

Senate Study Bill 1130

Bill Text

PAG LIN

1 1 Section 1. Section [80.9](#), subsection 2, paragraph d, Code
1 2 1999, is amended to read as follows:
1 3 d. To collect and classify, and keep at all times
1 4 available, complete information useful for the detection of
1 5 crime, and the identification and apprehension of criminals.
1 6 Such information shall be available for all peace officers
1 7 within the state, under such regulations as the commissioner
1 8 may prescribe. The provisions of chapter

~~141~~

- [141A](#) do not
1 9 apply to the entry of human immunodeficiency virus-related
1 10 information by criminal or juvenile justice agencies, as
1 11 defined in section 692.1, into the Iowa criminal justice
1 12 information system or the national crime information center
1 13 system. The provisions of chapter

~~141~~

- [141A](#) also do not apply
1 14 to the transmission of the same information from either or
1 15 both information systems to criminal or juvenile justice
1 16 agencies. The provisions of chapter

~~141~~

- [141A](#) also do not
1 17 apply to the transmission of the same information from either
1 18 or both information systems to employees of state correctional
1 19 institutions subject to the jurisdiction of the department of
1 20 corrections, employees of secure facilities for juveniles
1 21 subject to the jurisdiction of the department of human
1 22 services, and employees of city and county jails, if those
1 23 employees have direct physical supervision over inmates of
1 24 those facilities or institutions. Human immunodeficiency
1 25 virus-related information shall not be transmitted over the
1 26 police radio broadcasting system under chapter 693 or any
1 27 other radio-based communications system. An employee of an
1 28 agency receiving human immunodeficiency virus-related
1 29 information under this section who communicates the
1 30 information to another employee who does not have direct
1 31 physical supervision over inmates, other than to a supervisor
1 32 of an employee who has direct physical supervision over
1 33 inmates for the purpose of conveying the information to such
1 34 an employee, or who communicates the information to any person
1 35 not employed by the agency or uses the information outside the
2 1 agency is guilty of a class "D" felony. The commissioner
2 2 shall adopt rules regarding the transmission of human
2 3 immunodeficiency virus-related information including
2 4 provisions for maintaining confidentiality of the information.
2 5 The rules shall include a requirement that persons receiving
2 6 information from the Iowa criminal justice information system
2 7 or the national crime information center system receive
2 8 training regarding confidentiality standards applicable to the
2 9 information received from the system. The commissioner shall
2 10 develop and establish, in cooperation with the department of
2 11 corrections and the Iowa department of public health, training
2 12 programs and program criteria for persons receiving human

2 13 immunodeficiency virus-related information through the Iowa
2 14 criminal justice information system or the national crime
2 15 information center system.
2 16 Sec. 2. Section [139B.1](#), subsection 1, paragraph a, Code
2 17 1999, is amended to read as follows:
2 18 a. "Contagious or infectious disease" means hepatitis in
2 19 any form, meningococcal disease, tuberculosis, and any other
2 20 disease with the exception of AIDS or HIV infection as defined
2 21 in section

~~141.21~~

- [141A.1](#), determined to be life-threatening to
2 22 a person exposed to the disease as established by rules
2 23 adopted by the department based upon a determination by the
2 24 state epidemiologist and in accordance with guidelines of the
2 25 centers for disease prevention and control of the United
2 26 States department of health and human services.
2 27 Sec. 3. Section [139C.1](#), subsection 6, Code 1999, is
2 28 amended to read as follows:
2 29 6. "HIV" means HIV as defined in section

~~141.21~~

- [141A.1](#).
2 30 Sec. 4. Section [139C.2](#), subsection 7, Code 1999, is
2 31 amended to read as follows:
2 32 7. Information relating to the HIV status of a health care
2 33 provider is confidential and subject to the provisions of
2 34 section

~~141.23~~

- [141A.9](#). A person who intentionally or
2 35 recklessly makes an unauthorized disclosure of such
3 1 information is subject to a civil penalty of one thousand
3 2 dollars. The attorney general or the attorney general's
3 3 designee may maintain a civil action to enforce this section.
3 4 Proceedings maintained under this section shall provide for
3 5 the anonymity of the individual and all documentation shall be
3 6 maintained in a confidential manner. Information relating to
3 7 the HIV status of a health care provider is confidential and
3 8 shall not be accessible to the public. Information regulated
3 9 by this section, however, may be disclosed to members of the
3 10 expert review panel established by the department or a panel
3 11 established by hospital protocol under this section. The
3 12 information may also be disclosed to the appropriate examining
3 13 board by filing a report as required by this section. The
3 14 examining board shall consider the report a complaint subject
3 15 to the confidentiality provisions of section 272C.6. A
3 16 licensee, upon the filing of a formal charge or notice of
3 17 hearing by the examining board based on such a complaint, may
3 18 seek a protective order from the board.
3 19 Sec. 5. NEW SECTION. 141A.1 DEFINITIONS.
3 20 As used in this chapter, unless the context otherwise
3 21 requires:
3 22 1. "AIDS" means acquired immune deficiency syndrome as
3 23 defined by the centers for disease control and prevention of
3 24 the United States department of health and human services.
3 25 2. "AIDS-related conditions" means the human
3 26 immunodeficiency virus, or any other condition resulting from
3 27 the human immunodeficiency virus infection.
3 28 3. "Blinded epidemiological studies" means studies in
3 29 which specimens which were collected for other purposes are
3 30 selected according to established criteria, are permanently
3 31 stripped of personal identifiers, and are then tested.
3 32 4. "Blood bank" means a facility for the collection,
3 33 processing, or storage of human blood or blood derivatives,
3 34 including blood plasma, or from which or by means of which
3 35 human blood or blood derivatives are distributed or otherwise

4 1 made available.

