

Senate Study Bill 1134

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

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

A BILL FOR

1 An Act relating to acquired immune deficiency syndrome and the
2 human immunodeficiency virus.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1212XD 82
5 pf/es/88

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1 1 Section 1. Section 141A.1, subsections 2, 8, and 11, Code
1 2 2007, are amended to read as follows:
1 3 2. "AIDS-related conditions" means ~~the human~~
~~1 4 immunodeficiency virus, or any other condition resulting from~~
1 5 the human immunodeficiency virus infection ~~that meets the~~
1 6 definition of AIDS as established by the centers for disease
1 7 control and prevention of the United States department of
1 8 health and human services.
1 9 8. "Health care provider" means a person licensed ~~or~~
~~1 10 certified under chapter 148, 148C, 150, 150A, 152, or 153 to~~
~~1 11 provide professional health care service to a person during~~
~~1 12 the person's medical care, treatment, or confinement to~~
1 13 practice medicine and surgery, osteopathic medicine and
1 14 surgery, osteopathy, chiropractic, podiatry, nursing,
1 15 dentistry, or optometry, or as a physician assistant, dental
1 16 hygienist, or acupuncturist.
1 17 11. "HIV-related test" means a diagnostic test conducted
1 18 by a laboratory approved pursuant to the federal Clinical
1 19 Laboratory ~~Improvements Act~~ Improvement Amendments for
1 20 determining the presence of HIV ~~or antibodies to HIV.~~
1 21 Sec. 2. Section 141A.1, Code 2007, is amended by adding
1 22 the following new subsection:
1 23 NEW SUBSECTION. 10A. "HIV-related condition" means any
1 24 condition resulting from the human immunodeficiency virus
1 25 infection.
1 26 Sec. 3. Section 141A.2, subsections 1, 4, and 6, Code
1 27 2007, are amended to read as follows:
1 28 1. The department is designated as the lead agency in the
1 29 coordination and implementation of the ~~state Iowa~~
1 30 ~~comprehensive AIDS-related conditions prevention and~~
~~1 31 intervention HIV plan.~~
1 32 4. The department, ~~in cooperation with the department of~~
~~1 33 public safety, and persons who represent those who attend dead~~
~~1 34 bodies shall establish for provide consultation services to~~
1 35 all care providers, including paramedics, ambulance personnel,
2 1 physicians, nurses, hospital personnel, first responders,
2 2 peace officers, and fire fighters, who provide care services
2 3 to a person, and ~~for to~~ all persons who attend dead bodies,
~~2 4 protocol and procedures for the use of universal precautions~~
2 5 regarding standard precautions to prevent the transmission of
2 6 contagious and infectious diseases.
2 7 6. The department, with the approval of the state board of
2 8 health, may conduct epidemiological blinded and nonblinded
2 9 studies to determine the incidence and prevalence of ~~the~~ HIV
2 10 infection. Initiation of any new epidemiological studies
2 11 shall be contingent upon the receipt of funding sufficient to
2 12 cover all the costs associated with the studies. The informed
2 13 consent, reporting, and counseling requirements of this
2 14 chapter shall not apply to blinded studies.
2 15 Sec. 4. Section 141A.3, Code 2007, is amended to read as
2 16 follows:
2 17 141A.3 DUTIES OF THE DEPARTMENT.
2 18 1. All federal and state moneys appropriated to the
2 19 department for ~~AIDS-related~~ HIV-related activities shall be

2 20 allocated in accordance with a prioritized schedule developed
2 21 by rule of the department, and grants shall be awarded to the
2 22 maximum extent feasible to community-based organizations
2 23 utilized and distributed in a manner consistent with the
2 24 guidelines established by the United States department of
2 25 health and human services.

2 26 2. The department shall do all of the following:
2 27 a. Provide consultation services to agencies and
2 28 organizations regarding appropriate policies for testing,
2 29 education, confidentiality, and infection control.
2 30 b. ~~Conduct~~ Provide health information ~~programs for to the~~
2 31 ~~public relating to regarding~~ HIV infection, including
2 32 information about how the infection is transmitted and how
2 33 transmittal can be prevented. The department shall prepare
2 34 ~~for free distribution, printed and distribute~~ information
2 35 ~~relating to regarding~~ HIV infection and prevention.
3 1 c. Provide ~~educational programs~~ consultation services
3 2 concerning HIV infection in the workplace.
3 3 d. ~~Develop and implement~~ Implement HIV education
3 4 risk-reduction programs for specific populations at high risk
3 5 for infection.
3 6 e. Provide an informational brochure for patients who
3 7 provide samples for purposes of performing an HIV test which,
3 8 at a minimum, shall include a summary of the patient's rights
3 9 and responsibilities under the law.
3 10 f. In cooperation with the department of education,
3 11 ~~develop and update a medically correct AIDS recommend~~
3 12 ~~evidence-based, medically accurate HIV prevention curriculum~~
3 13 curricula for use at the discretion of secondary and middle
3 14 schools.

