  
33 danger of exposure to HIV through contact with a person who  
34 tests positive for the HIV infection.

35 The department shall adopt rules pursuant to chapter 17A to

1 implement this paragraph "c". The rules shall provide a  
2 detailed procedure by which the department or a physician may  
3 directly notify an endangered third party.

4 4. In making contact the department shall not disclose the  
5 identity of the person who provided the names of the persons  
6 to be contacted and shall protect the confidentiality of  
7 persons contacted.

8 5. The department may delegate its partner notification  
9 duties under this section to local health authorities unless  
10 the local authority refuses or neglects to conduct the contact  
11 tracing program in a manner deemed to be effective by the  
12 department.

13 6. In addition to the provisions for partner notification  
14 provided under this section and notwithstanding any provision  
15 to the contrary, a county medical examiner or deputy medical  
16 examiner performing official duties pursuant to sections  
17 331.801 through 331.805 or the state medical examiner or  
18 deputy medical examiner performing official duties pursuant to  
19 chapter 691, who determines through an investigation that a  
20 deceased person was infected with HIV, may notify directly, or  
21 request that the department notify, the immediate family of  
22 the deceased or any person known to have had a significant  
23 exposure from the deceased of the finding.

24 Sec. 10. NEW SECTION. 141A.6 AIDS-RELATED CONDITIONS --  
25 SCREENING, TESTING, AND REPORTING.

26 1. Prior to obtaining a sample for the purpose of  
27 performing a voluntary HIV-related test, a health care  
28 provider shall inform the subject of the test that the test is  
29 voluntary. Within seven days of the testing of a person with  
30 a test result indicating HIV infection which has been  
31 confirmed as positive according to prevailing medical  
32 technology, the physician or other health care provider at  
33 whose request the test was performed shall make a report to  
34 the department on a form provided by the department.

35 2. Within seven days of diagnosing a person as having an

1 AIDS-related condition, the diagnosing physician shall make a  
2 report to the department on a form provided by the department.

3 3. Within seven days of the death of a person resulting  
4 from an AIDS-related condition, the attending physician shall  
5 make a report to the department on a form provided by the  
6 department.

7 4. Within seven days of the testing of a person with a  
8 test result indicating HIV infection which has been confirmed  
9 as positive according to prevailing medical technology, the  
10 director of a blood bank shall make a report to the department  
11 on a form provided by the department.

12 5. Within seven days of the testing of a person with a  
13 test result indicating HIV infection which has been confirmed  
14 as positive according to prevailing medical technology, the  
15 director of a clinical laboratory shall make a report to the  
16 department on a form provided by the department.

17 6. The forms provided by the department shall require  
18 inclusion of all of the following information:

- 19 a. The name of the patient.
- 20 b. The address of the patient.
- 21 c. The patient's date of birth.
- 22 d. The gender of the patient.
- 23 e. The race or ethnicity of the patient.
- 24 f. The patient's marital status.
- 25 g. The patient's telephone number.
- 26 h. The name and address of the laboratory or blood bank.
- 27 i. The date the test was found to be positive and the  
28 collection date.
- 29 j. The name of the physician or health care provider who  
30 performed the test.
- 31 k. If the patient is female, whether the patient is  
32 pregnant.

33 Sec. 11. NEW SECTION. 141A.7 TEST RESULTS -- COUNSELING  
34 -- APPLICATION FOR SERVICES.

35 1. At any time that the subject of an HIV-related test is

1 informed of confirmed positive test results, counseling  
2 concerning the emotional and physical health effects shall be  
3 initiated. Particular attention shall be given to explaining  
4 the need for the precautions necessary to avoid transmitting  
5 the virus. The subject shall be given information concerning  
6 additional counseling.

7 2. Notwithstanding subsection 1, the provisions of this  
8 section do not apply to any of the following:

9 a. The performance by a health care provider or health  
10 facility of an HIV-related test when the health care provider  
11 or health facility procures, processes, distributes, or uses a  
12 human body part donated for a purpose specified under the  
13 uniform anatomical gift Act, or semen provided prior to July  
14 1, 1988, for the purpose of artificial insemination, or  
15 donations of blood, and such test is necessary to ensure  
16 medical acceptability of such gift or semen for the purposes  
17 intended.

18 b. A person engaged in the business of insurance who is  
19 subject to section 505.16.

20 c. The performance by a health care provider or health  
21 facility of an HIV-related test when the subject of the test  
22 is deceased and a documented significant exposure has  
23 occurred.

24 3. A person may apply for voluntary treatment,  
25 contraceptive services, or screening or treatment for HIV  
26 infection and other sexually transmitted diseases directly to  
27 a licensed physician and surgeon, an osteopathic physician and  
28 surgeon, or a family planning clinic. Notwithstanding any  
29 other provision of law, however, a minor shall be informed  
30 prior to testing that, upon confirmation according to  
31 prevailing medical technology of a positive HIV-related test  
32 result, the minor's legal guardian is required to be informed  
33 by the testing facility. Testing facilities where minors are  
34 tested shall have available a program to assist minors and  
35 legal guardians with the notification process which emphasizes

1 the need for family support and assists in making available  
2 the resources necessary to accomplish that goal. However, a  
3 testing facility which is precluded by federal statute,  
4 regulation, or centers for disease control and prevention  
5 guidelines from informing the legal guardian is exempt from  
6 the notification requirement. The minor shall give written  
7 consent to these procedures and to receive the services,  
8 screening, or treatment. Such consent is not subject to later  
9 disaffirmance by reason of minority.

10 Sec. 12. NEW SECTION. 141A.8 CARE PROVIDER NOTIFICATION.

11 1. A hospital licensed under chapter 135B shall provide  
12 notification to a care provider who renders assistance or  
13 treatment to an individual, following submission of a  
14 significant exposure report by the care provider to the  
15 hospital and a diagnosis or confirmation by an attending  
16 physician that the individual has HIV infection, and  
17 determination that the exposure reported was a significant  
18 exposure. The notification shall advise the care provider of  
19 possible exposure to HIV infection. Notification shall be  
20 made in accordance with both of the following:

21 a. The hospital informs the individual, when the  
22 individual's condition permits, of the submission of a  
23 significant exposure report.

24 b. The individual consents to serological testing by or  
25 voluntarily discloses the individual's HIV status to the  
26 hospital and consents to notification.

27 Notwithstanding paragraphs "a" and "b", notification shall  
28 be made when the individual denies consent for or consent is  
29 not reasonably obtainable for serological testing, and in the  
30 course of admission, care, and treatment of the individual,  
31 the individual is diagnosed or is confirmed as having HIV  
32 infection.

33 2. The hospital shall notify the care provider involved in  
34 attending or transporting an individual who submitted a  
35 significant exposure report. This shall include a person who

1 renders direct emergency aid without compensation, or in the  
 2 case of an emergency care provider, the designated officer of  
 3 the emergency care provider service, who in turn shall notify  
 4 any emergency care providers. The identity of the designated  
 5 officer shall not be revealed to the individual. The  
 6 designated officer shall inform the hospital of those parties  
 7 who received the notification, and following receipt of this  
 8 information and upon request of the individual, the hospital  
 9 shall inform the individual of the parties to whom  
 10 notification was provided.

11 3. The hospital, upon request of the individual, shall  
 12 inform the individual of the persons to whom notification was  
 13 made.

14 4. The process for notification under this section shall  
 15 be initiated as soon as is reasonably possible.

16 5. A health care provider, with consent of the individual,  
 17 may provide the notification required of hospitals in this  
 18 section to care providers if an individual who has HIV  
 19 infection is delivered by a care provider to the office or  
 20 clinic of the health care provider for treatment. The  
 21 notification shall take place only upon submission of a  
 22 significant exposure report form by the care provider to the  
 23 health care provider and the determination by the health care  
 24 provider that a significant exposure has occurred.

25 6. This section does not require or permit, unless  
 26 otherwise provided, a hospital or health care provider to  
 27 administer a test for the express purpose of determining the  
 28 presence of HIV infection, except that testing may be  
 29 performed if the individual consents, and if the requirements  
 30 of this section are satisfied.

31 7. When a care provider in the course of providing care  
 32 sustains a significant exposure on the premises of a hospital  
 33 or health facility, the individual to whom the care provider  
 34 was exposed is deemed to consent to a test to be administered  
 35 by the hospital or health care facility upon the written

1 request of the exposed care provider for the express purpose  
2 of determining the presence of HIV infection in that  
3 individual. The sample and test results shall only be  
4 identified by a number and no reports otherwise required by  
5 this chapter shall be made which identify the individual  
6 tested. However, if the test results are positive, the  
7 hospital or health care facility shall notify the individual  
8 tested and ensure performance of counseling and reporting  
9 requirements of this chapter in the same manner as for an  
10 individual from whom actual consent was obtained.

11 8. A hospital or health care provider, or other person  
12 participating in good faith in making a report under the  
13 notification provisions of this section, under procedures  
14 similar to this section for notification of its own employees  
15 upon filing of a significant exposure report, or in failing to  
16 make a report under this section, is immune from any  
17 liability, civil or criminal, which might otherwise be  
18 incurred or imposed.

19 9. Notifications made pursuant to this section shall not  
20 disclose the identity of the individual who is diagnosed or  
21 confirmed as having HIV infection unless the individual  
22 provides a specific written release as provided in subsection  
23 1, paragraph "b". If the care provider determines the  
24 identity of the individual, the identity of the individual  
25 shall be confidential information and shall not be disclosed  
26 by the care provider to any other person unless a specific  
27 written release is obtained from the individual.