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

4 5 6. "Department" means the Iowa department of public
4 6 health.

4 7 7. "Emergency care provider" means a person who is trained
4 8 and authorized by federal or state law to provide emergency
4 9 medical assistance or treatment, for compensation or in a
4 10 voluntary capacity, including but not limited to all of the
4 11 following:

4 12 (1) An emergency medical care provider as defined in
4 13 section 147A.1.

4 14 (2) A health care provider.

4 15 (3) A fire fighter.

4 16 (4) A peace officer.

4 17 "Emergency care provider" also includes a person who
4 18 renders emergency aid without compensation.

4 19 8. "Good faith" means objectively reasonable and not in
4 20 violation of clearly established statutory rights or other
4 21 rights of a person which a reasonable person would know or
4 22 should have known.

4 23 9. "Health care provider" means a person licensed or
4 24 certified under chapter 148, 148C, 150, 150A, 152, or 153 to
4 25 provide professional health care service to a person during
4 26 the person's medical care, treatment, or confinement.

4 27 10. "Health facility" means a hospital, health care
4 28 facility, clinic, blood bank, blood center, sperm bank,
4 29 laboratory organ transplant center and procurement agency, or
4 30 other health care institution.

4 31 11. "HIV" means the human immunodeficiency virus
4 32 identified as the causative agent of AIDS.

4 33 12. "HIV-related test" means a diagnostic test conducted
4 34 by a laboratory approved pursuant to the federal Clinical
4 35 Laboratory Improvements Act for determining the presence of
5 1 HIV.

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

5 7 14. "Legal guardian" means a person appointed by a court
5 8 pursuant to chapter 633 or an attorney in fact as defined in
5 9 section 144B.1. In the case of a minor, "legal guardian" also
5 10 means a parent or other person responsible for the care of the
5 11 minor.

5 12 15. "Nonblinded epidemiological studies" means studies in
5 13 which specimens are collected for the express purpose of
5 14 testing for the HIV infection and persons included in the
5 15 nonblinded study are selected according to established
5 16 criteria.

5 17 16. "Release of test results" means a written
5 18 authorization for disclosure of HIV-related test results which
5 19 is signed and dated, and which specifies to whom disclosure is
5 20 authorized and the time period during which the release is to
5 21 be effective.

5 22 17. "Sample" means a human specimen obtained for the
5 23 purpose of conducting an HIV-related test.

5 24 18. "Significant exposure" means the risk of contracting
5 25 HIV infection by means of exposure to a person's infectious
5 26 bodily fluids in a manner capable of transmitting HIV
5 27 infection as determined by the centers for disease control and
5 28 prevention of the United States department of health and human
5 29 services and adopted by rule of the department.

5 30 Sec. 6. NEW SECTION. 141A.2 LEAD AGENCY.

5 31 1. The department is designated as the lead agency in the
5 32 coordination and implementation of the state comprehensive

5 33 AIDS-related conditions prevention and intervention plan.
5 34 2. The department shall adopt rules pursuant to chapter
5 35 17A to implement and enforce this chapter. The rules may
6 1 include procedures for taking appropriate action with regard
6 2 to health facilities or health care providers which violate
6 3 this chapter or the rules adopted pursuant to this chapter.
6 4 3. The department shall adopt rules pursuant to chapter
6 5 17A which require that if a health care provider attending a
6 6 person prior to the person's death determines that the person
6 7 suffered from or was suspected of suffering from a contagious
6 8 or infectious disease, the health care provider shall place
6 9 with the remains written notification of the condition for the
6 10 information of any person handling the body of the deceased
6 11 person subsequent to the person's death. For purposes of this
6 12 subsection, "contagious or infectious disease" means hepatitis
6 13 in any form, meningococcal disease, tuberculosis, and any
6 14 other disease including AIDS or HIV infection, determined to
6 15 be life-threatening to a person exposed to the disease as
6 16 established by rules adopted by the department based upon a
6 17 determination by the state epidemiologist and in accordance
6 18 with guidelines of the centers for disease prevention and
6 19 control of the United States department of health and human
6 20 services.
6 21 4. The department, in cooperation with the department of
6 22 public safety, and persons who represent those who attend dead
6 23 bodies shall establish for all care providers, including
6 24 paramedics, ambulance personnel, physicians, nurses, hospital
6 25 personnel, first responders, peace officers, and fire
6 26 fighters, who provide care services to a person, and for all
6 27 persons who attend dead bodies, protocol and procedures for
6 28 the use of universal precautions to prevent the transmission
6 29 of contagious and infectious diseases.
6 30 5. The department shall coordinate efforts with local
6 31 health officers to investigate sources of HIV infection and
6 32 use every appropriate means to prevent the spread of the
6 33 infection.
6 34 6. The department, with the approval of the state board of
6 35 health, may conduct epidemiological blinded and nonblinded
7 1 studies to determine the incidence and prevalence of the HIV
7 2 infection. Initiation of any new epidemiological studies
7 3 shall be contingent upon the receipt of funding sufficient to
7 4 cover all the costs associated with the studies. The informed
7 5 consent, reporting, and counseling requirements of this
7 6 chapter shall not apply to blinded studies.
7 7 Sec. 7. NEW SECTION. 141A.3 DUTIES OF THE DEPARTMENT.
7 8 1. All federal and state moneys appropriated to the
7 9 department for AIDS-related activities shall be allocated in
7 10 accordance with a prioritized schedule developed by rule of
7 11 the department, and grants shall be awarded to the maximum
7 12 extent feasible to community-based organizations.
7 13 2. The department shall do all of the following:
7 14 a. Provide consultation to agencies and organizations
7 15 regarding appropriate policies for testing, education,
7 16 confidentiality, and infection control.
7 17 b. Conduct health information programs for the public
7 18 relating to HIV infection, including information about how the
7 19 infection is transmitted and how transmittal can be prevented.
7 20 The department shall prepare, for free distribution, printed
7 21 information relating to HIV infection and prevention.
7 22 c. Provide educational programs concerning HIV infection
7 23 in the workplace.
7 24 d. Develop and implement HIV education risk-reduction
7 25 programs for specific populations at high risk for infection.
7 26 e. Provide an informational brochure for patients who
7 27 provide samples for purposes of performing an HIV test which,
7 28 at a minimum, shall include a summary of the patient's rights
7 29 and responsibilities under the law.