3 15 3. ~~The department shall, in cooperation with the~~
3 16 ~~department of education and other agencies, organizations,~~
3 17 ~~coalitions, and local health departments, develop and~~
3 18 ~~implement a program of public and professional AIDS-related~~
3 19 ~~education.~~

3 20 Sec. 5. Section 141A.4, Code 2007, is amended to read as
3 21 follows:

3 22 141A.4 TESTING AND COUNSELING EDUCATION.
3 23 1. HIV testing and counseling education shall be offered
3 24 to persons who are at risk for HIV infection including all of
3 25 the following:
3 26 a. All persons ~~seeking treatment~~ testing positive for a
3 27 sexually transmitted disease.
3 28 b. All persons ~~seeking treatment for injecting drug abuse~~
3 29 ~~or having a history of injecting drug abuse.~~
3 30 c. ~~All persons who consider themselves at risk for the HIV~~
3 31 ~~infection.~~
3 32 ~~d. c. Male and female prostitutes sex workers and those~~
3 33 ~~who trade sex for drugs, money, or favors.~~
3 34 d. Sexual partners of HIV-infected persons.
3 35 e. Persons whose sexual partners are identified in
4 1 paragraphs "a" through "d".

4 2 2. a. Pregnant women shall be provided information All
4 3 pregnant women shall be tested for HIV infection as part of
4 4 the routine panel of prenatal tests.
4 5 b. A pregnant woman shall be notified that HIV screening
4 6 is recommended for all prenatal patients and that the pregnant
4 7 woman will receive an HIV test as part of the routine panel of
4 8 prenatal tests unless the pregnant woman objects to the test.
4 9 c. If a pregnant woman objects to and declines the test,
4 10 the decision shall be documented in the pregnant woman's
4 11 medical record.
4 12 d. Information about HIV prevention, risk reduction, and
4 13 treatment opportunities to reduce the possible transmission of
4 14 HIV to a fetus shall be made available to all pregnant women.
4 15 Pregnant women who report one or more recognized risk factors
4 16 for HIV shall be strongly encouraged to undergo HIV-related
4 17 testing. A pregnant woman who requests testing shall be
4 18 tested regardless of the absence of risk factors.

4 19 Sec. 6. Section 141A.5, Code 2007, is amended to read as
4 20 follows:

4 21 141A.5 PARTNER NOTIFICATION PROGRAM == HIV.
4 22 1. The department shall maintain a partner notification
4 23 program for persons known to have tested positive for ~~the~~ HIV
4 24 infection.
4 25 2. ~~The department shall initiate the program at~~
4 26 ~~alternative testing and counseling sites and at sexually~~
4 27 ~~transmitted disease clinics.~~
4 28 3. ~~2.~~ In administering the program, the department shall
4 29 provide for the following:
4 30 a. A person who tests positive for ~~the~~ HIV infection shall

4 31 receive posttest counseling, during which time the person
4 32 shall be encouraged to refer for counseling and HIV testing
4 33 any person with whom the person has had sexual relations or
4 34 has shared drug injecting equipment.

4 35 b. The physician or other health care provider attending
5 1 the person may provide to the department any relevant
5 2 information provided by the person regarding any person with
5 3 whom the tested person has had sexual relations or has shared
5 4 drug injecting equipment. ~~The department disease prevention
5 5 staff shall then conduct partner notification in the same
5 6 manner as that utilized for sexually transmitted diseases
5 7 consistent with the provisions of this chapter.~~

5 8 c. Devise a procedure, as a part of the partner
5 9 notification program, to provide for the notification of an
5 10 identifiable third party who is a sexual partner of or who
5 11 shares drug injecting equipment with a person who has tested
5 12 positive for HIV, by the department or a physician, when all
5 13 of the following situations exist:

5 14 (1) A physician for the infected person is of the good
5 15 faith opinion that the nature of the continuing contact poses
5 16 an imminent danger of HIV infection transmission to the third
5 17 party.

5 18 (2) When the physician believes in good faith that the
5 19 infected person, despite strong encouragement, has not and
5 20 will not warn the third party and will not participate in the
5 21 voluntary partner notification program.