28 10. A hospital's duty to notify under this section is not  
29 continuing but is limited to the diagnosis of HIV infection  
30 made in the course of admission, care, and treatment following  
31 the rendering of assistance or treatment of the individual  
32 with the infection.

33 11. Notwithstanding subsection 10, if, following discharge  
34 or completion of care or treatment, an individual for whom a  
35 significant exposure report was submitted but which report did



1 not result in notification, wishes to provide information  
2 regarding the individual's HIV infection status to the care  
3 provider who submitted the report, the hospital shall provide  
4 a procedure for notifying the care provider.

5 12. The employer of a care provider who submits a report  
6 of significant exposure under this section sustained in the  
7 course of employment shall pay the costs of HIV testing for  
8 the individual and the costs of HIV testing and counseling for  
9 the care provider. However, the department shall pay the  
10 costs of HIV testing for the individual and the costs of HIV  
11 testing and counseling for a care provider who renders direct  
12 aid without compensation.

13 Sec. 13. NEW SECTION. 141A.9 CONFIDENTIALITY OF  
14 INFORMATION.

15 Any information, including reports and records, obtained,  
16 submitted, and maintained pursuant to this chapter is strictly  
17 confidential medical information. The information shall not  
18 be released, shared with an agency or institution, or made  
19 public upon subpoena, search warrant, discovery proceedings,  
20 or by any other means except as provided in this chapter. A  
21 person shall not be compelled to disclose the identity of any  
22 person upon whom an HIV-related test is performed, or the  
23 results of the test in a manner which permits identification  
24 of the subject of the test, except to persons entitled to that  
25 information under this chapter. Information shall be made  
26 available for release to the following individuals or under  
27 the following circumstances:

28 1. To the subject of the test or the subject's legal  
29 guardian subject to the provisions of section 141A.7,  
30 subsection 3, when applicable.

31 2. To any person who secures a written release of test  
32 results executed by the subject of the test or the subject's  
33 legal guardian.

34 3. To an authorized agent or employee of a health facility  
35 or health care provider, if the health facility or health care

1 provider ordered or participated in the testing or is  
2 otherwise authorized to obtain the test results, the agent or  
3 employee provides patient care or handles or processes  
4 samples, and the agent or employee has a medical need to know  
5 such information.

6 4. To a health care provider providing care to the subject  
7 of the test when knowledge of the test results is necessary to  
8 provide care or treatment.

9 5. To the department in accordance with reporting  
10 requirements for an HIV-related condition.

11 6. To a health facility or health care provider which  
12 procures, processes, distributes, or uses a human body part  
13 from a deceased person with respect to medical information  
14 regarding that person, or semen provided prior to July 1,  
15 1988, for the purpose of artificial insemination.

16 7. Release may be made of medical or epidemiological  
17 information for statistical purposes in a manner such that no  
18 individual person can be identified.

19 8. Release may be made of medical or epidemiological  
20 information to the extent necessary to enforce the provisions  
21 of this chapter and related rules concerning the treatment,  
22 control, and investigation of HIV infection by public health  
23 officials.

24 9. Release may be made of medical or epidemiological  
25 information to medical personnel to the extent necessary to  
26 protect the health or life of the named party.

27 10. Release may be made of test results concerning a  
28 patient pursuant to procedures established under section  
29 141A.5, subsection 3, paragraph "c".

30 11. To a person allowed access to a record by a court  
31 order which is issued in compliance with the following  
32 provisions:

33 a. A court has found that the person seeking the test  
34 results has demonstrated a compelling need for the test  
35 results which need cannot be accommodated by other means. In

1 assessing compelling need, the court shall weigh the need for  
2 disclosure against the privacy interest of the test subject  
3 and the public interest which may be disserved by disclosure  
4 due to its deterrent effect on future testing or due to its  
5 effect in leading to discrimination.

6 b. Pleadings pertaining to disclosure of test results  
7 shall substitute a pseudonym for the true name of the subject  
8 of the test. The disclosure to the parties of the subject's  
9 true name shall be communicated confidentially in documents  
10 not filed with the court.

11 c. Before granting an order, the court shall provide the  
12 person whose test results are in question with notice and a  
13 reasonable opportunity to participate in the proceedings if  
14 the person is not already a party.

15 d. Court proceedings as to disclosure of test results  
16 shall be conducted in camera unless the subject of the test  
17 agrees to a hearing in open court or unless the court  
18 determines that a public hearing is necessary to the public  
19 interest and the proper administration of justice.

20 e. Upon the issuance of an order to disclose test results,  
21 the court shall impose appropriate safeguards against  
22 unauthorized disclosure, which shall specify the persons who  
23 may gain access to the information, the purposes for which the  
24 information shall be used, and appropriate prohibitions on  
25 future disclosure.

26 12. To an employer, if the test is authorized to be  
27 required under any other provision of law.

28 13. To a convicted or alleged sexual assault offender; the  
29 physician or other health care provider who orders the test of  
30 a convicted or alleged offender; the victim; the parent,  
31 guardian, or custodian of the victim if the victim is a minor;  
32 the physician of the victim; the victim counselor or person  
33 requested by the victim to provide counseling regarding the  
34 HIV-related test and results; the victim's spouse; persons  
35 with whom the victim has engaged in vaginal, anal, or oral

1 intercourse subsequent to the sexual assault; members of the  
2 victim's family within the third degree of consanguinity; and  
3 the county attorney who may use the results as evidence in the  
4 prosecution of sexual assault under chapter 915, subchapter  
5 IV, or prosecution of the offense of criminal transmission of  
6 HIV under chapter 709C. For the purposes of this paragraph,  
7 "victim" means victim as defined section 915.40.

8 14. To employees of state correctional institutions  
9 subject to the jurisdiction of the department of corrections,  
10 employees of secure facilities for juveniles subject to the  
11 department of human services, and employees of city and county  
12 jails, if the employees have direct supervision over inmates  
13 of those facilities or institutions in the exercise of the  
14 duties prescribed pursuant to section 80.9, subsection 2,  
15 paragraph "d".

16 Sec. 14. NEW SECTION. 141A.10 IMMUNITIES.

17 1. A person making a report in good faith pursuant to this  
18 chapter is immune from any liability, civil or criminal, which  
19 might otherwise be incurred or imposed as a result of the  
20 report.

21 2. A health care provider attending a person who tests  
22 positive for the HIV infection has no duty to disclose to or  
23 to warn third parties of the dangers of exposure to HIV  
24 infection through contact with that person and is immune from  
25 any liability, civil or criminal, for failure to disclose to  
26 or warn third parties of the condition of that person.

27 Sec. 15. NEW SECTION. 141A.11 REMEDIES.

28 1. A person aggrieved by a violation of this chapter shall  
29 have a right of civil action for damages in district court.

30 2. A care provider who intentionally or recklessly makes  
31 an unauthorized disclosure under this chapter is subject to a  
32 civil penalty of one thousand dollars.

33 3. A person who violates a confidentiality requirement of  
34 section 141A.5 is guilty of an aggravated misdemeanor.

35 4. A civil action under this chapter is barred unless the

1 action is commenced within two years after the cause of action  
2 accrues.

3 5. The attorney general may maintain a civil action to  
4 enforce this chapter.

5 6. This chapter does not limit the rights of the subject  
6 of an HIV-related test to recover damages or other relief  
7 under any other applicable law.

8 7. This chapter shall not be construed to impose civil  
9 liability or criminal sanction for disclosure of HIV-related  
10 test results in accordance with any reporting requirement for  
11 a diagnosed case of AIDS or a related condition by the  
12 department or the centers for disease control and prevention  
13 of the United States public health service.

14 Sec. 16. Section 321.186, unnumbered paragraph 4, Code  
15 1999, is amended to read as follows:

16 A physician licensed under chapter 148, 150, or 150A, or an  
17 optometrist licensed under chapter 154, may report to the  
18 department the identity of a person who has been diagnosed as  
19 having a physical or mental condition which would render the  
20 person physically or mentally incompetent to operate a motor  
21 vehicle in a safe manner. The physician or optometrist shall  
22 make reasonable efforts to notify the person who is the  
23 subject of the report, in writing. The written notification  
24 shall state the nature of the disclosure and the reason for  
25 the disclosure. A physician or optometrist making a report  
26 under this section shall be immune from any liability, civil  
27 or criminal, which might otherwise be incurred or imposed as a  
28 result of the report. A physician or optometrist has no duty  
29 to make a report or to warn third parties with regard to any  
30 knowledge concerning a person's mental or physical competency  
31 to operate a motor vehicle in a safe manner. Any report  
32 received by the department from a physician or optometrist  
33 under this section shall be kept confidential. Information  
34 regulated by chapter ~~141~~ 141A shall be subject to the  
35 confidentiality provisions and remedies of sections-141-23-and

1 ~~141-24~~ that chapter.