7 30 f. In cooperation with the department of education,
7 31 develop and update a medically correct AIDS prevention
7 32 curriculum for use at the discretion of secondary and middle
7 33 schools.

7 34 3. The department shall, in cooperation with the
7 35 department of education and other agencies, organizations,
8 1 coalitions, and local health departments, develop and
8 2 implement a program of public and professional AIDS-related
8 3 education.

8 4 4. School districts shall provide to every elementary,
8 5 middle school, and secondary school student, with parental
8 6 consent, instruction concerning HIV infection and AIDS and its
8 7 prevention.

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

8 9 1. HIV testing and counseling shall be offered to the
8 10 following:

8 11 a. All persons seeking treatment for a sexually
8 12 transmitted disease.

8 13 b. All persons seeking treatment for intravenous drug
8 14 abuse or having a history of intravenous drug abuse.

8 15 c. All persons who consider themselves at risk for the HIV
8 16 infection.

8 17 d. Male and female prostitutes.

8 18 2. Pregnant women shall be provided information about HIV
8 19 prevention, risk reduction, and treatment opportunities to
8 20 reduce the possible transmission of HIV to a fetus. Pregnant
8 21 women who report one or more recognized risk factors for HIV
8 22 shall be strongly encouraged to undergo HIV-related testing.
8 23 A pregnant woman who requests testing shall be tested
8 24 regardless of the absence of risk factors.

8 25 Sec. 9. NEW SECTION. 141A.5 PARTNER NOTIFICATION PROGRAM
8 26 HIV.

8 27 1. The department shall maintain a partner notification
8 28 program for persons known to have tested positive for the HIV
8 29 infection.

8 30 2. The department shall initiate the program at
8 31 alternative testing and counseling sites and at sexually
8 32 transmitted disease clinics.

8 33 3. In administering the program, the department shall
8 34 provide for the following:

8 35 a. A person who tests positive for the HIV infection shall
9 1 receive posttest counseling, during which time the person
9 2 shall be encouraged to refer for counseling and HIV testing
9 3 any person with whom the person has had sexual relations or
9 4 has shared intravenous equipment.

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

9 13 c. Devise a procedure, as a part of the partner
9 14 notification program, to provide for the notification of an
9 15 identifiable third party who is a sexual partner of or who
9 16 shares intravenous equipment with a person who has tested
9 17 positive for HIV, by the department or a physician, when all
9 18 of the following situations exist:

9 19 (1) A physician for the infected person is of the good
9 20 faith opinion that the nature of the continuing contact poses
9 21 an imminent danger of HIV infection transmission to the third
9 22 party.

9 23 (2) When the physician believes in good faith that the
9 24 infected person, despite strong encouragement, has not and
9 25 will not warn the third party and will not participate in the
9 26 voluntary partner notification program.

9 27 Notwithstanding subsection 4, the department or a physician
9 28 may reveal the identity of a person who has tested positive
9 29 for the HIV infection pursuant to this subsection only to the
9 30 extent necessary to protect a third party from the direct
9 31 threat of transmission. This subsection shall not be
9 32 interpreted to create a duty to warn third parties of the
9 33 danger of exposure to HIV through contact with a person who
9 34 tests positive for the HIV infection.

9 35 The department shall adopt rules pursuant to chapter 17A to
10 1 implement this paragraph "c". The rules shall provide a
10 2 detailed procedure by which the department or a physician may
10 3 directly notify an endangered third party.

10 4 4. In making contact the department shall not disclose the
10 5 identity of the person who provided the names of the persons
10 6 to be contacted and shall protect the confidentiality of
10 7 persons contacted.

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

10 13 6. In addition to the provisions for partner notification
10 14 provided under this section and notwithstanding any provision
10 15 to the contrary, a county medical examiner or deputy medical
10 16 examiner performing official duties pursuant to sections
10 17 331.801 through 331.805 or the state medical examiner or
10 18 deputy medical examiner performing official duties pursuant to
10 19 chapter 691, who determines through an investigation that a
10 20 deceased person was infected with HIV, may notify directly, or
10 21 request that the department notify, the immediate family of
10 22 the deceased or any person known to have had a significant
10 23 exposure from the deceased of the finding.