5 22 Notwithstanding subsection ~~4 3~~, the department or a
5 23 physician may reveal the identity of a person who has tested
5 24 positive for ~~the~~ HIV infection pursuant to this subsection
5 25 only to the extent necessary to protect a third party from the
5 26 direct threat of transmission. This subsection shall not be
5 27 interpreted to create a duty to warn third parties of the
5 28 danger of exposure to HIV through contact with a person who
5 29 tests positive for ~~the~~ HIV infection.

5 30 The department shall adopt rules pursuant to chapter 17A to
5 31 implement this paragraph "c". The rules shall provide a
5 32 detailed procedure by which the department or a physician may
5 33 directly notify an endangered third party.

5 34 ~~4 3.~~ In making contact the department shall not disclose
5 35 the identity of the person who provided the names of the
6 1 persons to be contacted and shall protect the confidentiality
6 2 of persons contacted.

6 3 ~~5 4.~~ The department may delegate its partner notification
6 4 duties under this section to local health authorities unless
6 5 the local authority refuses or neglects to conduct the ~~contact~~
6 6 ~~tracing partner notification~~ program in a manner deemed to be
6 7 effective by the department.

6 8 ~~6 5.~~ In addition to the provisions for partner
6 9 notification provided under this section and notwithstanding
6 10 any provision to the contrary, a county medical examiner or
6 11 deputy medical examiner performing official duties pursuant to
6 12 sections 331.801 through 331.805 or the state medical examiner
6 13 or deputy medical examiner performing official duties pursuant
6 14 to chapter 691, who determines through an investigation that a
6 15 deceased person was infected with HIV, may notify directly, or
6 16 request that the department notify, the immediate family of
6 17 the deceased or any person known to have had a significant
6 18 exposure from the deceased of the finding.

6 19 Sec. 7. Section 141A.6, Code 2007, is amended to read as
6 20 follows:

6 21 141A.6 ~~AIDS-RELATED~~ HIV-RELATED CONDITIONS == SCREENING
6 22 ~~CONSENT, TESTING, AND REPORTING == PENALTY.~~

6 23 1. ~~Prior to obtaining a sample for the purpose of~~
6 24 ~~performing a voluntary HIV-related test, a health care~~
6 25 ~~provider shall inform the subject of the test that the test is~~
6 26 ~~voluntary. If an individual signs a general consent form for~~
6 27 ~~the performance of medical tests or procedures, the signing of~~
6 28 ~~an additional consent form for the specific purpose of~~
6 29 ~~consenting to an HIV-related test is not required during the~~
6 30 ~~time in which the general consent form is in effect. If an~~
6 31 ~~individual has not signed a general consent form for the~~
6 32 ~~performance of medical tests and procedures or the consent~~
6 33 ~~form is no longer in effect, a health care provider shall~~
6 34 ~~obtain oral or written consent prior to performing an~~
6 35 ~~HIV-related test. If an individual is unable to provide~~
7 1 ~~consent, the individual's legal guardian may provide consent.~~
7 2 ~~If the individual's legal guardian cannot be located or is~~
7 3 ~~unavailable, a health care provider may authorize the test~~
7 4 ~~when the test results are necessary for diagnostic purposes to~~
7 5 ~~provide appropriate urgent medical care.~~