2 Sec. 17. Section 505.16, subsection 1, Code 1999, is  
3 amended to read as follows:

4 1. A person engaged in the business of insurance shall not  
5 require a test of an individual in connection with an  
6 application for insurance for the presence of an antibody to  
7 the human immunodeficiency virus unless the individual  
8 provides a written release on a form approved by the insurance  
9 commissioner. The form shall include information regarding  
10 the purpose, content, use, and meaning of the test, disclosure  
11 of test results including information explaining the effect of  
12 releasing the information to a person engaged in the business  
13 of insurance, the purpose for which the test results may be  
14 used, and other information approved by the insurance  
15 commissioner. The form shall also authorize the person  
16 performing the test to provide the results of the test to the  
17 insurance company subject to rules of confidentiality,  
18 consistent with section ~~141-23~~ 141A.9, approved by the  
19 insurance commissioner. As used in this section, "a person  
20 engaged in the business of insurance" includes hospital  
21 service corporations organized under chapter 514 and health  
22 maintenance organizations subject to chapter 514B.

23 Sec. 18. Section 904.515, Code 1999, is amended to read as  
24 follows:

25 904.515 HUMAN IMMUNODEFICIENCY VIRUS-RELATED MATTERS --  
26 EXEMPTION.

27 The provisions of chapter ~~141~~ 141A relating to knowledge  
28 and consent do not apply to persons committed to the custody  
29 of the department. The department may provide for medically  
30 acceptable procedures to inform employees, visitors, and  
31 persons committed to the department of possible infection and  
32 to protect them from possible infection.

33 Sec. 19. Section 915.40, subsection 3, paragraph c, Code  
34 1999, is amended to read as follows:

35 c. The victim counselor or person requested by the victim

1 ~~who-is-authorized~~ to provide the counseling required-pursuant  
2 ~~to-section-141-22~~ regarding the HIV-related test and results.

3 Sec. 20. Section 915.42, subsection 4, paragraph a, Code  
4 1999, is amended to read as follows:

5 a. Prior to the scheduling of a hearing, refer the victim  
6 for counseling by a victim counselor or a person requested by  
7 the victim ~~who-is-authorized~~ to provide the counseling

8 ~~required-pursuant-to-section-141-22,~~ regarding the nature,  
9 reliability, and significance of the HIV-related test and of  
10 the serologic status of the convicted offender.

11 Sec. 21. Section 915.43, subsections 1, 2, 4, and 5, Code  
12 1999, are amended to read as follows:

13 1. The physician or other practitioner who orders the test  
14 of a convicted or alleged offender for HIV under this  
15 subchapter shall disclose the results of the test to the  
16 convicted or alleged offender, and to the victim counselor or  
17 a person requested by the victim ~~who-is-authorized~~ to provide  
18 the counseling ~~required-pursuant-to-section-141-22,~~ regarding  
19 the HIV-related test and results who shall disclose the  
20 results to the petitioner.

21 2. All testing under this chapter shall be accompanied by  
22 pretest and posttest counseling ~~as-required-under-section~~  
23 ~~141-22.~~

24 4. Results of a test performed under this subchapter,  
25 except as provided in subsection 13, shall be disclosed only  
26 to the physician or other practitioner who orders the test of  
27 the convicted or alleged offender, the convicted or alleged  
28 offender, the victim, the victim counselor or person requested  
29 by the victim ~~who-is-authorized~~ to provide the counseling  
30 ~~required-pursuant-to-section-141-22~~ regarding the HIV-related  
31 test and results, the physician of the victim if requested by  
32 the victim, the parent, guardian, or custodian of the victim,  
33 if the victim is a minor, and the county attorney who filed  
34 the petition for HIV-related testing under this chapter, who  
35 may use the results to file charges of criminal transmission

1 of HIV under chapter 709C. Results of a test performed under  
2 this subchapter shall not be disclosed to any other person  
3 without the written informed consent of the convicted or  
4 alleged offender. A person to whom the results of a test have  
5 been disclosed under this subchapter is subject to the  
6 confidentiality provisions of section ~~141-23~~ 141A.9, and shall  
7 not disclose the results to another person except as  
8 authorized by section ~~141-23~~, ~~subsection-1~~ 141A.9, subsection  
9 13.

10 5. If testing is ordered under this subchapter, the court  
11 shall also order periodic testing of the convicted offender  
12 during the period of incarceration, probation, or parole or of  
13 the alleged offender during a period of six months following  
14 the initial test if the physician or other practitioner who  
15 ordered the initial test of the convicted or alleged offender  
16 certifies that, based upon prevailing scientific opinion  
17 regarding the maximum period during which the results of an  
18 HIV-related test may be negative for a person after being HIV-  
19 infected, additional testing is necessary to determine whether  
20 the convicted or alleged offender was HIV-infected at the time  
21 the sexual assault or alleged sexual assault was perpetrated.  
22 The results of the test conducted pursuant to this subsection  
23 shall be released only to the physician or other practitioner  
24 who orders the test of the convicted or alleged offender, the  
25 convicted or alleged offender, the victim counselor or person  
26 requested by the victim ~~who-is-authorized~~ to provide the  
27 ~~counseling required-pursuant-to-section-141-22~~, regarding the  
28 HIV-related test and results who shall disclose the results to  
29 the petitioner, the physician of the victim, if requested by  
30 the victim, and the county attorney who may use the results as  
31 evidence in the prosecution of the sexual assault or in the  
32 prosecution of the offense of criminal transmission of HIV  
33 under chapter 709C.

34 Sec. 22. Chapter 141, Code 1999, is repealed.

35

EXPLANATION



1 This bill replaces the statute pertaining to acquired  
 2 immune deficiency syndrome (AIDS), which is currently divided  
 3 into subchapters, with a new chapter which combines the  
 4 subchapters and makes changes to the chapter. Existing Code  
 5 chapter 141 is repealed.

6 The bill combines all definitions used in the chapter into  
 7 one section. The bill provides a new definition of "care  
 8 provider" which encompasses any person providing health care  
 9 services of any kind, including emergency medical assistance  
 10 or treatment. The definition of "legal guardian" is expanded  
 11 to include an "attorney in fact". The definition of "ARC" or  
 12 "AIDS-related complex" is deleted. The definition of "sample"  
 13 is added to include any specimen obtained for the purposes of  
 14 conducting an HIV-related test.

15 The bill designates the Iowa department of public health as  
 16 the lead agency in the coordination and implementation of the  
 17 state's AIDS prevention and intervention plan. The bill also  
 18 authorizes the department to adopt rules to implement and  
 19 enforce the bill. The bill continues the authorization for  
 20 the department to coordinate efforts with local health  
 21 officers to investigate sources of HIV infection and to use  
 22 every appropriate means to prevent the spread of the disease.  
 23 The bill also continues authorization for the department to  
 24 conduct epidemiological blinded and nonblinded studies.

25 The bill assigns several duties to the department. These  
 26 duties include broad responsibilities for testing, education,  
 27 and disease control. The bill retains the requirement in  
 28 existing law that school districts, with parental consent,  
 29 provide education concerning HIV infection and prevention to  
 30 students.

31 The bill continues the requirement that testing and  
 32 counseling be offered for specified groups. In addition, the  
 33 bill requires that all pregnant women receive information  
 34 about testing and treatment opportunities to reduce the  
 35 possible transmission of HIV to a fetus, requires that all

1 pregnant women with risk factors for HIV be strongly  
2 encouraged to be tested, and requires that upon request a  
3 pregnant woman be tested regardless of the absence of risk  
4 factors.

5 The bill requires that the department maintain a partner  
6 notification program for persons known to have tested positive  
7 for HIV infection. Persons who test positive shall receive  
8 posttest counseling and be encouraged to refer for counseling  
9 and testing any person who may have sustained a significant  
10 exposure from them. The section continues the provision that  
11 a physician for an infected person may initiate partner  
12 notification when the infected person will not participate and  
13 will not warn an exposed third party. The bill deletes the  
14 current provision that when a person who tests positive for  
15 HIV infection will not participate in partner notification  
16 prior to notification of a third party, the physician  
17 proposing to cause the notification make reasonable efforts to  
18 inform, in writing, the person who tested positive.

19 The bill provides for the performance of voluntary testing,  
20 eliminates anonymous testing, and contains the reporting  
21 requirements for positive test results.

22 The bill eliminates the provision of pretest counseling.  
23 The bill provides that upon informing the subject of positive  
24 test results, counseling is required to be initiated with  
25 emphasis given to the need for precautions to prevent  
26 transmitting the virus. The bill continues the provisions  
27 granting exceptions to counseling in instances of donation of  
28 body parts, patients unable to give consent, insurance exams,  
29 and testing of deceased persons involved in a documented  
30 significant exposure incident. The provisions relating to  
31 minors are amended to eliminate the provision that if a person  
32 who personally applies for services, screening, or treatment  
33 is a minor, the fact that the minor sought services or is  
34 receiving services, screening, or treatment is not to be  
35 reported or disclosed except for statistical purposes. The

1 bill retains the provision that confirmed positive HIV test  
2 results are to be reported to a minor's legal guardian.

3 The bill provides a notification process under which care  
4 providers who have suffered a significant exposure to an  
5 individual in the course of providing assistance may obtain  
6 information concerning that individual's HIV status. The bill  
7 adds a provision that if a care provider in the course of  
8 providing care on the premises of a hospital or health  
9 facility sustains a significant exposure, the person to whom  
10 the care provider was exposed is deemed to have consented to  
11 an HIV-related test, upon the written request of the care  
12 provider. The sample and test results are only identified by  
13 a number and no report otherwise required is to be made which  
14 identifies the subject of the test. If the results are  
15 positive, the subject of the test is to be informed and  
16 provided with counseling.