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

10 26 1. Prior to obtaining a sample for the purpose of
10 27 performing a voluntary HIV-related test, a health care
10 28 provider shall inform the subject of the test that the test is
10 29 voluntary. Within seven days of the testing of a person with
10 30 a test result indicating HIV infection which has been
10 31 confirmed as positive according to prevailing medical
10 32 technology, the physician or other health care provider at
10 33 whose request the test was performed shall make a report to
10 34 the department on a form provided by the department.

10 35 2. Within seven days of diagnosing a person as having an
11 1 AIDS-related condition, the diagnosing physician shall make a
11 2 report to the department on a form provided by the department.

11 3 3. Within seven days of the death of a person resulting
11 4 from an AIDS-related condition, the attending physician shall
11 5 make a report to the department on a form provided by the
11 6 department.

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

11 12 5. Within seven days of the testing of a person with a
11 13 test result indicating HIV infection which has been confirmed
11 14 as positive according to prevailing medical technology, the
11 15 director of a clinical laboratory shall make a report to the
11 16 department on a form provided by the department.

11 17 6. The forms provided by the department shall require
11 18 inclusion of all of the following information:

- 11 19 a. The name of the patient.
- 11 20 b. The address of the patient.
- 11 21 c. The patient's date of birth.
- 11 22 d. The gender of the patient.
- 11 23 e. The race or ethnicity of the patient.

- 11 24 f. The patient's marital status.
- 11 25 g. The patient's telephone number.
- 11 26 h. The name and address of the laboratory or blood bank.
- 11 27 i. The date the test was found to be positive and the
- 11 28 collection date.
- 11 29 j. The name of the physician or health care provider who
- 11 30 performed the test.
- 11 31 k. If the patient is female, whether the patient is
- 11 32 pregnant.

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

11 35 1. At any time that the subject of an HIV-related test is
12 1 informed of confirmed positive test results, counseling
12 2 concerning the emotional and physical health effects shall be
12 3 initiated. Particular attention shall be given to explaining
12 4 the need for the precautions necessary to avoid transmitting
12 5 the virus. The subject shall be given information concerning
12 6 additional counseling.

12 7 2. Notwithstanding subsection 1, the provisions of this
12 8 section do not apply to any of the following:

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

12 18 b. A person engaged in the business of insurance who is
12 19 subject to section 505.16.

12 20 c. The performance by a health care provider or health
12 21 facility of an HIV-related test when the subject of the test
12 22 is deceased and a documented significant exposure has
12 23 occurred.

12 24 3. A person may apply for voluntary treatment,
12 25 contraceptive services, or screening or treatment for HIV
12 26 infection and other sexually transmitted diseases directly to
12 27 a licensed physician and surgeon, an osteopathic physician and
12 28 surgeon, or a family planning clinic. Notwithstanding any
12 29 other provision of law, however, a minor shall be informed
12 30 prior to testing that, upon confirmation according to
12 31 prevailing medical technology of a positive HIV-related test
12 32 result, the minor's legal guardian is required to be informed
12 33 by the testing facility. Testing facilities where minors are
12 34 tested shall have available a program to assist minors and
12 35 legal guardians with the notification process which emphasizes
13 1 the need for family support and assists in making available
13 2 the resources necessary to accomplish that goal. However, a
13 3 testing facility which is precluded by federal statute,
13 4 regulation, or centers for disease control and prevention
13 5 guidelines from informing the legal guardian is exempt from
13 6 the notification requirement. The minor shall give written
13 7 consent to these procedures and to receive the services,
13 8 screening, or treatment. Such consent is not subject to later
13 9 disaffirmance by reason of minority.

13 10 Sec. 12. NEW SECTION. 141A.8 CARE PROVIDER NOTIFICATION.

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

13 21 a. The hospital informs the individual, when the
13 22 individual's condition permits, of the submission of a
13 23 significant exposure report.

13 24 b. The individual consents to serological testing by or
13 25 voluntarily discloses the individual's HIV status to the
13 26 hospital and consents to notification.

13 27 Notwithstanding paragraphs "a" and "b", notification shall
13 28 be made when the individual denies consent for or consent is
13 29 not reasonably obtainable for serological testing, and in the
13 30 course of admission, care, and treatment of the individual,
13 31 the individual is diagnosed or is confirmed as having HIV
13 32 infection.

13 33 2. The hospital shall notify the care provider involved in
13 34 attending or transporting an individual who submitted a
13 35 significant exposure report. This shall include a person who
14 1 renders direct emergency aid without compensation, or in the
14 2 case of an emergency care provider, the designated officer of
14 3 the emergency care provider service, who in turn shall notify
14 4 any emergency care providers. The identity of the designated
14 5 officer shall not be revealed to the individual. The
14 6 designated officer shall inform the hospital of those parties
14 7 who received the notification, and following receipt of this
14 8 information and upon request of the individual, the hospital
14 9 shall inform the individual of the parties to whom
14 10 notification was provided.

14 11 3. The hospital, upon request of the individual, shall
14 12 inform the individual of the persons to whom notification was
14 13 made.

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

14 16 5. A health care provider, with consent of the individual,
14 17 may provide the notification required of hospitals in this
14 18 section to care providers if an individual who has HIV
14 19 infection is delivered by a care provider to the office or
14 20 clinic of the health care provider for treatment. The
14 21 notification shall take place only upon submission of a
14 22 significant exposure report form by the care provider to the
14 23 health care provider and the determination by the health care
14 24 provider that a significant exposure has occurred.