7 6 2. Within seven days of the receipt of a test result

7 7 indicating HIV infection which has been confirmed as positive
7 8 according to prevailing medical technology or immediately
7 9 after the initial examination or treatment of an individual
7 10 infected with HIV, the physician or other health care provider
7 11 at whose request the test was performed or who performed the
7 12 initial examination or treatment shall make a report to the
7 13 department on a form provided by the department.
7 14 ~~2- 3.~~ Within seven days of diagnosing a person as having
7 15 AIDS or an AIDS-related condition, the diagnosing physician
7 16 shall make a report to the department on a form provided by
7 17 the department.
7 18 ~~3- 4.~~ Within seven days of the death of a person resulting
7 19 from an AIDS-related condition with HIV infection, the
7 20 attending physician shall make a report to the department on a
7 21 form provided by the department.
7 22 ~~4- 5.~~ Within seven days of the receipt of a test result
7 23 indicating HIV infection which has been confirmed as positive
7 24 according to prevailing medical technology, the director of a
7 25 blood bank shall make a report to the department on a form
7 26 provided by the department.
7 27 ~~5- 6.~~ Within seven days of the receipt of a test result
7 28 indicating HIV infection which has been confirmed as positive
7 29 according to prevailing medical technology that is indicative
7 30 of HIV, the director of a clinical laboratory shall make a
7 31 report to the department on a form provided by the department.
7 32 ~~6- 7.~~ The forms provided by the department shall require
7 33 inclusion of all of the following information:
7 34 a. The name of the patient.
7 35 b. The address of the patient.
8 1 c. The patient's date of birth.
8 2 d. The gender of the patient.
8 3 e. The race and ethnicity of the patient.
8 4 f. The patient's marital status.
8 5 g. The patient's telephone number.
8 6 h. The If an HIV-related test was performed, the name and
8 7 address of the laboratory or blood bank.
8 8 i. The If an HIV-related test was performed, the date the
8 9 test was found to be positive and the collection date.
8 10 j. The If an HIV-related test was performed, the name of
8 11 the physician or health care provider who performed the test.
8 12 k. If the patient is female, whether the patient is
8 13 pregnant.
8 14 ~~7- 8.~~ An individual who repeatedly fails to file the
8 15 report required under this section is subject to a report
8 16 being made to the licensing board governing the professional
8 17 activities of the individual. The department shall notify the
8 18 individual each time the department determines that the
8 19 individual has failed to file a required report. The
8 20 department shall inform the individual in the notification
8 21 that the individual may provide information to the department
8 22 to explain or dispute the failure to report.
8 23 ~~8- 9.~~ A public, private, or hospital clinical laboratory
8 24 that repeatedly fails to make the report required under this
8 25 section is subject to a civil penalty of not more than one
8 26 thousand dollars per occurrence. The department shall not
8 27 impose the penalty under this subsection without prior written
8 28 notice and opportunity for hearing.
8 29 Sec. 8. Section 141A.7, subsections 1 and 2, Code 2007,
8 30 are amended to read as follows:
8 31 1. Prior to undergoing an HIV-related test, information
8 32 shall be available to the subject of the test concerning
8 33 testing and any means of obtaining additional information
8 34 regarding HIV infection and risk reduction. At any time that
8 35 the subject of an HIV-related test is informed of confirmed
9 1 positive test results, counseling concerning the emotional and
9 2 physical health effects shall be initiated. Particular
9 3 attention shall be given to explaining the need for the
9 4 precautions necessary to avoid transmitting the virus. The
9 5 subject shall be given information concerning additional
9 6 counseling. If the legal guardian of the subject of the test
9 7 provides consent to the test pursuant to section 141A.6, the
9 8 provisions of this subsection shall apply to the legal
9 9 guardian.
9 10 2. Notwithstanding subsection 1, the provisions of this
9 11 section do not apply to any of the following:
9 12 a. The performance by a health care provider or health
9 13 facility of an HIV-related test when the health care provider
9 14 or health facility procures, processes, distributes, or uses a
9 15 human body part donated for a purpose specified under the
9 16 uniform anatomical gift Act as provided in chapter 142C, or
9 17 semen provided prior to July 1, 1988, for the purpose of

9 18 artificial insemination, or donations of blood, and such test
9 19 is necessary to ensure medical acceptability of such gift or
9 20 semen for the purposes intended.

9 21 b. A person engaged in the business of insurance who is
9 22 subject to section 505.16.

9 23 c. The performance by a health care provider or health
9 24 facility of an HIV-related test when the subject of the test
9 25 is deceased and a documented significant exposure has
9 26 occurred.

9 27 d. The performance by a health care provider or health
9 28 facility of an HIV-related test when the subject of the test
9 29 is unable to provide consent and the health care provider or
9 30 health care facility provides consent for the patient pursuant
9 31 to section 141A.6.

9 32 Sec. 9. Section 141A.8, Code 2007, is amended to read as
9 33 follows:

9 34 141A.8 CARE PROVIDER NOTIFICATION.

9 35 1. a. Notwithstanding any provision of this chapter to
10 1 the contrary, if a care provider sustains a significant
10 2 exposure from an individual, the individual to whom the care
10 3 provider was exposed is deemed to consent to a test to
10 4 determine the presence of HIV infection in that individual and
10 5 is deemed to consent to notification of the care provider of
10 6 the HIV test results of the individual, upon submission of a
10 7 significant exposure report by the care provider ~~to the~~
10 8 ~~hospital or other person specified in this section to whom the~~
10 9 ~~individual is delivered by the care provider as provided by~~
10 10 ~~rule. The significant exposure report form may be~~
10 11 ~~incorporated into the Iowa prehospital care report, the Iowa~~
10 12 ~~prehospital advanced care report, or a similar report used by~~
10 13 ~~an ambulance, rescue, or first response service or law~~
10 14 ~~enforcement agency.~~