17 The bill provides for strict confidentiality of medical  
18 information relating to a patient's HIV status. The bill  
19 contains specific provisions relating to when that information  
20 may be released and to whom.

21 The bill provides immunities for persons making reports  
22 pursuant to the bill and provides that health care providers  
23 have no duty to warn third parties regarding contact with a  
24 person who has positive HIV test results.

25 The bill establishes civil and criminal remedies for  
26 violations of confidentiality and other provisions of the  
27 bill. The penalty for violation of a confidentiality  
28 requirement relating to the partner notification program is  
29 reduced from a class "D" felony (which carries a maximum  
30 sentence of confinement of not more than 5 years and in  
31 addition may include a fine of at least \$500 but not more than  
32 \$7,500) to an aggravated misdemeanor (which carries a maximum  
33 sentence of imprisonment not to exceed 2 years and a fine of  
34 at least \$500 but not more than \$5,000). The bill contains  
35 the specific civil penalty of \$1,000 for a care provider who

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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 intentionally or recklessly makes an unauthorized disclosure.

2 The bill eliminates the provisions for accreditation of HIV  
3 testing laboratories.

4 The remainder of the bill makes conforming changes  
5 necessitated by the enactment of new Code chapter 141A and the  
6 repeal of Code chapter 141.

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4/6/99 Returned to Human Res

MAR 15 1999

Place On Calendar

HOUSE FILE 681  
BY COMMITTEE ON HUMAN RESOURCES

**WITHDRAWN**

4/6/99  
(P. 1059)

(SUCCESSOR TO HSB 180)

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, providing  
2 penalties, and providing for a repeal.

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

4  
5

**HOUSE FILE 681**

**H-1091**

1 Amend House File 681 as follows:

2 1. Page 11, by striking lines 31 through 34 and  
3 inserting the following:

4 "\_\_\_\_. Prior to obtaining a sample for the purpose  
5 of performing an HIV-related test, the subject of the  
6 test shall be provided with preliminary counseling  
7 which includes but is not limited to an explanation of  
8 the test, an explanation of the nature of AIDS and  
9 AIDS-related conditions, an explanation of the  
10 procedures to be followed, and information regarding  
11 HIV infection and risk reduction. At any time that".

By MILLAGE of Scott

H-1091 FILED MARCH 16, 1999

HF 681

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1 Section 1. Section 80.9, subsection 2, paragraph d, Code  
2 1999, is amended to read as follows:

3 d. To collect and classify, and keep at all times  
4 available, complete information useful for the detection of  
5 crime, and the identification and apprehension of criminals.  
6 Such information shall be available for all peace officers  
7 within the state, under such regulations as the commissioner  
8 may prescribe. The provisions of chapter ~~44~~ 141A do not  
9 apply to the entry of human immunodeficiency virus-related  
10 information by criminal or juvenile justice agencies, as  
11 defined in section 692.1, into the Iowa criminal justice  
12 information system or the national crime information center  
13 system. The provisions of chapter ~~44~~ 141A also do not apply  
14 to the transmission of the same information from either or  
15 both information systems to criminal or juvenile justice  
16 agencies. The provisions of chapter ~~44~~ 141A also do not  
17 apply to the transmission of the same information from either  
18 or both information systems to employees of state correctional  
19 institutions subject to the jurisdiction of the department of  
20 corrections, employees of secure facilities for juveniles  
21 subject to the jurisdiction of the department of human  
22 services, and employees of city and county jails, if those  
23 employees have direct physical supervision over inmates of  
24 those facilities or institutions. Human immunodeficiency  
25 virus-related information shall not be transmitted over the  
26 police radio broadcasting system under chapter 693 or any  
27 other radio-based communications system. An employee of an  
28 agency receiving human immunodeficiency virus-related  
29 information under this section who communicates the  
30 information to another employee who does not have direct  
31 physical supervision over inmates, other than to a supervisor  
32 of an employee who has direct physical supervision over  
33 inmates for the purpose of conveying the information to such  
34 an employee, or who communicates the information to any person  
35 not employed by the agency or uses the information outside the

1 agency is guilty of a class "D" felony. The commissioner  
2 shall adopt rules regarding the transmission of human  
3 immunodeficiency virus-related information including  
4 provisions for maintaining confidentiality of the information.  
5 The rules shall include a requirement that persons receiving  
6 information from the Iowa criminal justice information system  
7 or the national crime information center system receive  
8 training regarding confidentiality standards applicable to the  
9 information received from the system. The commissioner shall  
10 develop and establish, in cooperation with the department of  
11 corrections and the Iowa department of public health, training  
12 programs and program criteria for persons receiving human  
13 immunodeficiency virus-related information through the Iowa  
14 criminal justice information system or the national crime  
15 information center system.

16 Sec. 2. Section 139B.1, subsection 1, paragraph a, Code  
17 1999, is amended to read as follows:

18 a. "Contagious or infectious disease" means hepatitis in  
19 any form, meningococcal disease, tuberculosis, and any other  
20 disease with the exception of AIDS or HIV infection as defined  
21 in section ~~141.21~~ 141A.1, determined to be life-threatening to  
22 a person exposed to the disease as established by rules  
23 adopted by the department based upon a determination by the  
24 state epidemiologist and in accordance with guidelines of the  
25 centers for disease prevention and control of the United  
26 States department of health and human services.

27 Sec. 3. Section 139C.1, subsection 6, Code 1999, is  
28 amended to read as follows:

29 6. "HIV" means HIV as defined in section ~~141.21~~ 141A.1.

30 Sec. 4. Section 139C.2, subsection 7, Code 1999, is  
31 amended to read as follows:

32 7. Information relating to the HIV status of a health care  
33 provider is confidential and subject to the provisions of  
34 section ~~141.23~~ 141A.9. A person who intentionally or  
35 recklessly makes an unauthorized disclosure of such

1 information is subject to a civil penalty of one thousand  
2 dollars. The attorney general or the attorney general's  
3 designee may maintain a civil action to enforce this section.  
4 Proceedings maintained under this section shall provide for  
5 the anonymity of the individual and all documentation shall be  
6 maintained in a confidential manner. Information relating to  
7 the HBV status of a health care provider is confidential and  
8 shall not be accessible to the public. Information regulated  
9 by this section, however, may be disclosed to members of the  
10 expert review panel established by the department or a panel  
11 established by hospital protocol under this section. The  
12 information may also be disclosed to the appropriate examining  
13 board by filing a report as required by this section. The  
14 examining board shall consider the report a complaint subject  
15 to the confidentiality provisions of section 272C.6. A  
16 licensee, upon the filing of a formal charge or notice of  
17 hearing by the examining board based on such a complaint, may  
18 seek a protective order from the board.

19 Sec. 5. NEW SECTION. 141A.1 DEFINITIONS.

20 As used in this chapter, unless the context otherwise  
21 requires:

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

25 2. "AIDS-related conditions" means the human  
26 immunodeficiency virus, or any other condition resulting from  
27 the human immunodeficiency virus infection.

28 3. "Blinded epidemiological studies" means studies in  
29 which specimens which were collected for other purposes are  
30 selected according to established criteria, are permanently  
31 stripped of personal identifiers, and are then tested.

32 4. "Blood bank" means a facility for the collection,  
33 processing, or storage of human blood or blood derivatives,  
34 including blood plasma, or from which or by means of which  
35 human blood or blood derivatives are distributed or otherwise



1 made available.

2 5. "Care provider" means any emergency care provider,  
3 health care provider, or any other person providing health  
4 care services of any kind.

5 6. "Department" means the Iowa department of public  
6 health.

7 7. "Emergency care provider" means a person who is trained  
8 and authorized by federal or state law to provide emergency  
9 medical assistance or treatment, for compensation or in a  
10 voluntary capacity, including but not limited to all of the  
11 following:

12 (1) An emergency medical care provider as defined in  
13 section 147A.1.

14 (2) A health care provider.

15 (3) A fire fighter.

16 (4) A peace officer.

17 "Emergency care provider" also includes a person who  
18 renders emergency aid without compensation.

19 8. "Good faith" means objectively reasonable and not in  
20 violation of clearly established statutory rights or other  
21 rights of a person which a reasonable person would know or  
22 should have known.

23 9. "Health care provider" means a person licensed or  
24 certified under chapter 148, 148C, 150, 150A, 152, or 153 to  
25 provide professional health care service to a person during  
26 the person's medical care, treatment, or confinement.

27 10. "Health facility" means a hospital, health care  
28 facility, clinic, blood bank, blood center, sperm bank,  
29 laboratory organ transplant center and procurement agency, or  
30 other health care institution.

31 11. "HIV" means the human immunodeficiency virus  
32 identified as the causative agent of AIDS.

33 12. "HIV-related test" means a diagnostic test conducted  
34 by a laboratory approved pursuant to the federal Clinical  
35 Laboratory Improvements Act for determining the presence of

1 HIV.

2 13. "Infectious bodily fluids" means bodily fluids capable  
3 of transmitting HIV infection as determined by the centers for  
4 disease control and prevention of the United States department  
5 of health and human services and adopted by rule of the  
6 department.

7 14. "Legal guardian" means a person appointed by a court  
8 pursuant to chapter 633 or an attorney in fact as defined in  
9 section 144B.1. In the case of a minor, "legal guardian" also  
10 means a parent or other person responsible for the care of the  
11 minor.