14 25 6. This section does not require or permit, unless
14 26 otherwise provided, a hospital or health care provider to
14 27 administer a test for the express purpose of determining the
14 28 presence of HIV infection, except that testing may be
14 29 performed if the individual consents, and if the requirements
14 30 of this section are satisfied.

14 31 7. When a care provider in the course of providing care
14 32 sustains a significant exposure on the premises of a hospital
14 33 or health facility, the individual to whom the care provider
14 34 was exposed is deemed to consent to a test to be administered
14 35 by the hospital or health care facility upon the written
15 1 request of the exposed care provider for the express purpose
15 2 of determining the presence of HIV infection in that
15 3 individual. The sample and test results shall only be
15 4 identified by the name of the exposed care provider on whose
15 5 behalf the test is administered and no reports otherwise
15 6 required by this chapter shall be made which identify the
15 7 individual tested. However, if the test results are positive,
15 8 the hospital or health care facility shall notify the
15 9 individual tested and ensure performance of counseling and
15 10 reporting requirements of this chapter in the same manner as
15 11 for an individual from whom actual consent was obtained.

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

15 18 liability, civil or criminal, which might otherwise be
15 19 incurred or imposed.

15 20 9. Notifications made pursuant to this section shall not
15 21 disclose the identity of the individual who is diagnosed or
15 22 confirmed as having HIV infection unless the individual
15 23 provides a specific written release as provided in subsection
15 24 1, paragraph "b". If the care provider determines the
15 25 identity of the individual, the identity of the individual
15 26 shall be confidential information and shall not be disclosed
15 27 by the care provider to any other person unless a specific
15 28 written release is obtained from the individual.

15 29 10. A hospital's duty to notify under this section is not
15 30 continuing but is limited to the diagnosis of HIV infection
15 31 made in the course of admission, care, and treatment following
15 32 the rendering of assistance or treatment of the individual
15 33 with the infection.

15 34 11. Notwithstanding subsection 10, if, following discharge
15 35 or completion of care or treatment, an individual for whom a
16 1 significant exposure report was submitted but which report did
16 2 not result in notification, wishes to provide information
16 3 regarding the individual's HIV infection status to the care
16 4 provider who submitted the report, the hospital shall provide
16 5 a procedure for notifying the care provider.

16 6 12. The employer of a care provider who submits a report
16 7 of significant exposure under this section sustained in the
16 8 course of employment shall pay the costs of HIV testing for
16 9 the individual and the costs of HIV testing and counseling for
16 10 the care provider. However, the department shall pay the
16 11 costs of HIV testing for the individual and the costs of HIV
16 12 testing and counseling for a care provider who renders direct
16 13 aid without compensation.

16 14 Sec. 13. NEW SECTION. 141A.9 CONFIDENTIALITY OF
16 15 INFORMATION.

16 16 Any information, including reports and records, obtained,
16 17 submitted, and maintained pursuant to this chapter is strictly
16 18 confidential medical information. The information shall not
16 19 be released, shared with an agency or institution, or made
16 20 public upon subpoena, search warrant, discovery proceedings,
16 21 or by any other means except as provided in this chapter. A
16 22 person shall not be compelled to disclose the identity of any
16 23 person upon whom an HIV-related test is performed, or the
16 24 results of the test in a manner which permits identification
16 25 of the subject of the test, except to persons entitled to that
16 26 information under this chapter. Information shall be made
16 27 available for release to the following individuals or under
16 28 the following circumstances:

16 29 1. To the subject of the test or the subject's legal
16 30 guardian subject to the provisions of section 141A.7,
16 31 subsection 3, when applicable.

16 32 2. To any person who secures a written release of test
16 33 results executed by the subject of the test or the subject's
16 34 legal guardian.

16 35 3. To an authorized agent or employee of a health facility
17 1 or health care provider, if the health facility or health care
17 2 provider ordered or participated in the testing or is
17 3 otherwise authorized to obtain the test results, the agent or
17 4 employee provides patient care or handles or processes
17 5 samples, and the agent or employee has a medical need to know
17 6 such information.

17 7 4. To a health care provider providing care to the subject
17 8 of the test when knowledge of the test results is necessary to
17 9 provide care or treatment.

17 10 5. To the department in accordance with reporting
17 11 requirements for an HIV-related condition.

17 12 6. To a health facility or health care provider which
17 13 procures, processes, distributes, or uses a human body part
17 14 from a deceased person with respect to medical information

17 15 regarding that person, or semen provided prior to July 1,
17 16 1988, for the purpose of artificial insemination.

17 17 7. Release may be made of medical or epidemiological
17 18 information for statistical purposes in a manner such that no
17 19 individual person can be identified.

17 20 8. Release may be made of medical or epidemiological
17 21 information to the extent necessary to enforce the provisions
17 22 of this chapter and related rules concerning the treatment,
17 23 control, and investigation of HIV infection by public health
17 24 officials.

17 25 9. Release may be made of medical or epidemiological
17 26 information to medical personnel to the extent necessary to
17 27 protect the health or life of the named party.

17 28 10. Release may be made of test results concerning a
17 29 patient pursuant to procedures established under section
17 30 141A.5, subsection 3, paragraph "c".

17 31 11. To a person allowed access to a record by a court
17 32 order which is issued in compliance with the following
17 33 provisions:

17 34 a. A court has found that the person seeking the test
17 35 results has demonstrated a compelling need for the test
18 1 results which need cannot be accommodated by other means. In
18 2 assessing compelling need, the court shall weigh the need for
18 3 disclosure against the privacy interest of the test subject
18 4 and the public interest which may be disserved by disclosure
18 5 due to its deterrent effect on future testing or due to its
18 6 effect in leading to discrimination.