10 15 b. The hospital or clinic in which the exposure occurred
10 16 or any other person specified in this section to whom the
10 17 individual is delivered shall conduct the test. If the
10 18 individual is delivered by the care provider to an institution
10 19 administered by the Iowa department of corrections, the test
10 20 shall be conducted by the staff physician of the institution.
10 21 If the individual is delivered by the care provider to a jail,
10 22 the test shall be conducted by the attending physician of the
10 23 jail or the county medical examiner. The sample and test
10 24 results shall only be identified by a number ~~and no reports~~
10 25 ~~otherwise required by this chapter shall be made which~~
10 26 ~~otherwise identify the individual tested.~~

10 27 c. A hospital, institutions administered by the department
10 28 of corrections, and jails shall have written policies and
10 29 procedures for notification of a care provider under this
10 30 section. The policies and procedures shall include
10 31 designation of a representative of the care provider to whom
10 32 notification shall be provided and who shall, in turn, notify
10 33 the care provider. The identity of the designated
10 34 representative of the care provider shall not be revealed to
10 35 the individual tested. The designated representative shall
11 1 inform the hospital, institution administered by the
11 2 department of corrections, or jail of those parties who
11 3 received the notification, and following receipt of this
11 4 information and upon request of the individual tested, the
11 5 hospital, institution administered by the department of
11 6 corrections, or jail shall inform the individual of the
11 7 parties to whom notification was provided.

11 8 2. a. If the test results are positive, the hospital or
11 9 other person performing the test shall notify the subject of
11 10 the test and ensure the performance of counseling and
11 11 reporting requirements of this chapter in the same manner as
11 12 for an individual from whom actual consent was obtained. The
11 13 report to the department required pursuant to section 141A.6
11 14 shall include the name of the individual tested.

11 15 b. If the HIV test results of the subject of the test are
11 16 positive, the hospital or other person performing the test
11 17 shall notify the care provider or the designated
11 18 representative of the care provider who shall then notify the
11 19 care provider who sustained the exposure.

11 20 c. The notification shall be provided as soon as is
11 21 reasonably possible following determination that the HIV test
11 22 results of the subject of the test are positive. The
11 23 notification shall not include the name of the individual
11 24 tested for HIV infection unless the individual provides a
11 25 specific written release. If the care provider who sustained
11 26 the significant exposure determines the identity of the
11 27 individual tested, the identity of the individual shall be
11 28 confidential information and shall not be disclosed by the

11 29 care provider to any other person unless a specific written
11 30 release is obtained from the individual tested.

~~11 31 3. This section does not require or permit, unless
11 32 otherwise provided, a hospital, health care provider, or other
11 33 person to administer a test for the express purpose of
11 34 determining the presence of HIV infection, except that testing
11 35 may be performed if the individual consents and if the
12 1 requirements of this section are satisfied.~~

12 2 4. 3. This section does not preclude a hospital or health
12 3 care provider from providing notification to a care provider
12 4 under circumstances in which the hospital's or health care
12 5 provider's policy provides for notification of the hospital's
12 6 or health care provider's own employees of exposure to HIV
12 7 infection if the notice does not reveal a patient's name,
12 8 unless the patient consents.

12 9 5. 4. A hospital, health care provider, or other person
12 10 participating in good faith in making a report under the
12 11 notification provisions of this section, under procedures
12 12 similar to this section for notification of its own employees
12 13 upon filing of a significant exposure report, or in failing to
12 14 make a report under this section, is immune from any
12 15 liability, civil or criminal, which might otherwise be
12 16 incurred or imposed.

12 17 6. 5. A hospital's or health care provider's duty to
12 18 notify under this section is not continuing but is limited to
12 19 the diagnosis of HIV infection made in the course of
12 20 admission, care, and treatment following the rendering of
12 21 health care services or other services to the individual with
12 22 the infection to which notification under this section
12 23 applies.

12 24 7. 6. Notwithstanding subsection 6 5, if, following
12 25 discharge from or completion of care or treatment by a
12 26 hospital, an individual for whom a significant exposure report
12 27 was submitted but which report did not result in notification,
12 28 wishes to provide information regarding the individual's HIV
12 29 infection status to the care provider who submitted the
12 30 report, the hospital shall provide a procedure for notifying
12 31 the care provider.

12 32 8. 7. A hospital, health care provider, or other person
12 33 who is authorized to perform an HIV test under this section,
12 34 who performs the HIV test in compliance with this section or
12 35 who fails to perform an HIV test authorized under this
13 1 section, is immune from any liability, civil or criminal,
13 2 which might otherwise be incurred or imposed.