12 15. "Nonblinded epidemiological studies" means studies in  
13 which specimens are collected for the express purpose of  
14 testing for the HIV infection and persons included in the  
15 nonblinded study are selected according to established  
16 criteria.

17 16. "Release of test results" means a written  
18 authorization for disclosure of HIV-related test results which  
19 is signed and dated, and which specifies to whom disclosure is  
20 authorized and the time period during which the release is to  
21 be effective.

22 17. "Sample" means a human specimen obtained for the  
23 purpose of conducting an HIV-related test.

24 18. "Significant exposure" means the risk of contracting  
25 HIV infection by means of exposure to a person's infectious  
26 bodily fluids in a manner capable of transmitting HIV  
27 infection as determined by the centers for disease control and  
28 prevention of the United States department of health and human  
29 services and adopted by rule of the department.

30 Sec. 6. NEW SECTION. 141A.2 LEAD AGENCY.

31 1. The department is designated as the lead agency in the  
32 coordination and implementation of the state comprehensive  
33 AIDS-related conditions prevention and intervention plan.

34 2. The department shall adopt rules pursuant to chapter  
35 17A to implement and enforce this chapter. The rules may

1 include procedures for taking appropriate action with regard  
2 to health facilities or health care providers which violate  
3 this chapter or the rules adopted pursuant to this chapter.

4 3. The department shall adopt rules pursuant to chapter  
5 17A which require that if a health care provider attending a  
6 person prior to the person's death determines that the person  
7 suffered from or was suspected of suffering from a contagious  
8 or infectious disease, the health care provider shall place  
9 with the remains written notification of the condition for the  
10 information of any person handling the body of the deceased  
11 person subsequent to the person's death. For purposes of this  
12 subsection, "contagious or infectious disease" means hepatitis  
13 in any form, meningococcal disease, tuberculosis, and any  
14 other disease including AIDS or HIV infection, determined to  
15 be life-threatening to a person exposed to the disease as  
16 established by rules adopted by the department based upon a  
17 determination by the state epidemiologist and in accordance  
18 with guidelines of the centers for disease control and  
19 prevention of the United States department of health and human  
20 services.

21 4. The department, in cooperation with the department of  
22 public safety and persons who represent those who attend dead  
23 bodies, shall establish for all care providers, including  
24 paramedics, ambulance personnel, physicians, nurses, hospital  
25 personnel, first responders, peace officers, and fire  
26 fighters, who provide care services to a person, and for all  
27 persons who attend dead bodies, protocol and procedures for  
28 the use of universal precautions to prevent the transmission  
29 of contagious and infectious diseases.

30 5. The department shall coordinate efforts with local  
31 health officers to investigate sources of HIV infection and  
32 use every appropriate means to prevent the spread of the  
33 infection.

34 6. The department, with the approval of the state board of  
35 health, may conduct epidemiological blinded and nonblinded

1 studies to determine the incidence and prevalence of the HIV  
2 infection. Initiation of any new epidemiological studies  
3 shall be contingent upon the receipt of funding sufficient to  
4 cover all the costs associated with the studies. The informed  
5 consent, reporting, and counseling requirements of this  
6 chapter shall not apply to blinded studies.

7 Sec. 7. NEW SECTION. 141A.3 DUTIES OF THE DEPARTMENT.

8 1. All federal and state moneys appropriated to the  
9 department for AIDS-related activities shall be allocated in  
10 accordance with a prioritized schedule developed by rule of  
11 the department, and grants shall be awarded to the maximum  
12 extent feasible to community-based organizations.

13 2. The department shall do all of the following:

14 a. Provide consultation to agencies and organizations  
15 regarding appropriate policies for testing, education,  
16 confidentiality, and infection control.

17 b. Conduct health information programs for the public  
18 relating to HIV infection, including information about how the  
19 infection is transmitted and how transmittal can be prevented.  
20 The department shall prepare, for free distribution, printed  
21 information relating to HIV infection and prevention.

22 c. Provide educational programs concerning HIV infection  
23 in the workplace.

24 d. Develop and implement HIV education risk-reduction  
25 programs for specific populations at high risk for infection.

26 e. Provide an informational brochure for patients who  
27 provide samples for purposes of performing an HIV test which,  
28 at a minimum, shall include a summary of the patient's rights  
29 and responsibilities under the law.

30 f. In cooperation with the department of education,  
31 develop and update a medically correct AIDS prevention  
32 curriculum for use at the discretion of secondary and middle  
33 schools.

34 3. The department shall, in cooperation with the  
35 department of education and other agencies, organizations,

1 coalitions, and local health departments, develop and  
2 implement a program of public and professional AIDS-related  
3 education.

4 Sec. 8. NEW SECTION. 141A.4 TESTING AND COUNSELING.

5 1. HIV testing and counseling shall be offered to the  
6 following:

7 a. All persons seeking treatment for a sexually  
8 transmitted disease.

9 b. All persons seeking treatment for injecting drug abuse  
10 or having a history of injecting drug abuse.

11 c. All persons who consider themselves at risk for the HIV  
12 infection.

13 d. Male and female prostitutes.

14 2. Pregnant women shall be provided information about HIV  
15 prevention, risk reduction, and treatment opportunities to  
16 reduce the possible transmission of HIV to a fetus. Pregnant  
17 women who report one or more recognized risk factors for HIV  
18 shall be strongly encouraged to undergo HIV-related testing.

19 A pregnant woman who requests testing shall be tested  
20 regardless of the absence of risk factors.

21 Sec. 9. NEW SECTION. 141A.5 PARTNER NOTIFICATION PROGRAM  
22 -- HIV.

23 1. The department shall maintain a partner notification  
24 program for persons known to have tested positive for the HIV  
25 infection.

26 2. The department shall initiate the program at  
27 alternative testing and counseling sites and at sexually  
28 transmitted disease clinics.

29 3. In administering the program, the department shall  
30 provide for the following:

31 a. A person who tests positive for the HIV infection shall  
32 receive posttest counseling, during which time the person  
33 shall be encouraged to refer for counseling and HIV testing  
34 any person with whom the person has had sexual relations or  
35 has shared drug injecting equipment.

1 b. The physician or other health care provider attending  
2 the person may provide to the department any relevant  
3 information provided by the person regarding any person with  
4 whom the tested person has had sexual relations or has shared  
5 drug injecting equipment. The department disease prevention  
6 staff shall then conduct partner notification in the same  
7 manner as that utilized for sexually transmitted diseases  
8 consistent with the provisions of this chapter.

9 c. Devise a procedure, as a part of the partner  
10 notification program, to provide for the notification of an  
11 identifiable third party who is a sexual partner of or who  
12 shares drug injecting equipment with a person who has tested  
13 positive for HIV, by the department or a physician, when all  
14 of the following situations exist:

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

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

23 Notwithstanding subsection 4, the department or a physician  
24 may reveal the identity of a person who has tested positive  
25 for the HIV infection pursuant to this subsection only to the  
26 extent necessary to protect a third party from the direct  
27 threat of transmission. This subsection shall not be  
28 interpreted to create a duty to warn third parties of the  
29 danger of exposure to HIV through contact with a person who  
30 tests positive for the HIV infection.

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

35 4. In making contact, the department shall not disclose

1 the identity of the person who provided the names of the  
2 persons to be contacted and shall protect the confidentiality  
3 of persons contacted.

4 5. The department may delegate its partner notification  
5 duties under this section to local health authorities unless  
6 the local health authority refuses or neglects to conduct the  
7 contact tracing program in a manner deemed to be effective by  
8 the department.

9 6. In addition to the provisions for partner notification  
10 provided under this section and notwithstanding any provision  
11 to the contrary, a county medical examiner or deputy medical  
12 examiner performing official duties pursuant to sections  
13 331.801 through 331.805 or the state medical examiner or  
14 deputy medical examiner performing official duties pursuant to  
15 chapter 691, who determines through an investigation that a  
16 deceased person was infected with HIV, may notify directly, or  
17 request that the department notify, the immediate family of  
18 the deceased or any person known to have had a significant  
19 exposure from the deceased of the finding.

20 Sec. 10. NEW SECTION. 141A.6 AIDS-RELATED CONDITIONS --  
21 SCREENING, TESTING, AND REPORTING.

22 1. Prior to obtaining a sample for the purpose of  
23 performing a voluntary HIV-related test, a health care  
24 provider shall inform the subject of the test that the test is  
25 voluntary. Within seven days of the receipt of a test result  
26 indicating HIV infection which has been confirmed as positive  
27 according to prevailing medical technology, the physician or  
28 other health care provider at whose request the test was  
29 performed shall make a report to the department on a form  
30 provided by the department.

31 2. Within seven days of diagnosing a person as having an  
32 AIDS-related condition, the diagnosing physician shall make a  
33 report to the department on a form provided by the department.

34 3. Within seven days of the death of a person resulting  
35 from an AIDS-related condition, the attending physician shall

1 make a report to the department on a form provided by the  
2 department.

3 4. Within seven days of the receipt of a test result  
4 indicating HIV infection which has been confirmed as positive  
5 according to prevailing medical technology, the director of a  
6 blood bank shall make a report to the department on a form  
7 provided by the department.

8 5. Within seven days of the receipt of a test result  
9 indicating HIV infection which has been confirmed as positive  
10 according to prevailing medical technology, the director of a  
11 clinical laboratory shall make a report to the department on a  
12 form provided by the department.