18 7 b. Pleadings pertaining to disclosure of test results
18 8 shall substitute a pseudonym for the true name of the subject
18 9 of the test. The disclosure to the parties of the subject's
18 10 true name shall be communicated confidentially in documents
18 11 not filed with the court.

18 12 c. Before granting an order, the court shall provide the
18 13 person whose test results are in question with notice and a
18 14 reasonable opportunity to participate in the proceedings if
18 15 the person is not already a party.

18 16 d. Court proceedings as to disclosure of test results
18 17 shall be conducted in camera unless the subject of the test
18 18 agrees to a hearing in open court or unless the court
18 19 determines that a public hearing is necessary to the public
18 20 interest and the proper administration of justice.

18 21 e. Upon the issuance of an order to disclose test results,
18 22 the court shall impose appropriate safeguards against
18 23 unauthorized disclosure, which shall specify the persons who
18 24 may gain access to the information, the purposes for which the
18 25 information shall be used, and appropriate prohibitions on
18 26 future disclosure.

18 27 12. To an employer, if the test is authorized to be
18 28 required under any other provision of law.

18 29 13. To a convicted or alleged sexual assault offender; the
18 30 physician or other health care provider who orders the test of
18 31 a convicted or alleged offender; the victim; the parent,
18 32 guardian, or custodian of the victim if the victim is a minor;
18 33 the physician of the victim; the victim counselor or person
18 34 requested by the victim to provide counseling regarding the
18 35 HIV-related test and results; the victim's spouse; persons
19 1 with whom the victim has engaged in vaginal, anal, or oral
19 2 intercourse subsequent to the sexual assault; members of the
19 3 victim's family within the third degree of consanguinity; and
19 4 the county attorney who may use the results as evidence in the
19 5 prosecution of sexual assault under chapter 915, subchapter
19 6 IV, or prosecution of the offense of criminal transmission of
19 7 HIV under chapter 709C. For the purposes of this paragraph,
19 8 "victim" means victim as defined section 915.40.

19 9 14. To employees of state correctional institutions
19 10 subject to the jurisdiction of the department of corrections,
19 11 employees of secure facilities for juveniles subject to the

19 12 department of human services, and employees of city and county
19 13 jails, if the employees have direct supervision over inmates
19 14 of those facilities or institutions in the exercise of the
19 15 duties prescribed pursuant to section 80.9, subsection 2,
19 16 paragraph "d".

19 17 Sec. 14. NEW SECTION. 141A.10 IMMUNITIES.

19 18 1. A person making a report in good faith pursuant to this
19 19 chapter is immune from any liability, civil or criminal, which
19 20 might otherwise be incurred or imposed as a result of the
19 21 report.

19 22 2. A health care provider attending a person who tests
19 23 positive for the HIV infection has no duty to disclose to or
19 24 to warn third parties of the dangers of exposure to HIV
19 25 infection through contact with that person and is immune from
19 26 any liability, civil or criminal, for failure to disclose to
19 27 or warn third parties of the condition of that person.

19 28 Sec. 15. NEW SECTION. 141A.11 REMEDIES.

19 29 1. A person aggrieved by a violation of this chapter shall
19 30 have a right of civil action for damages in district court.

19 31 2. A care provider who intentionally or recklessly makes
19 32 an unauthorized disclosure under this chapter is subject to a
19 33 civil penalty of one thousand dollars.

19 34 3. A person who violates a confidentiality requirement of
19 35 section 141A.5 is guilty of an aggravated misdemeanor.

20 1 4. A civil action under this chapter is barred unless the
20 2 action is commenced within two years after the cause of action
20 3 accrues.

20 4 5. The attorney general may maintain a civil action to
20 5 enforce this chapter.

20 6 6. This chapter does not limit the rights of the subject
20 7 of an HIV-related test to recover damages or other relief
20 8 under any other applicable law.

20 9 7. This chapter shall not be construed to impose civil
20 10 liability or criminal sanction for disclosure of HIV-related
20 11 test results in accordance with any reporting requirement for
20 12 a diagnosed case of AIDS or a related condition by the
20 13 department or the centers for disease control and prevention
20 14 of the United States public health service.

20 15 Sec. 16. Section [321.186](#), unnumbered paragraph 4, Code
20 16 1999, is amended to read as follows:

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

~~141~~

~~141A~~ shall be subject to the
21 1 confidentiality provisions and remedies of

~~sections 141.23 and~~

~~141.24~~

~~that chapter.~~

21 3 Sec. 17. Section [505.16](#), subsection 1, Code 1999, is
21 4 amended to read as follows:
21 5 1. A person engaged in the business of insurance shall not
21 6 require a test of an individual in connection with an
21 7 application for insurance for the presence of an antibody to
21 8 the human immunodeficiency virus unless the individual
21 9 provides a written release on a form approved by the insurance
21 10 commissioner. The form shall include information regarding
21 11 the purpose, content, use, and meaning of the test, disclosure
21 12 of test results including information explaining the effect of
21 13 releasing the information to a person engaged in the business
21 14 of insurance, the purpose for which the test results may be
21 15 used, and other information approved by the insurance
21 16 commissioner. The form shall also authorize the person
21 17 performing the test to provide the results of the test to the
21 18 insurance company subject to rules of confidentiality,
21 19 consistent with section