13 3 9. 8. A hospital, health care provider, or other person
13 4 who is authorized to perform a test under this section has no
13 5 duty to perform the HIV test authorized.

~~13 6 10. 9. The employer of a care provider who sustained a
13 7 significant exposure under this section shall pay the costs of
13 8 HIV testing for the individual who is the source of the
13 9 significant exposure and of the testing and counseling of the
13 10 care provider, if the significant exposure was sustained
13 11 during the course of employment. However, the department
13 12 shall pay the costs of HIV testing for the individual who is
13 13 the source of the significant exposure and of the testing and
13 14 counseling of the care provider who renders direct aid without
13 15 compensation.~~

13 16 Sec. 10. Section 141A.9, Code 2007, is amended to read as
13 17 follows:

13 18 141A.9 CONFIDENTIALITY OF INFORMATION.

13 19 1. Any information, including reports and records,
13 20 obtained, submitted, and maintained pursuant to this chapter
13 21 is strictly confidential medical information. The information
13 22 shall not be released, shared with an agency or institution,
13 23 or made public upon subpoena, search warrant, discovery
13 24 proceedings, or by any other means except as provided in this
13 25 chapter. A person shall not be compelled to disclose the
13 26 identity of any person upon whom an HIV-related test is
13 27 performed, or the results of the test in a manner which
13 28 permits identification of the subject of the test, except to
13 29 persons entitled to that information under this chapter.

13 30 2. ~~Information HIV-related test results~~ shall be made
13 31 available for release to the following individuals or under
13 32 the following circumstances:

13 33 a. To the subject of the test or the subject's legal
13 34 guardian subject to the provisions of section 141A.7,
13 35 subsection 3, when applicable.

14 1 b. To any person who secures a written release of test
14 2 results executed by the subject of the test or the subject's
14 3 legal guardian.

14 4 c. To an authorized agent or employee of a health facility

14 5 or health care provider, if the health facility or health care
14 6 provider ordered or participated in the testing or is
14 7 otherwise authorized to obtain the test results, the agent or
14 8 employee provides patient care or handles or processes
14 9 samples, and the agent or employee has a medical need to know
14 10 such information.

14 11 d. To a health care provider providing care to the subject
14 12 of the test when knowledge of the test results is necessary to
14 13 provide care or treatment.

14 14 e. To the department in accordance with reporting
14 15 requirements for an HIV-related condition.

14 16 f. To a health facility or health care provider which
14 17 procures, processes, distributes, or uses a human body part
14 18 from a deceased person with respect to medical information
14 19 regarding that person, or semen provided prior to July 1,
14 20 1988, for the purpose of artificial insemination.

~~14 21 g. Release may be made of medical or epidemiological
14 22 information for statistical purposes in a manner such that no
14 23 individual person can be identified.~~

~~14 24 h. Release may be made of medical or epidemiological
14 25 information to the extent necessary to enforce the provisions
14 26 of this chapter and related rules concerning the treatment,
14 27 control, and investigation of HIV infection by public health
14 28 officials.~~

~~14 29 i. Release may be made of medical or epidemiological
14 30 information to medical personnel to the extent necessary to
14 31 protect the health or life of the named party.~~

~~14 32 j. Release may be made of test results concerning a
14 33 patient pursuant to procedures established under section
14 34 141A.5, subsection 3, paragraph "c".~~

~~14 35 k. g. To a person allowed access to a record an
15 1 HIV-related test result by a court order which is issued in~~

15 2 compliance with the following provisions:

15 3 (1) A court has found that the person seeking the test
15 4 results has demonstrated a compelling need for the test
15 5 results which need cannot be accommodated by other means. In
15 6 assessing compelling need, the court shall weigh the need for
15 7 disclosure against the privacy interest of the test subject
15 8 and the public interest which may be disserved by disclosure
15 9 due to its deterrent effect on future testing or due to its
15 10 effect in leading to discrimination.

15 11 (2) Pleadings pertaining to disclosure of test results
15 12 shall substitute a pseudonym for the true name of the subject
15 13 of the test. The disclosure to the parties of the subject's
15 14 true name shall be communicated confidentially in documents
15 15 not filed with the court.

15 16 (3) Before granting an order, the court shall provide the
15 17 person whose test results are in question with notice and a
15 18 reasonable opportunity to participate in the proceedings if
15 19 the person is not already a party.

15 20 (4) Court proceedings as to disclosure of test results
15 21 shall be conducted in camera unless the subject of the test
15 22 agrees to a hearing in open court or unless the court
15 23 determines that a public hearing is necessary to the public
15 24 interest and the proper administration of justice.

15 25 (5) Upon the issuance of an order to disclose test
15 26 results, the court shall impose appropriate safeguards against
15 27 unauthorized disclosure, which shall specify the persons who
15 28 may gain access to the information, the purposes for which the
15 29 information shall be used, and appropriate prohibitions on
15 30 future disclosure.

15 31 ~~i- h.~~ To an employer, if the test is authorized to be
15 32 required under any other provision of law.

15 33 ~~m- i. To Pursuant to section 915.43, to a convicted or~~
15 34 ~~alleged sexual assault offender; the physician or other health~~
15 35 ~~care provider who orders the test of a convicted or alleged~~
16 1 ~~offender; the victim; the parent, guardian, or custodian of~~
16 2 ~~the victim if the victim is a minor; the physician of the~~
16 3 ~~victim; the victim counselor or person requested by the victim~~
16 4 ~~to provide counseling regarding the HIV-related test and~~
16 5 ~~results; the victim's spouse; persons with whom the victim has~~
16 6 ~~engaged in vaginal, anal, or oral intercourse subsequent to~~
16 7 ~~the sexual assault; members of the victim's family within the~~
16 8 ~~third degree of consanguinity; and the county attorney who may~~
16 9 ~~use the results as evidence in the prosecution of sexual~~
16 10 ~~assault under chapter 915, subchapter IV, or prosecution of~~
16 11 ~~the offense of criminal transmission of HIV under chapter~~
16 12 ~~709C. For the purposes of this paragraph, "victim" means~~
16 13 ~~victim as defined in section 915.40.~~

16 14 ~~n- j.~~ To employees of state correctional institutions
16 15 subject to the jurisdiction of the department of corrections,

16 16 employees of secure facilities for juveniles subject to the
16 17 department of human services, and employees of city and county
16 18 jails, if the employees have direct supervision over inmates
16 19 of those facilities or institutions in the exercise of the
16 20 duties prescribed pursuant to section 80.9, subsection 2,
16 21 paragraph "d".

16 22 3. Release may be made of medical or epidemiological
16 23 information for statistical purposes in a manner such that no
16 24 individual person can be identified.

16 25 4. Release may be made of medical or epidemiological
16 26 information to the extent necessary to enforce the provisions
16 27 of this chapter and related rules concerning the treatment,
16 28 control, and investigation of HIV infection by public health
16 29 officials.

16 30 5. Release may be made of medical or epidemiological
16 31 information to medical personnel to the extent necessary to
16 32 protect the health or life of the named party.

16 33 6. Release may be made of test results concerning a
16 34 patient pursuant to procedures established under section
16 35 141A.5, subsection 2, paragraph "c".

17 1 2- 7. Medical information secured pursuant to subsection 1
17 2 may be shared between employees of the department who shall
17 3 use the information collected only for the purposes of
17 4 carrying out their official duties in preventing the spread of
17 5 the disease or the spread of other reportable diseases as
17 6 defined in section 139A.2.

17 7 Sec. 11. NEW SECTION. 514C.23 HIV=RELATED TESTING
17 8 COVERAGE == PREGNANT WOMEN.

17 9 1. Notwithstanding the uniformity of treatment
17 10 requirements of section 514C.6, a group policy or contract
17 11 providing for third-party payment or prepayment of health or
17 12 medical expenses shall provide coverage benefits for the costs
17 13 associated with HIV-related testing required for pregnant
17 14 women pursuant to section 141A.4.

17 15 2. a. This section applies to the following classes of
17 16 third-party payment provider contracts or policies delivered,
17 17 issued for delivery, continued, or renewed in this state on or
17 18 after July 1, 2007:

17 19 (1) Individual or group accident and sickness insurance
17 20 providing coverage on an expense-incurred basis.

17 21 (2) An individual or group hospital or medical service
17 22 contract issued pursuant to chapter 509, 514, or 514A.

17 23 (3) An individual or group health maintenance organization
17 24 contract regulated under chapter 514B.

17 25 (4) Any other entity engaged in the business of insurance,
17 26 risk transfer, or risk retention, which is subject to the
17 27 jurisdiction of the commissioner.

17 28 (5) A plan established pursuant to chapter 509A for public
17 29 employees.

17 30 (6) An organized delivery system licensed by the director
17 31 of public health.

17 32 b. This section shall not apply to accident-only,
17 33 specified disease, short-term hospital or medical, hospital
17 34 confinement indemnity, credit, dental, vision, Medicare
17 35 supplement, long-term care, basic hospital and

18 1 medical=surgical expense coverage as defined by the
18 2 commissioner, disability income insurance coverage, coverage
18 3 issued as a supplement to liability insurance, workers'
18 4 compensation or similar insurance, or automobile medical
18 5 payment insurance.