13 6. The forms provided by the department shall require  
14 inclusion of all of the following information:

- 15 a. The name of the patient.
- 16 b. The address of the patient.
- 17 c. The patient's date of birth.
- 18 d. The gender of the patient.
- 19 e. The race or ethnicity of the patient.
- 20 f. The patient's marital status.
- 21 g. The patient's telephone number.
- 22 h. The name and address of the laboratory or blood bank.
- 23 i. The date the test was found to be positive and the  
24 collection date.
- 25 j. The name of the physician or health care provider who  
26 performed the test.
- 27 k. If the patient is female, whether the patient is  
28 pregnant.

29 Sec. 11. NEW SECTION. 141A.7 TEST RESULTS -- COUNSELING  
30 -- APPLICATION FOR SERVICES.

31 1. Prior to undergoing an HIV-related test, information  
32 shall be available to the subject of the test concerning  
33 testing and any means of obtaining additional information  
34 regarding HIV infection and risk reduction. At any time that  
35 the subject of an HIV-related test is informed of confirmed



1 positive test results, counseling concerning the emotional and  
2 physical health effects shall be initiated. Particular  
3 attention shall be given to explaining the need for the  
4 precautions necessary to avoid transmitting the virus. The  
5 subject shall be given information concerning additional  
6 counseling.

7 2. Notwithstanding subsection 1, the provisions of this  
8 section do not apply to any of the following:

9 a. The performance by a health care provider or health  
10 facility of an HIV-related test when the health care provider  
11 or health facility procures, processes, distributes, or uses a  
12 human body part donated for a purpose specified under the  
13 uniform anatomical gift Act, or semen provided prior to July  
14 1, 1988, for the purpose of artificial insemination, or  
15 donations of blood, and such test is necessary to ensure  
16 medical acceptability of such gift or semen for the purposes  
17 intended.

18 b. A person engaged in the business of insurance who is  
19 subject to section 505.16.

20 c. The performance by a health care provider or health  
21 facility of an HIV-related test when the subject of the test  
22 is deceased and a documented significant exposure has  
23 occurred.

24 3. A person may apply for voluntary treatment,  
25 contraceptive services, or screening or treatment for HIV  
26 infection and other sexually transmitted diseases directly to  
27 a licensed physician and surgeon, an osteopathic physician and  
28 surgeon, or a family planning clinic. Notwithstanding any  
29 other provision of law, however, a minor shall be informed  
30 prior to testing that, upon confirmation according to  
31 prevailing medical technology of a positive HIV-related test  
32 result, the minor's legal guardian is required to be informed  
33 by the testing facility. Testing facilities where minors are  
34 tested shall have available a program to assist minors and  
35 legal guardians with the notification process which emphasizes

1 the need for family support and assists in making available  
2 the resources necessary to accomplish that goal. However, a  
3 testing facility which is precluded by federal statute,  
4 regulation, or centers for disease control and prevention  
5 guidelines from informing the legal guardian is exempt from  
6 the notification requirement. The minor shall give written  
7 consent to these procedures and to receive the services,  
8 screening, or treatment. Such consent is not subject to later  
9 disaffirmance by reason of minority.

10 Sec. 12. NEW SECTION. 141A.8 CARE PROVIDER NOTIFICATION.

11 1. A hospital licensed under chapter 135B shall provide  
12 notification to a care provider who renders assistance or  
13 treatment to an individual, following submission of a  
14 significant exposure report by the care provider to the  
15 hospital and a diagnosis or confirmation by an attending  
16 physician that the individual has HIV infection, and  
17 determination that the exposure reported was a significant  
18 exposure. The notification shall advise the care provider of  
19 possible exposure to HIV infection. Notification shall be  
20 made in accordance with both of the following:

- 21 a. The hospital informs the individual, when the  
22 individual's condition permits, of the submission of a  
23 significant exposure report.
- 24 b. The individual consents to serological testing by or  
25 voluntarily discloses the individual's HIV status to the  
26 hospital and consents to notification.

27 Notwithstanding paragraphs "a" and "b", notification shall  
28 be made when the individual denies consent for or consent is  
29 not reasonably obtainable for serological testing, and in the  
30 course of admission, care, and treatment of the individual,  
31 the individual is diagnosed or is confirmed as having HIV  
32 infection.

33 2. The hospital shall notify the care provider involved in  
34 attending or transporting an individual who submitted a  
35 significant exposure report. This shall include a person who

1 renders direct emergency aid without compensation, or in the  
2 case of an emergency care provider, the designated officer of  
3 the emergency care provider service, who in turn shall notify  
4 any emergency care providers. The identity of the designated  
5 officer shall not be revealed to the individual. The  
6 designated officer shall inform the hospital of those parties  
7 who received the notification, and following receipt of this  
8 information and upon request of the individual, the hospital  
9 shall inform the individual of the parties to whom  
10 notification was provided.

11 3. The hospital, upon request of the individual, shall  
12 inform the individual of the persons to whom notification was  
13 made.

14 4. The process for notification under this section shall  
15 be initiated as soon as is reasonably possible.

16 5. A health care provider, with consent of the individual,  
17 may provide the notification required of hospitals in this  
18 section to care providers if an individual who has HIV  
19 infection is delivered by a care provider to the office or  
20 clinic of the health care provider for treatment. The  
21 notification shall take place only upon submission of a  
22 significant exposure report form by the care provider to the  
23 health care provider and the determination by the health care  
24 provider that a significant exposure has occurred.

25 6. This section does not require or permit, unless  
26 otherwise provided, a hospital or health care provider to  
27 administer a test for the express purpose of determining the  
28 presence of HIV infection, except that testing may be  
29 performed if the individual consents, and if the requirements  
30 of this section are satisfied.

31 7. When a care provider in the course of providing care  
32 sustains a significant exposure on the premises of a health  
33 care facility or while engaged in rendering aid or providing  
34 transportation to an individual in circumstances which lead to  
35 the individual's presence at a health care facility, the

1 individual to whom the care provider was exposed is deemed to  
2 consent to a test to be administered by the health care  
3 facility upon the written request of the exposed care provider  
4 for the express purpose of determining the presence of HIV  
5 infection in that individual. The sample and test results  
6 shall only be identified by a number and no reports otherwise  
7 required by this chapter shall be made which identify the  
8 individual tested. However, if the test results are positive,  
9 the health care facility shall notify the individual tested  
10 and ensure performance of counseling and reporting  
11 requirements of this chapter in the same manner as for an  
12 individual from whom actual consent was obtained.

13 8. A hospital or health care provider, or other person  
14 participating in good faith in making a report under the  
15 notification provisions of this section, under procedures  
16 similar to this section for notification of its own employees  
17 upon filing of a significant exposure report, or in failing to  
18 make a report under this section, is immune from any  
19 liability, civil or criminal, which might otherwise be  
20 incurred or imposed.

21 9. Notifications made pursuant to this section shall not  
22 disclose the identity of the individual who is diagnosed or  
23 confirmed as having HIV infection unless the individual  
24 provides a specific written release as provided in subsection  
25 1, paragraph "b". If the care provider determines the  
26 identity of the individual, the identity of the individual  
27 shall be confidential information and shall not be disclosed  
28 by the care provider to any other person unless a specific  
29 written release is obtained from the individual.

30 10. A hospital's duty to notify under this section is not  
31 continuing but is limited to the diagnosis of HIV infection  
32 made in the course of admission, care, and treatment following  
33 the rendering of assistance or treatment of the individual  
34 with the infection.

35 11. Notwithstanding subsection 10, if, following discharge

1 or completion of care or treatment, an individual for whom a  
2 significant exposure report was submitted but which report did  
3 not result in notification, wishes to provide information  
4 regarding the individual's HIV infection status to the care  
5 provider who submitted the report, the hospital shall provide  
6 a procedure for notifying the care provider.

7 12. The employer of a care provider who submits a report  
8 of significant exposure under this section sustained in the  
9 course of employment shall pay the costs of HIV testing for  
10 the individual and the costs of HIV testing and counseling for  
11 the care provider. However, the department shall pay the  
12 costs of HIV testing for the individual and the costs of HIV  
13 testing and counseling for a care provider who renders direct  
14 aid without compensation.

15 Sec. 13. NEW SECTION. 141A.9 CONFIDENTIALITY OF  
16 INFORMATION.

17 Any information, including reports and records, obtained,  
18 submitted, and maintained pursuant to this chapter is strictly  
19 confidential medical information. The information shall not  
20 be released, shared with an agency or institution, or made  
21 public upon subpoena, search warrant, discovery proceedings,  
22 or by any other means except as provided in this chapter. A  
23 person shall not be compelled to disclose the identity of any  
24 person upon whom an HIV-related test is performed, or the  
25 results of the test in a manner which permits identification  
26 of the subject of the test, except to persons entitled to that  
27 information under this chapter. Information shall be made  
28 available for release to the following individuals or under  
29 the following circumstances:

30 1. To the subject of the test or the subject's legal  
31 guardian subject to the provisions of section 141A.7,  
32 subsection 3, when applicable.

33 2. To any person who secures a written release of test  
34 results executed by the subject of the test or the subject's  
35 legal guardian.