~~141.23~~

~~141A.9, approved by the~~

21 20 insurance commissioner. As used in this section, "a person
21 21 engaged in the business of insurance" includes hospital
21 22 service corporations organized under chapter 514 and health
21 23 maintenance organizations subject to chapter 514B.
21 24 Sec. 18. Section [904.515](#), Code 1999, is amended to read as
21 25 follows:
21 26 904.515 HUMAN IMMUNODEFICIENCY VIRUS-RELATED MATTERS
21 27 EXEMPTION.
21 28 The provisions of chapter

~~141~~

~~141A relating to knowledge~~

21 29 and consent do not apply to persons committed to the custody
21 30 of the department. The department may provide for medically
21 31 acceptable procedures to inform employees, visitors, and
21 32 persons committed to the department of possible infection and
21 33 to protect them from possible infection.
21 34 Sec. 19. Section [915.40](#), subsection 3, paragraph c, Code
21 35 1999, is amended to read as follows:
22 1 c. The victim counselor or person requested by the victim
22 2

~~who is authorized~~

~~to provide~~

~~the~~

~~counseling~~

~~required pursuant~~

~~to section 141.22~~
22 3

~~regarding the HIV-related test and results.~~

22 4 Sec. 20. Section [915.42](#), subsection 4, paragraph a, Code
22 5 1999, is amended to read as follows:
22 6 a. Prior to the scheduling of a hearing, refer the victim
22 7 for counseling by a victim counselor or a person requested by
22 8 the victim

~~who is authorized~~

~~to provide~~

~~the~~

- counseling
22 9

~~required pursuant to section 141.22,~~

- regarding the nature,
22 10 reliability, and significance of the HIV-related test and of
22 11 the serologic status of the convicted offender.
22 12 Sec. 21. Section [915.43](#), subsections 1, 2, 4, and 5, Code
22 13 1999, are amended to read as follows:
22 14 1. The physician or other practitioner who orders the test
22 15 of a convicted or alleged offender for HIV under this
22 16 subchapter shall disclose the results of the test to the
22 17 convicted or alleged offender, and to the victim counselor or
22 18 a person requested by the victim

~~who is authorized~~

- to provide
22 19

~~the~~

- counseling

~~required pursuant to section 141.22,~~

- regarding
22 20 the HIV-related test and results who shall disclose the
22 21 results to the petitioner.
22 22 2. All testing under this chapter shall be accompanied by
22 23 pretest and posttest counseling

~~as required under section~~

-
22 24

~~141.22~~

-
22 25 4. Results of a test performed under this subchapter,
22 26 except as provided in subsection 13, shall be disclosed only
22 27 to the physician or other practitioner who orders the test of
22 28 the convicted or alleged offender, the convicted or alleged
22 29 offender, the victim, the victim counselor or person requested
22 30 by the victim

~~who is authorized~~

- to provide

~~the~~

- counseling
22 31

~~required pursuant to section 141.22~~

- regarding the HIV-related
22 32 test and results, the physician of the victim if requested by
22 33 the victim, the parent, guardian, or custodian of the victim,
22 34 if the victim is a minor, and the county attorney who filed
22 35 the petition for HIV-related testing under this chapter, who
23 1 may use the results to file charges of criminal transmission
23 2 of HIV under chapter 709C. Results of a test performed under
23 3 this subchapter shall not be disclosed to any other person
23 4 without the written informed consent of the convicted or
23 5 alleged offender. A person to whom the results of a test have
23 6 been disclosed under this subchapter is subject to the
23 7 confidentiality provisions of section

~~141.22~~

- 141A.9, and shall
23 8 not disclose the results to another person except as
23 9 authorized by section

~~141.23, subsection 1~~

~~141A.9, subsection~~

23 10 13.

23 11 5. If testing is ordered under this subchapter, the court
23 12 shall also order periodic testing of the convicted offender
23 13 during the period of incarceration, probation, or parole or of
23 14 the alleged offender during a period of six months following
23 15 the initial test if the physician or other practitioner who
23 16 ordered the initial test of the convicted or alleged offender
23 17 certifies that, based upon prevailing scientific opinion
23 18 regarding the maximum period during which the results of an
23 19 HIV-related test may be negative for a person after being HIV-
23 20 infected, additional testing is necessary to determine whether
23 21 the convicted or alleged offender was HIV-infected at the time
23 22 the sexual assault or alleged sexual assault was perpetrated.
23 23 The results of the test conducted pursuant to this subsection
23 24 shall be released only to the physician or other practitioner
23 25 who orders the test of the convicted or alleged offender, the
23 26 convicted or alleged offender, the victim counselor or person
23 27 requested by the victim

~~who is authorized~~

~~to provide the~~

23 28 counseling

~~required pursuant to section 141.22,~~

~~regarding the~~

23 29 HIV-related test and results who shall disclose the results to
23 30 the petitioner, the physician of the victim, if requested by
23 31 the victim, and the county attorney who may use the results as
23 32 evidence in the prosecution of the sexual assault or in the
23 33 prosecution of the offense of criminal transmission of HIV
23 34 under chapter 709C.

23 35 Sec. 22. Chapter 141, Code 1999, is repealed.

24 1

EXPLANATION

24 2 This bill replaces the statute pertaining to acquired
24 3 immune deficiency syndrome (AIDS), which is currently divided
24 4 into subchapters, with a new chapter which combines the
24 5 subchapters and makes changes to the chapter. Existing Code
24 6 chapter 141 is repealed.