18 6 Sec. 12. Section 915.43, subsection 4, Code 2007, is
18 7 amended to read as follows:

18 8 4. Results of a test performed under this subchapter,
18 9 except as provided in subsection 13, shall be disclosed only
18 10 to the physician or other practitioner who orders the test of
18 11 the convicted or alleged offender, the convicted or alleged
18 12 offender, the victim, the victim counselor or person requested
18 13 by the victim to provide counseling regarding the HIV-related
18 14 test and results, the physician of the victim if requested by
18 15 the victim, the parent, guardian, or custodian of the victim,
18 16 if the victim is a minor, and the county attorney who filed
18 17 the petition for HIV-related testing under this chapter, who
18 18 may use the results to file charges of criminal transmission
18 19 of HIV under chapter 709C. Results of a test performed under
18 20 this subchapter shall not be disclosed to any other person
18 21 without the written informed consent of the convicted or
18 22 alleged offender. A person to whom the results of a test have
18 23 been disclosed under this subchapter is subject to the
18 24 confidentiality provisions of section 141A.9, and shall not
18 25 disclose the results to another person except as authorized by
18 26 section 141A.9, subsection ~~4~~ 2, paragraph ~~"m"~~ "i".

EXPLANATION

18 27
18 28 This bill amends provisions relating to acquired immune
18 29 deficiency syndrome (AIDS) and the human immunodeficiency
18 30 virus(HIV).
18 31 The bill amends definitions, including the definition of
18 32 "health care provider", to be consistent with Code chapter
18 33 139A, "communicable and infectious diseases and poisonings".
18 34 The bill amends provisions relating to the department of
18 35 public health (IDPH) as the lead agency regarding AIDS and
19 1 HIV, and amends provisions relating to the duties of the IDPH
19 2 including those related to the distribution of funds
19 3 appropriated to the department for HIV-related activities and
19 4 the provision of health information and education relating to
19 5 HIV infection.
19 6 The bill amends provisions relating to HIV testing and
19 7 education, including to require that all pregnant women be
19 8 tested for HIV infection, unless the pregnant woman objects.
19 9 The bill amends provisions relating to the partner
19 10 notification program including the location at which the
19 11 program is to be initiated and the manner of conducting the
19 12 program.
19 13 The bill amends provisions relating to HIV-related
19 14 conditions' screening, testing, and reporting. The bill
19 15 provides that if a general written consent for medical tests
19 16 or procedures is obtained from an individual and the consent
19 17 is still effective, a specific consent to an HIV-related test
19 18 is not required. If a general consent has not been obtained,
19 19 oral or written consent to an HIV-related test must be
19 20 obtained prior to performing the test. If an individual is
19 21 unable to provide consent to HIV-related testing, the
19 22 individual's legal guardian may provide the consent. If the
19 23 legal guardian cannot be located or is unavailable, a health
19 24 care provider may authorize the test when the results are
19 25 necessary for diagnostic purposes to provide appropriate
19 26 urgent medical care. The bill also provides for the reporting
19 27 of the initial examination or treatment of a person infected
19 28 with HIV as is also provided for in Code chapter 139A relating
19 29 to sexually transmitted diseases or infections.
19 30 The bill amends provisions relating to test results. The
19 31 bill provides that if a legal guardian provides consent to
19 32 HIV-related testing, the legal guardian is to receive the
19 33 information and counseling. The bill also provides that if an
19 34 individual is unable to provide consent and a health care
19 35 provider or health care facility consents to the performance
20 1 of an HIV-related test for the person, the information and
20 2 counseling requirements do not apply to the health care
20 3 provider or health care facility.
20 4 The bill also amends provisions relating to care provider
20 5 notification and confidentiality provisions to eliminate
20 6 references to outdated reports, to eliminate the provision
20 7 relating to not requiring or permitting testing for the
20 8 purpose of determining the presence of HIV infection unless
20 9 the other provisions of the section are satisfied, to
20 10 eliminate the requirement that the department pay the costs of
20 11 HIV testing for an individual who is the source of a
20 12 significant exposure and of the testing and counseling of the
20 13 care provider who renders direct aid without compensation, and
20 14 make other conforming changes.
20 15 The bill also requires that a policy or contract providing
20 16 for third-party payment or prepayment of health or medical
20 17 expenses is to provide coverage for HIV-related testing of
20 18 pregnant women.
20 19 LSB 1212XD 82
20 20 pf:nh/es/88.1