1 3. To an authorized agent or employee of a health facility  
2 or health care provider, if the health facility or health care  
3 provider ordered or participated in the testing or is  
4 otherwise authorized to obtain the test results, the agent or  
5 employee provides patient care or handles or processes  
6 samples, and the agent or employee has a medical need to know  
7 such information.

8 4. To a health care provider providing care to the subject  
9 of the test when knowledge of the test results is necessary to  
10 provide care or treatment.

11 5. To the department in accordance with reporting  
12 requirements for an HIV-related condition.

13 6. To a health facility or health care provider which  
14 procures, processes, distributes, or uses a human body part  
15 from a deceased person with respect to medical information  
16 regarding that person, or semen provided prior to July 1,  
17 1988, for the purpose of artificial insemination.

18 7. Release may be made of medical or epidemiological  
19 information for statistical purposes in a manner such that no  
20 individual person can be identified.

21 8. Release may be made of medical or epidemiological  
22 information to the extent necessary to enforce the provisions  
23 of this chapter and related rules concerning the treatment,  
24 control, and investigation of HIV infection by public health  
25 officials.

26 9. Release may be made of medical or epidemiological  
27 information to medical personnel to the extent necessary to  
28 protect the health or life of the named party.

29 10. Release may be made of test results concerning a  
30 patient pursuant to procedures established under section  
31 141A.5, subsection 3, paragraph "c".

32 11. To a person allowed access to a record by a court  
33 order which is issued in compliance with the following  
34 provisions:

35 a. A court has found that the person seeking the test

1 results has demonstrated a compelling need for the test  
2 results which need cannot be accommodated by other means. In  
3 assessing compelling need, the court shall weigh the need for  
4 disclosure against the privacy interest of the test subject  
5 and the public interest which may be disserved by disclosure  
6 due to its deterrent effect on future testing or due to its  
7 effect in leading to discrimination.

8 b. Pleadings pertaining to disclosure of test results  
9 shall substitute a pseudonym for the true name of the subject  
10 of the test. The disclosure to the parties of the subject's  
11 true name shall be communicated confidentially in documents  
12 not filed with the court.

13 c. Before granting an order, the court shall provide the  
14 person whose test results are in question with notice and a  
15 reasonable opportunity to participate in the proceedings if  
16 the person is not already a party.

17 d. Court proceedings as to disclosure of test results  
18 shall be conducted in camera unless the subject of the test  
19 agrees to a hearing in open court or unless the court  
20 determines that a public hearing is necessary to the public  
21 interest and the proper administration of justice.

22 e. Upon the issuance of an order to disclose test results,  
23 the court shall impose appropriate safeguards against  
24 unauthorized disclosure, which shall specify the persons who  
25 may gain access to the information, the purposes for which the  
26 information shall be used, and appropriate prohibitions on  
27 future disclosure.

28 12. To an employer, if the test is authorized to be  
29 required under any other provision of law.

30 13. To a convicted or alleged sexual assault offender; the  
31 physician or other health care provider who orders the test of  
32 a convicted or alleged offender; the victim; the parent,  
33 guardian, or custodian of the victim if the victim is a minor;  
34 the physician of the victim; the victim counselor or person  
35 requested by the victim to provide counseling regarding the

1 HIV-related test and results; the victim's spouse; persons  
2 with whom the victim has engaged in vaginal, anal, or oral  
3 intercourse subsequent to the sexual assault; members of the  
4 victim's family within the third degree of consanguinity; and  
5 the county attorney who may use the results as evidence in the  
6 prosecution of sexual assault under chapter 915, subchapter  
7 IV, or prosecution of the offense of criminal transmission of  
8 HIV under chapter 709C. For the purposes of this paragraph,  
9 "victim" means victim as defined section 915.40.

10 14. To employees of state correctional institutions  
11 subject to the jurisdiction of the department of corrections,  
12 employees of secure facilities for juveniles subject to the  
13 department of human services, and employees of city and county  
14 jails, if the employees have direct supervision over inmates  
15 of those facilities or institutions in the exercise of the  
16 duties prescribed pursuant to section 80.9, subsection 2,  
17 paragraph "d".

18 Sec. 14. NEW SECTION. 141A.10 IMMUNITIES.

19 1. A person making a report in good faith pursuant to this  
20 chapter is immune from any liability, civil or criminal, which  
21 might otherwise be incurred or imposed as a result of the  
22 report.

23 2. A health care provider attending a person who tests  
24 positive for the HIV infection has no duty to disclose to or  
25 to warn third parties of the dangers of exposure to HIV  
26 infection through contact with that person and is immune from  
27 any liability, civil or criminal, for failure to disclose to  
28 or warn third parties of the condition of that person.

29 Sec. 15. NEW SECTION. 141A.11 REMEDIES.

30 1. A person aggrieved by a violation of this chapter shall  
31 have a right of civil action for damages in district court.

32 2. A care provider who intentionally or recklessly makes  
33 an unauthorized disclosure under this chapter is subject to a  
34 civil penalty of one thousand dollars.

35 3. A person who violates a confidentiality requirement of



1 section 141A.5 is guilty of an aggravated misdemeanor.

2 4. A civil action under this chapter is barred unless the  
3 action is commenced within two years after the cause of action  
4 accrues.

5 5. The attorney general may maintain a civil action to  
6 enforce this chapter.

7 6. This chapter does not limit the rights of the subject  
8 of an HIV-related test to recover damages or other relief  
9 under any other applicable law.

10 7. This chapter shall not be construed to impose civil  
11 liability or criminal sanctions for disclosure of HIV-related  
12 test results in accordance with any reporting requirement for  
13 a diagnosed case of AIDS or a related condition by the  
14 department or the centers for disease control and prevention  
15 of the United States public health service.

16 Sec. 16. Section 321.186, unnumbered paragraph 4, Code  
17 1999, is amended to read as follows:

18 A physician licensed under chapter 148, 150, or 150A, or an  
19 optometrist licensed under chapter 154, may report to the  
20 department the identity of a person who has been diagnosed as  
21 having a physical or mental condition which would render the  
22 person physically or mentally incompetent to operate a motor  
23 vehicle in a safe manner. The physician or optometrist shall  
24 make reasonable efforts to notify the person who is the  
25 subject of the report, in writing. The written notification  
26 shall state the nature of the disclosure and the reason for  
27 the disclosure. A physician or optometrist making a report  
28 under this section shall be immune from any liability, civil  
29 or criminal, which might otherwise be incurred or imposed as a  
30 result of the report. A physician or optometrist has no duty  
31 to make a report or to warn third parties with regard to any  
32 knowledge concerning a person's mental or physical competency  
33 to operate a motor vehicle in a safe manner. Any report  
34 received by the department from a physician or optometrist  
35 under this section shall be kept confidential. Information

1 regulated by chapter ~~141~~ 141A shall be subject to the  
2 confidentiality provisions and remedies of sections-141-23-and  
3 ~~141-24~~ that chapter.

4 Sec. 17. Section 505.16, subsection 1, Code 1999, is  
5 amended to read as follows:

6 1. A person engaged in the business of insurance shall not  
7 require a test of an individual in connection with an  
8 application for insurance for the presence of an antibody to  
9 the human immunodeficiency virus unless the individual  
10 provides a written release on a form approved by the insurance  
11 commissioner. The form shall include information regarding  
12 the purpose, content, use, and meaning of the test, disclosure  
13 of test results including information explaining the effect of  
14 releasing the information to a person engaged in the business  
15 of insurance, the purpose for which the test results may be  
16 used, and other information approved by the insurance  
17 commissioner. The form shall also authorize the person  
18 performing the test to provide the results of the test to the  
19 insurance company subject to rules of confidentiality,  
20 consistent with section ~~141-23~~ 141A.9, approved by the  
21 insurance commissioner. As used in this section, "a person  
22 engaged in the business of insurance" includes hospital  
23 service corporations organized under chapter 514 and health  
24 maintenance organizations subject to chapter 514B.

25 Sec. 18. Section 904.515, Code 1999, is amended to read as  
26 follows:

27 904.515 HUMAN IMMUNODEFICIENCY VIRUS-RELATED MATTERS --  
28 EXEMPTION.

29 The provisions of chapter ~~141~~ 141A relating to knowledge  
30 and consent do not apply to persons committed to the custody  
31 of the department. The department may provide for medically  
32 acceptable procedures to inform employees, visitors, and  
33 persons committed to the department of possible infection and  
34 to protect them from possible infection.

35 Sec. 19. Section 915.40, subsection 3, paragraph c, Code

1 1999, is amended to read as follows:

2 c. The victim counselor or person requested by the victim  
3 ~~who-is-authorized~~ to provide the counseling ~~required-pursuant~~  
4 ~~to-section-141-22~~ regarding the HIV-related test and results.

5 Sec. 20. Section 915.42, subsection 4, paragraph a, Code  
6 1999, is amended to read as follows:

7 a. Prior to the scheduling of a hearing, refer the victim  
8 for counseling by a victim counselor or a person requested by  
9 the victim ~~who-is-authorized~~ to provide the counseling  
10 ~~required-pursuant-to-section-141-22~~, regarding the nature,  
11 reliability, and significance of the HIV-related test and of  
12 the serologic status of the convicted offender.