24 7 The bill combines all definitions used in the chapter into
24 8 one section. The bill provides a new definition of "care
24 9 provider" which encompasses any person providing health care
24 10 services of any kind, including emergency medical assistance
24 11 or treatment. The definition of "legal guardian" is expanded
24 12 to include an "attorney in fact". The definition of "ARC" or
24 13 "AIDS-related complex" is deleted. The definition of "sample"
24 14 is added to include any specimen obtained for the purposes of
24 15 conducting an HIV-related test.

24 16 The bill designates the Iowa department of public health as
24 17 the lead agency in the coordination and implementation of the
24 18 state's AIDS prevention and intervention plan. The bill also
24 19 authorizes the department to adopt rules to implement and
24 20 enforce the bill. The bill continues the authorization for
24 21 the department to coordinate efforts with local health
24 22 officers to investigate sources of HIV infection and to use
24 23 every appropriate means to prevent the spread of the disease.
24 24 The bill also continues authorization for the department to
24 25 conduct epidemiological blinded and nonblinded studies.

24 26 The bill assigns several duties to the department. These
24 27 duties include broad responsibilities for testing, education,
24 28 and disease control. The bill retains the requirement in
24 29 existing law that school districts, with parental consent,
24 30 provide education concerning HIV infection and prevention to
24 31 students.

24 32 The bill continues the requirement that testing and

24 33 counseling be offered for specified groups. In addition, the
24 34 bill requires that all pregnant women receive information
24 35 about testing and treatment opportunities to reduce the
25 1 possible transmission of HIV to a fetus, requires that all
25 2 pregnant women with risk factors for HIV be strongly
25 3 encouraged to be tested, and requires that upon request a
25 4 pregnant woman be tested regardless of the absence of risk
25 5 factors.

25 6 The bill requires that the department maintain a partner
25 7 notification program for persons known to have tested positive
25 8 for HIV infection. Persons who test positive shall receive
25 9 posttest counseling and be encouraged to refer for counseling
25 10 and testing any person who may have sustained a significant
25 11 exposure from them. The section continues the provision that
25 12 a physician for an infected person may initiate partner
25 13 notification when the infected person will not participate and
25 14 will not warn an exposed third party. The bill deletes the
25 15 current provision that when a person who tests positive for
25 16 HIV infection will not participate in partner notification
25 17 prior to notification of a third party, the physician
25 18 proposing to cause the notification make reasonable efforts to
25 19 inform, in writing, the person who tested positive.

25 20 The bill provides for the performance of voluntary testing,
25 21 eliminates anonymous testing, and contains the reporting
25 22 requirements for positive test results.

25 23 The bill eliminates the provision of pretest counseling.
25 24 The bill provides that upon informing the subject of positive
25 25 test results, counseling is required to be initiated with
25 26 emphasis given to the need for precautions to prevent
25 27 transmitting the virus. The bill continues the provisions
25 28 granting exceptions to counseling in instances of donation of
25 29 body parts, patients unable to give consent, insurance exams,
25 30 and testing of deceased persons involved in a documented
25 31 significant exposure incident. The provisions relating to
25 32 minors are amended to eliminate the provision that if a person
25 33 who personally applies for services, screening, or treatment
25 34 is a minor, the fact that the minor sought services or is
25 35 receiving services, screening, or treatment is not to be
26 1 reported or disclosed except for statistical purposes. The
26 2 bill retains the provision that confirmed positive HIV test
26 3 results are to be reported to a minor's legal guardian.

26 4 The bill provides a notification process under which care
26 5 providers who have suffered a significant exposure to an
26 6 individual in the course of providing assistance may obtain
26 7 information concerning that individual's HIV status. The bill
26 8 adds a provision that if a care provider in the course of
26 9 providing care on the premises of a hospital or health
26 10 facility sustains a significant exposure, the person to whom
26 11 the care provider was exposed is deemed to have consented to
26 12 an HIV-related test, upon the written request of the care
26 13 provider. The sample and test results are identified by the
26 14 name of the care provider and no report otherwise required is
26 15 to be made which identifies the subject of the test. If the
26 16 results are positive, the subject of the test is to be
26 17 informed and provided with counseling.

26 18 The bill provides for strict confidentiality of medical
26 19 information relating to a patient's HIV status. The bill
26 20 contains specific provisions relating to when that information
26 21 may be released and to whom.

26 22 The bill provides immunities for persons making reports
26 23 pursuant to the bill and provides that health care providers
26 24 have no duty to warn third parties regarding contact with a
26 25 person who has positive HIV test results.

26 26 The bill establishes civil and criminal remedies for
26 27 violations of confidentiality and other provisions of the
26 28 bill. The penalty for violation of a confidentiality
26 29 requirement relating to the partner notification program is

26 30 reduced from a class "D" felony (which carries a maximum
26 31 sentence of confinement of not more than 5 years and in
26 32 addition may include a fine of at least \$500 but not more than
26 33 \$7,500) to an aggravated misdemeanor (which carries a maximum
26 34 sentence of imprisonment not to exceed 2 years and a fine of
26 35 at least \$500 but not more than \$5,000). The bill contains
27 1 the specific civil penalty of \$1,000 for a care provider who
27 2 intentionally or recklessly makes an unauthorized disclosure.
27 3 The bill eliminates the provisions for accreditation of HIV
27 4 testing laboratories.
27 5 The remainder of the bill makes conforming changes
27 6 necessitated by the enactment of new Code chapter 141A and the
27 7 repeal of Code chapter 141.
27 8 LSB 1785SC 78
27 9 pf/cf/24.1