13 Sec. 21. Section 915.43, subsections 1, 2, 4, and 5, Code  
14 1999, are amended to read as follows:

15 1. The physician or other practitioner who orders the test  
16 of a convicted or alleged offender for HIV under this  
17 subchapter shall disclose the results of the test to the  
18 convicted or alleged offender, and to the victim counselor or  
19 a person requested by the victim ~~who-is-authorized~~ to provide  
20 ~~the counseling required-pursuant-to-section-141-22~~, regarding  
21 the HIV-related test and results who shall disclose the  
22 results to the petitioner.

23 2. All testing under this chapter shall be accompanied by  
24 ~~pretest-and-posttest~~ counseling as required under section  
25 ~~141-22~~ 141A.7.

26 4. Results of a test performed under this subchapter,  
27 except as provided in subsection 13, shall be disclosed only  
28 to the physician or other practitioner who orders the test of  
29 the convicted or alleged offender, the convicted or alleged  
30 offender, the victim, the victim counselor or person requested  
31 by the victim ~~who-is-authorized~~ to provide the counseling  
32 ~~required-pursuant-to-section-141-22~~ regarding the HIV-related  
33 test and results, the physician of the victim if requested by  
34 the victim, the parent, guardian, or custodian of the victim,  
35 if the victim is a minor, and the county attorney who filed

1 the petition for HIV-related testing under this chapter, who  
2 may use the results to file charges of criminal transmission  
3 of HIV under chapter 709C. Results of a test performed under  
4 this subchapter shall not be disclosed to any other person  
5 without the written informed consent of the convicted or  
6 alleged offender. A person to whom the results of a test have  
7 been disclosed under this subchapter is subject to the  
8 confidentiality provisions of section ~~141-23~~ 141A.9, and shall  
9 not disclose the results to another person except as  
10 authorized by section ~~141-23, subsection-1~~ 141A.9, subsection  
11 13.

12 5. If testing is ordered under this subchapter, the court  
13 shall also order periodic testing of the convicted offender  
14 during the period of incarceration, probation, or parole or of  
15 the alleged offender during a period of six months following  
16 the initial test if the physician or other practitioner who  
17 ordered the initial test of the convicted or alleged offender  
18 certifies that, based upon prevailing scientific opinion  
19 regarding the maximum period during which the results of an  
20 HIV-related test may be negative for a person after being HIV-  
21 infected, additional testing is necessary to determine whether  
22 the convicted or alleged offender was HIV-infected at the time  
23 the sexual assault or alleged sexual assault was perpetrated.  
24 The results of the test conducted pursuant to this subsection  
25 shall be released only to the physician or other practitioner  
26 who orders the test of the convicted or alleged offender, the  
27 convicted or alleged offender, the victim counselor or person  
28 requested by the victim ~~who-is-authorized~~ to provide the  
29 counseling ~~required-pursuant-to-section-141-22,~~ regarding the  
30 HIV-related test and results who shall disclose the results to  
31 the petitioner, the physician of the victim, if requested by  
32 the victim, and the county attorney who may use the results as  
33 evidence in the prosecution of the sexual assault or in the  
34 prosecution of the offense of criminal transmission of HIV  
35 under chapter 709C.

1     Sec. 22. Chapter 141, Code 1999, is repealed.

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EXPLANATION

3     This bill replaces the statute pertaining to acquired  
4 immune deficiency syndrome (AIDS), which is currently divided  
5 into subchapters, with a new chapter which combines the  
6 subchapters and makes changes to the chapter. Existing Code  
7 chapter 141 is repealed.

8     The bill combines all definitions used in the chapter into  
9 one section. The bill provides a new definition of "care  
10 provider" which encompasses any person providing health care  
11 services of any kind, including emergency medical assistance  
12 or treatment. The definition of "legal guardian" is expanded  
13 to include an "attorney in fact". The definition of "ARC" or  
14 "AIDS-related complex" is deleted. The definition of "sample"  
15 is added to include any specimen obtained for the purposes of  
16 conducting an HIV-related test.

17     The bill designates the Iowa department of public health as  
18 the lead agency in the coordination and implementation of the  
19 state's AIDS prevention and intervention plan. The bill also  
20 authorizes the department to adopt rules to implement and  
21 enforce the bill. The bill continues the authorization for  
22 the department to coordinate efforts with local health  
23 officers to investigate sources of HIV infection and to use  
24 every appropriate means to prevent the spread of the disease.  
25 The bill also continues authorization for the department to  
26 conduct epidemiological blinded and nonblinded studies.

27     The bill assigns several duties to the department. These  
28 duties include broad responsibilities for testing, education,  
29 and disease control.

30     The bill continues the requirement that testing and  
31 counseling be offered for specified groups. In addition, the  
32 bill requires that all pregnant women receive information  
33 about testing and treatment opportunities to reduce the  
34 possible transmission of HIV to a fetus, requires that all  
35 pregnant women with risk factors for HIV be strongly

1 encouraged to be tested, and requires that upon request a  
2 pregnant woman be tested regardless of the absence of risk  
3 factors.

4 The bill requires that the department maintain a partner  
5 notification program for persons known to have tested positive  
6 for HIV infection. Persons who test positive shall receive  
7 posttest counseling and are encouraged to refer for counseling  
8 and testing any person who may have sustained a significant  
9 exposure from them. The section continues the provision that  
10 a physician for an infected person may initiate partner  
11 notification when the infected person will not participate and  
12 will not warn an exposed third party. The bill deletes the  
13 current provision that when a person who tests positive for  
14 HIV infection will not participate in partner notification  
15 prior to notification of a third party, the physician  
16 proposing to cause the notification make reasonable efforts to  
17 inform, in writing, the person who tested positive.

18 The bill provides for the performance of voluntary testing,  
19 eliminates anonymous testing, and contains the reporting  
20 requirements for positive test results.

21 The bill provides that prior to undergoing an HIV-related  
22 test, information shall be available to the subject of the  
23 test concerning testing and any means of obtaining additional  
24 information regarding HIV infection and risk reduction. The  
25 bill provides that upon informing the subject of positive test  
26 results, counseling is required to be initiated with emphasis  
27 given to the need for precautions to prevent transmitting the  
28 virus. The bill continues the provisions granting exceptions  
29 to counseling in instances of donation of body parts, patients  
30 unable to give consent, insurance exams, and testing of  
31 deceased persons involved in a documented significant exposure  
32 incident. The provisions relating to minors are amended to  
33 eliminate the provision that if a person who personally  
34 applies for services, screening, or treatment is a minor, the  
35 fact that the minor sought services or is receiving services,

1 screening, or treatment is not to be reported or disclosed  
2 except for statistical purposes. The bill retains the  
3 provision that confirmed positive HIV test results are to be  
4 reported to a minor's legal guardian.

5 The bill provides a notification process under which care  
6 providers who have suffered a significant exposure to an  
7 individual in the course of providing assistance may obtain  
8 information concerning that individual's HIV status. The bill  
9 adds a provision that if a care provider in the course of  
10 providing care on the premises of a health care facility or in  
11 rendering aid or providing transportation to an individual in  
12 circumstances which lead to the individual's presence at the  
13 health care facility, sustains a significant exposure, the  
14 person to whom the care provider was exposed is deemed to have  
15 consented to an HIV-related test, upon the written request of  
16 the care provider. The sample and test results are only  
17 identified by a number and no report otherwise required is to  
18 be made which identifies the individual tested. If the  
19 results are positive, the individual tested is to be informed  
20 and provided with counseling.

21 The bill provides for strict confidentiality of medical  
22 information relating to a patient's HIV status. The bill  
23 contains specific provisions relating to when that information  
24 may be released and to whom.

25 The bill provides immunity for persons making reports  
26 pursuant to the bill and provides that health care providers  
27 have no duty to warn third parties regarding contact with a  
28 person who has positive HIV test results.

29 The bill establishes civil and criminal remedies for  
30 violations of confidentiality and other provisions of the  
31 bill. The penalty for violation of a confidentiality  
32 requirement relating to the partner notification program is  
33 reduced from a class "D" felony (which carries a maximum  
34 sentence of confinement of not more than 5 years and in  
35 addition may include a fine of at least \$500 but not more than

1 \$7,500) to an aggravated misdemeanor (which carries a maximum  
2 sentence of imprisonment not to exceed 2 years and a fine of  
3 at least \$500 but not more than \$5,000). The bill contains  
4 the specific civil penalty of \$1,000 for a care provider who  
5 intentionally or recklessly makes an unauthorized disclosure.

6 The bill eliminates the provisions for accreditation of HIV  
7 testing laboratories.

8 The remainder of the bill makes conforming changes  
9 necessitated by the enactment of new Code chapter 141A and the  
10 repeal of Code chapter 141.

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**HOUSE FILE 681  
FISCAL NOTE**

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The estimate for **House File 681** is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 681 replaces the statute pertaining to the acquired immune deficiency syndrome (AIDS) with a new chapter which combines the subchapters and makes changes. Among the changes, the Bill requires that all pregnant women receive education about testing and treatment opportunities.

**FISCAL IMPACT**

House File 681 would have a General Fund impact of approximately \$25,000 in FY 2000 and each year thereafter. Federal funds are not authorized to be used for prenatal testing. As a result of the testing provision, the General Funds would be required to pay for the \$10.00 test for approximately 2,500 women per year, who would not have the test covered by a third-party payor.

**CORRECTIONAL IMPACT**

House File 681 has no significant correctional impact.

**SOURCES**

Department of Public Health  
Criminal and Juvenile Justice Planning Division, Department of Human Rights

(LSB 2694hv, VMT)

FILED MARCH 22, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR