

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. The Illinois Health Information Exchange and
5 Technology Act is amended by changing Section 40 as follows:

6 (20 ILCS 3860/40)

7 (Section scheduled to be repealed on January 1, 2021)

8 Sec. 40. Reliance on data. Any health care provider who
9 relies in good faith upon any information provided through the
10 ILHIE in his, her, or its treatment of a patient shall be
11 immune from criminal or civil liability or professional
12 discipline arising from any damages caused by such good faith
13 reliance. This immunity does not apply to acts or omissions
14 constituting gross negligence or reckless, wanton, or
15 intentional misconduct. Notwithstanding this provision, the
16 Authority does not waive any immunities provided under State or
17 federal law.

18 (Source: P.A. 96-1331, eff. 7-27-10.)

19 Section 5. The Illinois Clinical Laboratory and Blood Bank
20 Act is amended by adding Sections 2-134, 2-135, 2-136, and
21 2-137 and by changing Section 7-102 as follows:

1 (210 ILCS 25/2-134 new)

2 Sec. 2-134. Health care operations. "Health care
3 operations" has the meaning ascribed to it under HIPAA, as
4 specified in 45 CFR 164.501.

5 (210 ILCS 25/2-135 new)

6 Sec. 2-135. HIPAA. "HIPAA" means the Health Insurance
7 Portability and Accountability Act of 1996, Public Law 104-191,
8 as amended by the Health Information and Technology for
9 Economic and Clinical Health Act of 2009, Public Law 111-05,
10 and any subsequent amendments thereto and any regulations
11 promulgated thereunder.

12 (210 ILCS 25/2-136 new)

13 Sec. 2-136. Payment. "Payment" has the meaning ascribed to
14 it under HIPAA, as specified in 45 CFR 164.501.

15 (210 ILCS 25/2-137 new)

16 Sec. 2-137. Treatment. "Treatment" has the meaning
17 ascribed to it under HIPAA, as specified in 45 CFR 164.501.

18 (210 ILCS 25/7-102) (from Ch. 111 1/2, par. 627-102)

19 Sec. 7-102. Reports of test results.

20 (a) Clinical laboratory test results may be reported or
21 transmitted to:

22 (1) the licensed physician or other authorized person

1 who requested the test, their designee, or both;

2 (2) any health care provider who is providing treatment
3 to the patient;

4 (3) an electronic health information exchange for the
5 purposes of transmitting, using, or disclosing clinical
6 laboratory test results in any manner required or permitted
7 by HIPAA. ~~The result of a test shall be reported directly~~
8 ~~to the licensed physician or other authorized person who~~
9 ~~requested it.~~

10 (b) No interpretation, diagnosis, or prognosis or
11 suggested treatment shall appear on the laboratory report form,
12 except that a report made by a physician licensed to practice
13 medicine in Illinois, a dentist licensed in Illinois, or an
14 optometrist licensed in Illinois may include such information.

15 (c) Nothing in this Act prohibits the sharing of
16 information as authorized in Section 2.1 of the Department of
17 Public Health Act.

18 (Source: P.A. 98-185, eff. 1-1-14.)

19 Section 7. The Medical Patient Rights Act is amended by
20 changing Section 3 as follows:

21 (410 ILCS 50/3) (from Ch. 111 1/2, par. 5403)

22 Sec. 3. The following rights are hereby established:

23 (a) The right of each patient to care consistent with sound
24 nursing and medical practices, to be informed of the name of

1 the physician responsible for coordinating his or her care, to
2 receive information concerning his or her condition and
3 proposed treatment, to refuse any treatment to the extent
4 permitted by law, and to privacy and confidentiality of records
5 except as otherwise provided by law.

6 (b) The right of each patient, regardless of source of
7 payment, to examine and receive a reasonable explanation of his
8 total bill for services rendered by his physician or health
9 care provider, including the itemized charges for specific
10 services received. Each physician or health care provider shall
11 be responsible only for a reasonable explanation of those
12 specific services provided by such physician or health care
13 provider.

14 (c) In the event an insurance company or health services
15 corporation cancels or refuses to renew an individual policy or
16 plan, the insured patient shall be entitled to timely, prior
17 notice of the termination of such policy or plan.

18 An insurance company or health services corporation that
19 requires any insured patient or applicant for new or continued
20 insurance or coverage to be tested for infection with human
21 immunodeficiency virus (HIV) or any other identified causative
22 agent of acquired immunodeficiency syndrome (AIDS) shall (1)
23 give the patient or applicant prior written notice of such
24 requirement, (2) proceed with such testing only upon the
25 written authorization of the applicant or patient, and (3) keep
26 the results of such testing confidential. Notice of an adverse

1 underwriting or coverage decision may be given to any
2 appropriately interested party, but the insurer may only
3 disclose the test result itself to a physician designated by
4 the applicant or patient, and any such disclosure shall be in a
5 manner that assures confidentiality.

6 The Department of Insurance shall enforce the provisions of
7 this subsection.

8 (d) The right of each patient to privacy and
9 confidentiality in health care. Each physician, health care
10 provider, health services corporation and insurance company
11 shall refrain from disclosing the nature or details of services
12 provided to patients, except that such information may be
13 disclosed: (1) to the patient, (2) to the party making
14 treatment decisions if the patient is incapable of making
15 decisions regarding the health services provided, (3) for those
16 parties directly involved with providing treatment in
17 accordance with 45 CFR 164.501 and 164.506, (4) for to the
18 patient or processing the payment in accordance with 45 CFR
19 164.501 and 164.506, (5) to for that treatment, those parties
20 responsible for peer review, utilization review, and quality
21 assurance, (6) for health care operations in accordance with 45
22 CFR 164.501 and 164.506, (7) to and those parties required to
23 be notified under the Abused and Neglected Child Reporting Act
24 or the Illinois Sexually Transmissible Disease Control Act, or
25 (8) as where otherwise permitted, authorized, or required by
26 State or federal law. This right may be waived in writing by

1 the patient or the patient's guardian or legal representative,
2 but a physician or other health care provider may not condition
3 the provision of services on the patient's, ~~or~~ guardian's, or
4 legal representative's agreement to sign such a waiver. In the
5 interest of public health, safety, and welfare, patient
6 information, including, but not limited to, health
7 information, demographic information, and information about
8 the services provided to patients, may be transmitted to or
9 through a health information exchange, as that term is defined
10 in Section 2 of the Mental Health and Developmental
11 Disabilities Confidentiality Act, in accordance with the
12 disclosures permitted pursuant to this Section. Patients shall
13 be provided the opportunity to opt out of their health
14 information being transmitted to or through a health
15 information exchange in accordance with the regulations,
16 standards, or contractual obligations adopted by the Illinois
17 Health Information Exchange Authority in accordance with
18 Section 9.6 of the Mental Health and Developmental Disabilities
19 Confidentiality Act, Section 9.6 of the AIDS Confidentiality
20 Act, or Section 31.8 of the Genetic Information Privacy Act, as
21 applicable. In the case of a patient choosing to opt out of
22 having his or her information available on an HIE, nothing in
23 this Act shall cause the physician or health care provider to
24 be liable for the release of a patient's health information by
25 other entities that may possess such information, including,
26 but not limited to, other health professionals, providers,

1 laboratories, pharmacies, hospitals, ambulatory surgical
2 centers, and nursing homes.

3 (Source: P.A. 86-895; 86-902; 86-1028; 87-334.)

4 Section 10. The AIDS Confidentiality Act is amended by
5 changing Sections 2, 3, 9, 10, and 16 and by adding Sections
6 9.1, 9.2, 9.3, 9.4, 9.4a, 9.6, 9.7, 9.8, 9.9, and 9.10 as
7 follows:

8 (410 ILCS 305/2) (from Ch. 111 1/2, par. 7302)

9 Sec. 2. The General Assembly finds that:

10 (1) The use of tests designed to reveal a condition
11 indicative of Human Immunodeficiency Virus (HIV) infection can
12 be a valuable tool in protecting the public health.

13 (2) Despite existing laws, regulations and professional
14 standards which require or promote the informed, voluntary and
15 confidential use of tests designed to reveal HIV infection,
16 many members of the public are deterred from seeking such
17 testing because they misunderstand the nature of the test or
18 fear that test results or other health information that reveals
19 their HIV status will be disclosed without their consent.

20 (3) The public health will be served by facilitating
21 informed, voluntary and confidential use of tests designed to
22 reveal HIV infection and appropriately protecting the health
23 information privacy of patients who are HIV-positive.

24 (4) The public health will also be served by expanding the

1 availability of informed, voluntary, and confidential HIV
2 testing and treatment and making HIV testing a routine part of
3 general medical care, as recommended by the United States
4 Centers for Disease Control and Prevention.

5 (5) The use of electronic health record systems and the
6 exchange of electronic patient records, both paper and
7 electronic, through secure means, including through secure
8 health information exchanges, should be encouraged to improve
9 patient health care and care coordination, facilitate public
10 health reporting, and control health care costs, among other
11 purposes.

12 (6) Limiting the use or disclosure of, and requests for,
13 protected health information to the minimum necessary to
14 accomplish an intended purpose, when being transmitted by or on
15 behalf of a covered entity under HIPAA, is a key component of
16 health information privacy. The disclosure of HIV-related
17 information, when allowed by this Act, shall be performed in
18 accordance with the minimum necessary standard when required
19 under HIPAA.

20 (Source: P.A. 95-7, eff. 6-1-08.)

21 (410 ILCS 305/3) (from Ch. 111 1/2, par. 7303)

22 Sec. 3. When used in this Act:

23 (a) "AIDS" means acquired immunodeficiency syndrome.

24 (b) "Authority" means the Illinois Health Information
25 Exchange Authority established pursuant to the Illinois Health

1 Information Exchange and Technology Act.

2 (c) "Business associate" has the meaning ascribed to it
3 under HIPAA, as specified in 45 CFR 160.103.

4 (d) "Covered entity" has the meaning ascribed to it under
5 HIPAA, as specified in 45 CFR 160.103.

6 (e) "De-identified information" means health information
7 that is not individually identifiable as described under HIPAA,
8 as specified in 45 CFR 164.514(b).

9 (f) ~~(a)~~ "Department" means the Illinois Department of
10 Public Health or its designated agents.

11 (g) "Disclosure" has the meaning ascribed to it under
12 HIPAA, as specified in 45 CFR 160.103.

13 (h) "Health care operations" has the meaning ascribed to it
14 under HIPAA, as specified in 45 CFR 164.501.

15 (i) "Health care professional" means (i) a licensed
16 physician, (ii) a physician assistant to whom the physician
17 assistant's supervising physician has delegated the provision
18 of AIDS and HIV-related health services, (iii) an advanced
19 practice registered nurse who has a written collaborative
20 agreement with a collaborating physician which authorizes the
21 provision of AIDS and HIV-related health services, (iv) a
22 licensed dentist, (v) a licensed podiatric physician, or (vi)
23 an individual certified to provide HIV testing and counseling
24 by a state or local public health department.

25 (j) "Health care provider" has the meaning ascribed to it
26 under HIPAA, as specified in 45 CFR 160.103.

1 ~~(b) "AIDS" means acquired immunodeficiency syndrome.~~

2 ~~(c) "HIV" means the Human Immunodeficiency Virus or any~~
3 ~~other identified causative agent of AIDS.~~

4 ~~(d) "Informed consent" means a written or verbal agreement~~
5 ~~by the subject of a test or the subject's legally authorized~~
6 ~~representative without undue inducement or any element of~~
7 ~~force, fraud, deceit, duress or other form of constraint or~~
8 ~~coercion, which entails at least the following pre test~~
9 ~~information:~~

10 ~~(1) a fair explanation of the test, including its~~
11 ~~purpose, potential uses, limitations and the meaning of its~~
12 ~~results; and~~

13 ~~(2) a fair explanation of the procedures to be~~
14 ~~followed, including the voluntary nature of the test, the~~
15 ~~right to withdraw consent to the testing process at any~~
16 ~~time, the right to anonymity to the extent provided by law~~
17 ~~with respect to participation in the test and disclosure of~~
18 ~~test results, and the right to confidential treatment of~~
19 ~~information identifying the subject of the test and the~~
20 ~~results of the test, to the extent provided by law.~~

21 ~~Pre test information may be provided in writing, verbally,~~
22 ~~or by video, electronic, or other means. The subject must be~~
23 ~~offered an opportunity to ask questions about the HIV test and~~
24 ~~decline testing. Nothing in this Act shall prohibit a health~~
25 ~~care provider from combining a form used to obtain informed~~
26 ~~consent for HIV testing with forms used to obtain written~~

1 ~~consent for general medical care or any other medical test or~~
2 ~~procedure provided that the forms make it clear that the~~
3 ~~subject may consent to general medical care, tests, or medical~~
4 ~~procedures without being required to consent to HIV testing and~~
5 ~~clearly explain how the subject may opt out of HIV testing.~~

6 (k) ~~(e)~~ "Health facility" means a hospital, nursing home,
7 blood bank, blood center, sperm bank, or other health care
8 institution, including any "health facility" as that term is
9 defined in the Illinois Finance Authority Act.

10 (l) "Health information exchange" or "HIE" means a health
11 information exchange or health information organization that
12 oversees and governs the electronic exchange of health
13 information that (i) is established pursuant to the Illinois
14 Health Information Exchange and Technology Act, or any
15 subsequent amendments thereto, and any administrative rules
16 adopted thereunder; (ii) has established a data sharing
17 arrangement with the Authority; or (iii) as of August 16, 2013,
18 was designated by the Authority Board as a member of, or was
19 represented on, the Authority Board's Regional Health
20 Information Exchange Workgroup; provided that such designation
21 shall not require the establishment of a data sharing
22 arrangement or other participation with the Illinois Health
23 Information Exchange or the payment of any fee. In certain
24 circumstances, in accordance with HIPAA, an HIE will be a
25 business associate.

26 (m) "Health oversight agency" has the meaning ascribed to

1 it under HIPAA, as specified in 45 CFR 164.501.

2 (n) "HIPAA" means the Health Insurance Portability and
3 Accountability Act of 1996, Public Law 104-191, as amended by
4 the Health Information Technology for Economic and Clinical
5 Health Act of 2009, Public Law 111-05, and any subsequent
6 amendments thereto and any regulations promulgated thereunder.

7 (o) "HIV" means the human immunodeficiency virus.

8 (p) "HIV-related information" means the identity of a
9 person upon whom an HIV test is performed, the results of an
10 HIV test, as well as diagnosis, treatment, and prescription
11 information that reveals a patient is HIV-positive, including
12 such information contained in a limited data set. "HIV-related
13 information" does not include information that has been
14 de-identified in accordance with HIPAA.

15 (q) "Informed consent" means a written or verbal agreement
16 by the subject of a test or the subject's legally authorized
17 representative without undue inducement or any element of
18 force, fraud, deceit, duress, or other form of constraint or
19 coercion, which entails at least the following pre-test
20 information:

21 (1) a fair explanation of the test, including its
22 purpose, potential uses, limitations, and the meaning of
23 its results;

24 (2) a fair explanation of the procedures to be
25 followed, including the voluntary nature of the test, the
26 right to withdraw consent to the testing process at any

1 time, the right to anonymity to the extent provided by law
2 with respect to participation in the test and disclosure of
3 test results, and the right to confidential treatment of
4 information identifying the subject of the test and the
5 results of the test, to the extent provided by law; and

6 (3) where the person providing informed consent is a
7 participant in an HIE, a fair explanation that the results
8 of the patient's HIV test will be accessible through an HIE
9 and meaningful disclosure of the patient's opt-out right
10 under Section 9.6 of this Act.

11 Pre-test information may be provided in writing, verbally,
12 or by video, electronic, or other means. The subject must be
13 offered an opportunity to ask questions about the HIV test and
14 decline testing. Nothing in this Act shall prohibit a health
15 care provider or health care professional from combining a form
16 used to obtain informed consent for HIV testing with forms used
17 to obtain written consent for general medical care or any other
18 medical test or procedure provided that the forms make it clear
19 that the subject may consent to general medical care, tests, or
20 medical procedures without being required to consent to HIV
21 testing and clearly explain how the subject may opt out of HIV
22 testing.

23 (r) "Limited data set" has the meaning ascribed to it under
24 HIPAA, as described in 45 CFR 164.514(e)(2).

25 (s) "Minimum necessary" means the HIPAA standard for using,
26 disclosing, and requesting protected health information found

1 in 45 CFR 164.502(b) and 164.514(d).

2 (t) "Organized health care arrangement" has the meaning
3 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

4 (u) "Patient safety activities" has the meaning ascribed to
5 it under 42 CFR 3.20.

6 (v) "Payment" has the meaning ascribed to it under HIPAA,
7 as specified in 45 CFR 164.501.

8 (w) "Person" includes any natural person, partnership,
9 association, joint venture, trust, governmental entity, public
10 or private corporation, health facility, or other legal entity.

11 (x) "Protected health information" has the meaning
12 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

13 (y) "Research" has the meaning ascribed to it under HIPAA,
14 as specified in 45 CFR 164.501.

15 (z) "State agency" means an instrumentality of the State of
16 Illinois and any instrumentality of another state that,
17 pursuant to applicable law or a written undertaking with an
18 instrumentality of the State of Illinois, is bound to protect
19 the privacy of HIV-related information of Illinois persons.

20 ~~(f) "Health care provider" means any health care~~
21 ~~professional, nurse, paramedic, psychologist or other person~~
22 ~~providing medical, nursing, psychological, or other health~~
23 ~~care services of any kind.~~

24 ~~(f-5) "Health care professional" means (i) a licensed~~
25 ~~physician, (ii) a physician assistant to whom the physician~~
26 ~~assistant's supervising physician has delegated the provision~~

1 ~~of AIDS and HIV-related health services, (iii) an advanced~~
2 ~~practice registered nurse who has a written collaborative~~
3 ~~agreement with a collaborating physician which authorizes the~~
4 ~~provision of AIDS and HIV-related health services, (iv) a~~
5 ~~licensed dentist, (v) a licensed podiatric physician, or (vi)~~
6 ~~an individual certified to provide HIV testing and counseling~~
7 ~~by a state or local public health department.~~

8 (aa) ~~(g)~~ "Test" or "HIV test" means a test to determine the
9 presence of the antibody or antigen to HIV, or of HIV
10 infection.

11 (bb) "Treatment" has the meaning ascribed to it under
12 HIPAA, as specified in 45 CFR 164.501.

13 (cc) "Use" has the meaning ascribed to it under HIPAA, as
14 specified in 45 CFR 160.103, where context dictates.

15 ~~(h)~~ "Person" ~~includes any natural person, partnership,~~
16 ~~association, joint venture, trust, governmental entity, public~~
17 ~~or private corporation, health facility or other legal entity.~~

18 (Source: P.A. 98-214, eff. 8-9-13.)

19 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

20 Sec. 9. (1) No person may disclose or be compelled to
21 disclose HIV-related information ~~the identity of any person~~
22 ~~upon whom a test is performed, or the results of such a test in~~
23 ~~a manner which permits identification of the subject of the~~
24 ~~test, except to the following persons:~~

25 (a) The subject of an HIV ~~the~~ test or the subject's legally

1 authorized representative. A physician may notify the spouse of
2 the test subject, if the test result is positive and has been
3 confirmed pursuant to rules adopted by the Department, provided
4 that the physician has first sought unsuccessfully to persuade
5 the patient to notify the spouse or that, a reasonable time
6 after the patient has agreed to make the notification, the
7 physician has reason to believe that the patient has not
8 provided the notification. This paragraph shall not create a
9 duty or obligation under which a physician must notify the
10 spouse of the test results, nor shall such duty or obligation
11 be implied. No civil liability or criminal sanction under this
12 Act shall be imposed for any disclosure or non-disclosure of a
13 test result to a spouse by a physician acting in good faith
14 under this paragraph. For the purpose of any proceedings, civil
15 or criminal, the good faith of any physician acting under this
16 paragraph shall be presumed.

17 (b) Any person designated in a legally effective
18 authorization for release of the HIV-related information ~~test~~
19 ~~results~~ executed by the subject of the HIV-related information
20 ~~test~~ or the subject's legally authorized representative.

21 (c) An authorized agent or employee of a health facility or
22 health care provider if the health facility or health care
23 provider itself is authorized to obtain the test results, the
24 agent or employee provides patient care or handles or processes
25 specimens of body fluids or tissues, and the agent or employee
26 has a need to know such information.

1 (d) The Department and local health authorities serving a
2 population of over 1,000,000 residents or other local health
3 authorities as designated by the Department, in accordance with
4 rules for reporting, preventing, and controlling the spread of
5 disease and the conduct of public health surveillance, public
6 health investigations, and public health interventions, as
7 otherwise provided by State law. The Department, local health
8 authorities, and authorized representatives shall not disclose
9 HIV test results and HIV-related information ~~and records held~~
10 ~~by them relating to known or suspected cases of AIDS or HIV~~
11 ~~infection,~~ publicly or in any action of any kind in any court
12 or before any tribunal, board, or agency. HIV test results and
13 HIV-related information ~~AIDS and HIV infection data~~ shall be
14 protected from disclosure in accordance with the provisions of
15 Sections 8-2101 through 8-2105 of the Code of Civil Procedure.

16 (e) A health facility, ~~or~~ health care provider, or health
17 care professional which procures, processes, distributes or
18 uses: (i) a human body part from a deceased person with respect
19 to medical information regarding that person; or (ii) semen
20 provided prior to the effective date of this Act for the
21 purpose of artificial insemination.

22 (f) Health facility staff committees for the purposes of
23 conducting program monitoring, program evaluation or service
24 reviews.

25 (f-5) A court in accordance with the provisions of Section
26 12-5.01 of the Criminal Code of 2012.

1 (g) (Blank).

2 (h) Any health care provider, health care professional, or
3 employee of a health facility, and any firefighter or EMT-A,
4 EMT-P, or EMT-I, involved in an accidental direct skin or
5 mucous membrane contact with the blood or bodily fluids of an
6 individual which is of a nature that may transmit HIV, as
7 determined by a physician in his medical judgment.

8 (i) Any law enforcement officer, as defined in subsection
9 (c) of Section 7, involved in the line of duty in a direct skin
10 or mucous membrane contact with the blood or bodily fluids of
11 an individual which is of a nature that may transmit HIV, as
12 determined by a physician in his medical judgment.

13 (j) A temporary caretaker of a child taken into temporary
14 protective custody by the Department of Children and Family
15 Services pursuant to Section 5 of the Abused and Neglected
16 Child Reporting Act, as now or hereafter amended.

17 (k) In the case of a minor under 18 years of age whose test
18 result is positive and has been confirmed pursuant to rules
19 adopted by the Department, the health care professional
20 ~~provider~~ who ordered the test shall make a reasonable effort to
21 notify the minor's parent or legal guardian if, in the
22 professional judgment of the health care professional
23 ~~provider~~, notification would be in the best interest of the
24 child and the health care professional ~~provider~~ has first
25 sought unsuccessfully to persuade the minor to notify the
26 parent or legal guardian or a reasonable time after the minor

1 has agreed to notify the parent or legal guardian, the health
2 care professional ~~provider~~ has reason to believe that the minor
3 has not made the notification. This subsection shall not create
4 a duty or obligation under which a health care professional
5 ~~provider~~ must notify the minor's parent or legal guardian of
6 the test results, nor shall a duty or obligation be implied. No
7 civil liability or criminal sanction under this Act shall be
8 imposed for any notification or non-notification of a minor's
9 test result by a health care professional ~~provider~~ acting in
10 good faith under this subsection. For the purpose of any
11 proceeding, civil or criminal, the good faith of any health
12 care professional ~~provider~~ acting under this subsection shall
13 be presumed.

14 (2) All information and records held by a State agency,
15 local health authority, or health oversight agency pertaining
16 to HIV-related information shall be strictly confidential and
17 exempt from copying and inspection under the Freedom of
18 Information Act. The information and records shall not be
19 released or made public by the State agency, local health
20 authority, or health oversight agency, shall not be admissible
21 as evidence nor discoverable in any action of any kind in any
22 court or before any tribunal, board, agency, or person, and
23 shall be treated in the same manner as the information and
24 those records subject to the provisions of Part 21 of Article
25 VIII of the Code of Civil Procedure, except under the following
26 circumstances:

1 (A) when made with the written consent of all persons
2 to whom the information pertains; or

3 (B) when authorized by Section 5-4-3 of the Unified
4 Code of Corrections.

5 Disclosure shall be limited to those who have a need to
6 know the information, and no additional disclosures may be
7 made.

8 (Source: P.A. 96-328, eff. 8-11-09; 97-1046, eff. 8-21-12;
9 97-1150, eff. 1-25-13.)

10 (410 ILCS 305/9.1 new)

11 Sec. 9.1. Uses and disclosures for treatment, payment, and
12 health care operations. Notwithstanding Sections 9 and 10 of
13 this Act, a covered entity may, without a patient's consent:

14 (1) use or disclose HIV-related information for its own
15 treatment, payment, or health care operations;

16 (2) disclose HIV-related information for treatment
17 activities of a health care provider or health care
18 professional;

19 (3) disclose HIV-related information to another
20 covered entity or health care provider or health care
21 professional for the payment activities of the entity that
22 receives the information;

23 (4) disclose HIV-related information to another
24 covered entity for health care operations activities of the
25 entity that receives the information, if each entity has or

1 had a relationship with the individual who is the subject
2 of the HIV-related information being requested, the
3 HIV-related information pertains to such relationship, and
4 the disclosure is for the purpose of (A) conducting quality
5 assessment and improvement activities, including outcomes
6 evaluation and development of clinical guidelines,
7 provided that the obtaining of generalizable knowledge is
8 not the primary purpose of any studies resulting from such
9 activities; patient safety activities; population-based
10 activities relating to improving health or reducing health
11 care costs, protocol development, case management, and
12 care coordination, contacting of health care providers and
13 patients with information about treatment alternatives;
14 and related functions that do not include treatment; (B)
15 reviewing the competence or qualifications of health care
16 professionals or health care providers, evaluating
17 practitioner and provider performance, health plan
18 performance, conducting training programs in which
19 students, trainees, or practitioners in areas of health
20 care learn under supervision to practice or improve their
21 skills as health care providers, training of non-health
22 care professionals, accreditation, certification,
23 licensing, or credentialing activities; or (C) health care
24 fraud and abuse detection or compliance; and
25 (5) disclose HIV-related information to other
26 participants in an organized health care arrangement in

1 which the covered entity is also a participant for any
2 health care operations activities of the organized health
3 care arrangement.

4 (410 ILCS 305/9.2 new)

5 Sec. 9.2. Uses and disclosures for health oversight
6 activities.

7 (a) Notwithstanding Sections 9 and 10 of this Act, a
8 covered entity may disclose HIV-related information, without a
9 patient's consent, to a health oversight agency for health
10 oversight activities authorized by law, including audits,
11 civil, administrative, or criminal investigations;
12 inspections; licensure or disciplinary actions; civil
13 administrative or criminal proceedings or actions; or other
14 activities necessary for appropriate oversight of (i) the
15 health care system; (ii) government benefit programs for which
16 health information is relevant to beneficiary eligibility;
17 (iii) entities subject to government regulatory programs for
18 which health information is necessary for determining
19 compliance with program standards; or (iv) entities subject to
20 civil rights laws for which health information is necessary for
21 determining compliance.

22 (b) For purposes of the disclosures permitted by this
23 Section, a health oversight activity does not include an
24 investigation or other activity in which the individual is the
25 subject of the investigation or activity and such investigation

1 or other activity does not arise out of and is not directly
2 related to (i) the receipt of health care; (ii) a claim for
3 public benefits related to health; or (iii) qualification for,
4 or receipt of, public benefits or services when a patient's
5 health is integral to the claim for public benefits or
6 services, except that, if a health oversight activity or
7 investigation is conducted in conjunction with an oversight
8 activity or investigation relating to a claim for public
9 benefits not related to health, the joint activity or
10 investigation is considered a health oversight activity for
11 purposes of this Section.

12 (c) If a covered entity is also a health oversight agency,
13 the covered entity may use HIV-related information for health
14 oversight activities permitted by this Section.

15 (410 ILCS 305/9.3 new)

16 Sec. 9.3. Business associates.

17 (a) Notwithstanding Sections 9 and 10 of this Act, a
18 covered entity may, without a patient's consent, disclose a
19 patient's HIV-related information to a business associate and
20 may allow a business associate to create, receive, maintain, or
21 transmit protected health information on its behalf, if the
22 covered entity obtains, through a written contract or other
23 written agreement or arrangement that meets the applicable
24 requirements of 45 CFR 164.504(e), satisfactory assurance that
25 the business associate will appropriately safeguard the

1 information. A covered entity is not required to obtain such
2 satisfactory assurances from a business associate that is a
3 subcontractor.

4 (b) A business associate may disclose protected health
5 information to a business associate that is a subcontractor and
6 may allow the subcontractor to create, receive, maintain, or
7 transmit protected health information on its behalf, if the
8 business associate obtains satisfactory assurances, in
9 accordance with 45 CFR 164.504(e)(1)(i), that the
10 subcontractor will appropriately safeguard the information.

11 (410 ILCS 305/9.4 new)

12 Sec. 9.4. Use and disclosure of information to an HIE.
13 Notwithstanding the provisions of Sections 9 and 10 of this
14 Act, a covered entity may, without a patient's consent,
15 disclose the identity of any patient upon whom a test is
16 performed and such patient's HIV-related information from a
17 patient's record to an HIE if the disclosure is a required or
18 permitted disclosure to a business associate or is a disclosure
19 otherwise required or permitted under this Act. An HIE may,
20 without a patient's consent, use or disclose such information
21 to the extent it is allowed to use or disclose such information
22 as a business associate in compliance with 45 CFR 164.502(e) or
23 for such other purposes as are specifically allowed under this
24 Act.

1 (410 ILCS 305/9.4a new)

2 Sec. 9.4a. Other disclosures. Nothing in this Act shall be
3 construed (1) to limit the use of an HIE to facilitate
4 disclosures permitted by this Act or (2) to allow for the
5 disclosure of information from a patient's record to law
6 enforcement or for law enforcement purposes.

7 (410 ILCS 305/9.6 new)

8 Sec. 9.6. HIE opt out. Section 9.6 of the Mental Health and
9 Developmental Disabilities Confidentiality Act is incorporated
10 herein by reference. In addition to the requirements set out in
11 Section 9.6 of the Mental Health and Developmental Disabilities
12 Confidentiality Act, at the time of a patient's first encounter
13 for HIV-related care with a health care provider, health care
14 professional, or health facility that participates in an HIE,
15 or, in the event of a medical emergency that makes it
16 impossible, as soon thereafter as is practicable, the patient
17 shall receive meaningful disclosure regarding the HIE in which
18 the health care provider, health care professional, or health
19 facility participates and shall be afforded an opportunity to
20 opt out of disclosure of the patient's health information
21 through the HIE.

22 (410 ILCS 305/9.7 new)

23 Sec. 9.7. Record locator service to support HIE. Section
24 9.9 of the Mental Health and Developmental Disabilities and

1 Confidentiality Act is herein incorporated by reference.

2 (410 ILCS 305/9.8 new)

3 Sec. 9.8. Disclosure of limited data sets and de-identified
4 information. Notwithstanding the provisions of Sections 9 and
5 10 of this Act:

6 (1) a covered entity may, without a patient's consent,
7 create, use, and disclose a limited data set using
8 HIV-related information from a patient's record or
9 disclose HIV-related information from a patient's record
10 to a business associate for the purpose of establishing a
11 limited data set; the creation, use, and disclosure of such
12 a limited data set must comply with the requirements set
13 forth under HIPAA;

14 (2) a covered entity may, without a patient's consent,
15 create, use, and disclose de-identified information using
16 information from a patient's record that is subject to this
17 Act or disclose HIV-related information from a patient's
18 record to a business associate for the purpose of
19 de-identifying the information; the creation, use, and
20 disclosure of such de-identified data must comply with the
21 requirements set forth under HIPAA. A covered entity or a
22 business associate may disclose information that is
23 de-identified; and

24 (3) the recipient of de-identified information shall
25 not re-identify de-identified information using any public

1 or private data source.

2 (410 ILCS 305/9.9 new)

3 Sec. 9.9. Research. HIV-related information may be
4 disclosed for research in accordance with the requirements set
5 forth under HIPAA.

6 (410 ILCS 305/9.10 new)

7 Sec. 9.10. Minimum necessary. When using and disclosing
8 HIV-related information under this Act, a covered entity shall
9 do so in accordance with the minimum necessary standard under
10 HIPAA.

11 (410 ILCS 305/10) (from Ch. 111 1/2, par. 7310)

12 Sec. 10. No person to whom the results of a test have been
13 disclosed may disclose the test results to another person
14 except as authorized under this Act ~~by Section 9.~~

15 (Source: P.A. 85-677; 85-679.)

16 (410 ILCS 305/16) (from Ch. 111 1/2, par. 7316)

17 Sec. 16. The Department shall promulgate rules and
18 regulations concerning implementation and enforcement of this
19 Act, except to the extent that this Act delegates to the
20 Authority the promulgation or adoption of any rules,
21 regulations, standards, or contractual obligations. The rules
22 and regulations promulgated by the Department pursuant to this

1 Act may include procedures for taking appropriate action with
2 regard to health care facilities or health care providers which
3 violate this Act or the regulations promulgated hereunder. The
4 provisions of The Illinois Administrative Procedure Act shall
5 apply to all administrative rules and procedures of the
6 Department pursuant to this Act, except that in case of
7 conflict between The Illinois Administrative Procedure Act and
8 this Act, the provisions of this Act shall control. The
9 Department shall conduct training, technical assistance, and
10 outreach activities, as needed, to implement routine HIV
11 testing in healthcare medical settings.

12 (Source: P.A. 95-7, eff. 6-1-08.)

13 Section 15. The Genetic Information Privacy Act is amended
14 by changing Sections 5, 10, 20, 25, 30, 35, and 40 and by
15 adding Sections 31, 31.1, 31.2, 31.3, 31.4, 31.5, 31.6, 31.7,
16 31.8, 31.9, and 31.10 as follows:

17 (410 ILCS 513/5)

18 Sec. 5. Legislative findings; intent. The General Assembly
19 finds that:

20 (1) The use of genetic testing can be valuable to an
21 individual.

22 (2) Despite existing laws, regulations, and
23 professional standards which require or promote voluntary
24 and confidential use of genetic testing information, many

1 members of the public are deterred from seeking genetic
2 testing because of fear that test results will be disclosed
3 without consent in a manner not permitted by law or will be
4 used in a discriminatory manner.

5 (3) The public health will be served by facilitating
6 voluntary and confidential nondiscriminatory use of
7 genetic testing information.

8 (4) The use of electronic health record systems and the
9 exchange of patient records, both paper and electronic,
10 through secure means, including through secure health
11 information exchanges, should be encouraged to improve
12 patient health care and care coordination, facilitate
13 public health reporting, and control health care costs,
14 among other purposes.

15 (5) Limiting the use or disclosure of, and requests
16 for, protected health information to the minimum necessary
17 to accomplish an intended purpose, when being transmitted
18 by or on behalf of a covered entity under HIPAA, is a key
19 component of health information privacy. The disclosure of
20 genetic information, when allowed by this Act, shall be
21 performed in accordance with the minimum necessary
22 standard when required under HIPAA.

23 (Source: P.A. 90-25, eff. 1-1-98.)

24 (410 ILCS 513/10)

25 Sec. 10. Definitions. As used in this Act:

1 "Authority" means the Illinois Health Information Exchange
2 Authority established pursuant to the Illinois Health
3 Information Exchange and Technology Act.

4 "Business associate" has the meaning ascribed to it under
5 HIPAA, as specified in 45 CFR 160.103.

6 "Covered entity" has the meaning ascribed to it under
7 HIPAA, as specified in 45 CFR 160.103.

8 "De-identified information" means health information that
9 is not individually identifiable as described under HIPAA, as
10 specified in 45 CFR 164.514(b).

11 "Disclosure" has the meaning ascribed to it under HIPAA, as
12 specified in 45 CFR 160.103.

13 "Employer" means the State of Illinois, any unit of local
14 government, and any board, commission, department,
15 institution, or school district, any party to a public
16 contract, any joint apprenticeship or training committee
17 within the State, and every other person employing employees
18 within the State.

19 "Employment agency" means both public and private
20 employment agencies and any person, labor organization, or
21 labor union having a hiring hall or hiring office regularly
22 undertaking, with or without compensation, to procure
23 opportunities to work, or to procure, recruit, refer, or place
24 employees.

25 "Family member" means, with respect to an individual, (i)
26 the spouse of the individual; (ii) a dependent child of the

1 individual, including a child who is born to or placed for
2 adoption with the individual; (iii) any other person qualifying
3 as a covered dependent under a managed care plan; and (iv) all
4 other individuals related by blood or law to the individual or
5 the spouse or child described in subsections (i) through (iii)
6 of this definition.

7 "Genetic information" has the meaning ascribed to it under
8 HIPAA, as specified in 45 CFR 160.103. ~~means, with respect to~~
9 ~~any individual, information about (i) the individual's genetic~~
10 ~~tests; (ii) the genetic tests of a family member of the~~
11 ~~individual; and (iii) the manifestation or possible~~
12 ~~manifestation of a disease or disorder in a family member of~~
13 ~~the individual. Genetic information does not include~~
14 ~~information about the sex or age of any individual.~~

15 "Genetic monitoring" means the periodic examination of
16 employees to evaluate acquired modifications to their genetic
17 material, such as chromosomal damage or evidence of increased
18 occurrence of mutations that may have developed in the course
19 of employment due to exposure to toxic substances in the
20 workplace in order to identify, evaluate, and respond to
21 effects of or control adverse environmental exposures in the
22 workplace.

23 "Genetic services" has the meaning ascribed to it under
24 HIPAA, as specified in 45 CFR 160.103 ~~means a genetic test,~~
25 ~~genetic counseling, including obtaining, interpreting, or~~
26 ~~assessing genetic information, or genetic education.~~

1 "Genetic testing" and "genetic test" have the meaning
2 ascribed to "genetic test" under HIPAA, as specified in 45 CFR
3 160.103. ~~mean a test or analysis of human genes, gene products,~~
4 ~~DNA, RNA, chromosomes, proteins, or metabolites that detect~~
5 ~~genotypes, mutations, chromosomal changes, abnormalities, or~~
6 ~~deficiencies, including carrier status, that (i) are linked to~~
7 ~~physical or mental disorders or impairments, (ii) indicate a~~
8 ~~susceptibility to illness, disease, impairment, or other~~
9 ~~disorders, whether physical or mental, or (iii) demonstrate~~
10 ~~genetic or chromosomal damage due to environmental factors.~~
11 ~~Genetic testing and genetic tests do not include routine~~
12 ~~physical measurements, chemical, blood and urine analyses that~~
13 ~~are widely accepted and in use in clinical practice; tests for~~
14 ~~use of drugs; tests for the presence of the human~~
15 ~~immunodeficiency virus; analyses of proteins or metabolites~~
16 ~~that do not detect genotypes, mutations, chromosomal changes,~~
17 ~~abnormalities, or deficiencies; or analyses of proteins or~~
18 ~~metabolites that are directly related to a manifested disease,~~
19 ~~disorder, or pathological condition that could reasonably be~~
20 ~~detected by a health care professional with appropriate~~
21 ~~training and expertise in the field of medicine involved.~~

22 "Health care operations" has the meaning ascribed to it
23 under HIPAA, as specified in 45 CFR 164.501.

24 "Health care professional" means (i) a licensed physician,
25 (ii) a physician assistant to whom the physician assistant's
26 supervising physician has delegated the provision of genetic

1 testing or genetic counseling-related services, (iii) an
2 advanced practice registered nurse who has a written
3 collaborative agreement with a collaborating physician which
4 authorizes the provision of genetic testing or genetic
5 counseling-related health services, (iv) a licensed dentist,
6 (v) a licensed podiatrist, (vi) a licensed genetic counselor,
7 or (vii) an individual certified to provide genetic testing by
8 a state or local public health department.

9 "Health care provider" has the meaning ascribed to it under
10 HIPAA, as specified in 45 CFR 160.103.

11 "Health facility" means a hospital, blood bank, blood
12 center, sperm bank, or other health care institution, including
13 any "health facility" as that term is defined in the Illinois
14 Finance Authority Act.

15 "Health information exchange" or "HIE" means a health
16 information exchange or health information organization that
17 exchanges health information electronically that (i) is
18 established pursuant to the Illinois Health Information
19 Exchange and Technology Act, or any subsequent amendments
20 thereto, and any administrative rules promulgated thereunder;
21 (ii) has established a data sharing arrangement with the
22 Authority; or (iii) as of August 16, 2013, was designated by
23 the Authority Board as a member of, or was represented on, the
24 Authority Board's Regional Health Information Exchange
25 Workgroup; provided that such designation shall not require the
26 establishment of a data sharing arrangement or other

1 participation with the Illinois Health Information Exchange or
2 the payment of any fee. In certain circumstances, in accordance
3 with HIPAA, an HIE will be a business associate.

4 "Health oversight agency" has the meaning ascribed to it
5 under HIPAA, as specified in 45 CFR 164.501.

6 "HIPAA" means the Health Insurance Portability and
7 Accountability Act of 1996, Public Law 104-191, as amended by
8 the Health Information Technology for Economic and Clinical
9 Health Act of 2009, Public Law 111-05, and any subsequent
10 amendments thereto and any regulations promulgated thereunder.

11 "Insurer" means (i) an entity that is subject to the
12 jurisdiction of the Director of Insurance ~~transacts an~~
13 ~~insurance business~~ and (ii) a managed care plan.

14 "Labor organization" includes any organization, labor
15 union, craft union, or any voluntary unincorporated
16 association designed to further the cause of the rights of
17 union labor that is constituted for the purpose, in whole or in
18 part, of collective bargaining or of dealing with employers
19 concerning grievances, terms or conditions of employment, or
20 apprenticeships or applications for apprenticeships, or of
21 other mutual aid or protection in connection with employment,
22 including apprenticeships or applications for apprenticeships.

23 "Licensing agency" means a board, commission, committee,
24 council, department, or officers, except a judicial officer, in
25 this State or any political subdivision authorized to grant,
26 deny, renew, revoke, suspend, annul, withdraw, or amend a

1 license or certificate of registration.

2 "Limited data set" has the meaning ascribed to it under
3 HIPAA, as described in 45 CFR 164.514(e) (2).

4 ~~"Labor organization" includes any organization, labor~~
5 ~~union, craft union, or any voluntary unincorporated~~
6 ~~association designed to further the cause of the rights of~~
7 ~~union labor that is constituted for the purpose, in whole or in~~
8 ~~part, of collective bargaining or of dealing with employers~~
9 ~~concerning grievances, terms or conditions of employment, or~~
10 ~~apprenticeships or applications for apprenticeships, or of~~
11 ~~other mutual aid or protection in connection with employment,~~
12 ~~including apprenticeships or applications for apprenticeships.~~

13 "Managed care plan" means a plan that establishes,
14 operates, or maintains a network of health care providers that
15 have entered into agreements with the plan to provide health
16 care services to enrollees where the plan has the ultimate and
17 direct contractual obligation to the enrollee to arrange for
18 the provision of or pay for services through:

19 (1) organizational arrangements for ongoing quality
20 assurance, utilization review programs, or dispute
21 resolution; or

22 (2) financial incentives for persons enrolled in the
23 plan to use the participating providers and procedures
24 covered by the plan.

25 A managed care plan may be established or operated by any
26 entity including a licensed insurance company, hospital or

1 medical service plan, health maintenance organization, limited
2 health service organization, preferred provider organization,
3 third party administrator, or an employer or employee
4 organization.

5 "Minimum necessary" means HIPAA's standard for using,
6 disclosing, and requesting protected health information found
7 in 45 CFR 164.502(b) and 164.514(d).

8 "Nontherapeutic purpose" means a purpose that is not
9 intended to improve or preserve the life or health of the
10 individual whom the information concerns.

11 "Organized health care arrangement" has the meaning
12 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

13 "Patient safety activities" has the meaning ascribed to it
14 under 42 CFR 3.20.

15 "Payment" has the meaning ascribed to it under HIPAA, as
16 specified in 45 CFR 164.501.

17 "Person" includes any natural person, partnership,
18 association, joint venture, trust, governmental entity, public
19 or private corporation, health facility, or other legal entity.

20 "Protected health information" has the meaning ascribed to
21 it under HIPAA, as specified in 45 CFR 164.103.

22 "Research" has the meaning ascribed to it under HIPAA, as
23 specified in 45 CFR 164.501.

24 "State agency" means an instrumentality of the State of
25 Illinois and any instrumentality of another state which
26 pursuant to applicable law or a written undertaking with an

1 instrumentality of the State of Illinois is bound to protect
2 the privacy of genetic information of Illinois persons.

3 "Treatment" has the meaning ascribed to it under HIPAA, as
4 specified in 45 CFR 164.501.

5 "Use" has the meaning ascribed to it under HIPAA, as
6 specified in 45 CFR 160.103, where context dictates.

7 (Source: P.A. 95-927, eff. 1-1-09.)

8 (410 ILCS 513/20)

9 Sec. 20. Use of genetic testing information for insurance
10 purposes.

11 (a) An insurer may not seek information derived from
12 genetic testing for use in connection with a policy of accident
13 and health insurance. Except as provided in subsection (c) ~~(b)~~,
14 an insurer that receives information derived from genetic
15 testing, regardless of the source of that information, may not
16 use the information for a nontherapeutic purpose as it relates
17 to a policy of accident and health insurance.

18 (b) An insurer shall not use or disclose protected health
19 information that is genetic information for underwriting
20 purposes. For purposes of this Section, "underwriting
21 purposes" means, with respect to an insurer:

22 (1) rules for, or determination of, eligibility
23 (including enrollment and continued eligibility) for, or
24 determination of, benefits under the plan, coverage, or
25 policy (including changes in deductibles or other

1 cost-sharing mechanisms in return for activities such as
2 completing a health risk assessment or participating in a
3 wellness program);

4 (2) the computation of premium or contribution amounts
5 under the plan, coverage, or policy (including discounts,
6 rebates, payments in kind, or other premium differential
7 mechanisms in return for activities, such as completing a
8 health risk assessment or participating in a wellness
9 program);

10 (3) the application of any pre-existing condition
11 exclusion under the plan, coverage, or policy; and

12 (4) other activities related to the creation, renewal,
13 or replacement of a contract of health insurance or health
14 benefits.

15 "Underwriting purposes" does not include determinations of
16 medical appropriateness where an individual seeks a benefit
17 under the plan, coverage, or policy.

18 This subsection (b) does not apply to insurers that are
19 issuing a long-term care policy, excluding a nursing home fixed
20 indemnity plan.

21 (c) ~~(b)~~ An insurer may consider the results of genetic
22 testing in connection with a policy of accident and health
23 insurance if the individual voluntarily submits the results and
24 the results are favorable to the individual.

25 (d) ~~(e)~~ An insurer that possesses information derived from
26 genetic testing may not release the information to a third

1 party, except as specified in this Act ~~Section 30~~.

2 (Source: P.A. 92-430, eff. 8-17-01.)

3 (410 ILCS 513/25)

4 Sec. 25. Use of genetic testing information by employers.

5 (a) An employer, employment agency, labor organization,
6 and licensing agency shall treat genetic testing and genetic
7 information in such a manner that is consistent with the
8 requirements of federal law, including but not limited to the
9 Genetic Information Nondiscrimination Act of 2008, the
10 Americans with Disabilities Act, Title VII of the Civil Rights
11 Act of 1964, the Family and Medical Leave Act of 1993, the
12 Occupational Safety and Health Act of 1970, the Federal Mine
13 Safety and Health Act of 1977, or the Atomic Energy Act of
14 1954.

15 (b) An employer may release genetic testing information
16 only in accordance with ~~Sections 15 and 30~~ of this Act.

17 (c) An employer, employment agency, labor organization,
18 and licensing agency shall not directly or indirectly do any of
19 the following:

20 (1) solicit, request, require or purchase genetic
21 testing or genetic information of a person or a family
22 member of the person, or administer a genetic test to a
23 person or a family member of the person as a condition of
24 employment, preemployment application, labor organization
25 membership, or licensure;

1 (2) affect the terms, conditions, or privileges of
2 employment, preemployment application, labor organization
3 membership, or licensure, or terminate the employment,
4 labor organization membership, or licensure of any person
5 because of genetic testing or genetic information with
6 respect to the employee or family member, or information
7 about a request for or the receipt of genetic testing by
8 such employee or family member of such employee;

9 (3) limit, segregate, or classify employees in any way
10 that would deprive or tend to deprive any employee of
11 employment opportunities or otherwise adversely affect the
12 status of the employee as an employee because of genetic
13 testing or genetic information with respect to the employee
14 or a family member, or information about a request for or
15 the receipt of genetic testing or genetic information by
16 such employee or family member of such employee; and

17 (4) retaliate through discharge or in any other manner
18 against any person alleging a violation of this Act or
19 participating in any manner in a proceeding under this Act.

20 (d) An agreement between a person and an employer,
21 prospective employer, employment agency, labor organization,
22 or licensing agency, or its employees, agents, or members
23 offering the person employment, labor organization membership,
24 licensure, or any pay or benefit in return for taking a genetic
25 test is prohibited.

26 (e) An employer shall not use genetic information or

1 genetic testing in furtherance of a workplace wellness program
2 benefiting employees unless (1) health or genetic services are
3 offered by the employer, (2) the employee provides written
4 authorization ~~and informed consent~~ in accordance with Section
5 30 of this Act, (3) only the employee or family member if the
6 family member is receiving genetic services and the licensed
7 health care professional or licensed genetic counselor
8 involved in providing such services receive individually
9 identifiable information concerning the results of such
10 services, and (4) any individually identifiable information is
11 only available for purposes of such services and shall not be
12 disclosed to the employer except in aggregate terms that do not
13 disclose the identity of specific employees.

14 (f) Nothing in this Act shall be construed to prohibit
15 genetic testing of an employee who requests a genetic test and
16 who provides written authorization ~~and informed consent~~, in
17 accordance with Section 30 of this Act, from taking a genetic
18 test for the purpose of initiating a workers' compensation
19 claim under the Workers' Compensation Act.

20 (g) A purchase of commercially and publicly available
21 documents, including newspapers, magazines, periodicals, and
22 books but not including medical databases or court records or
23 inadvertently requesting family medical history by an
24 employer, employment agency, labor organization, and licensing
25 agency does not violate this Act.

26 (h) Nothing in this Act shall be construed to prohibit an

1 employer that conducts DNA analysis for law enforcement
2 purposes as a forensic laboratory and that includes such
3 analysis in the Combined DNA Index System pursuant to the
4 federal Violent Crime Control and Law Enforcement Act of 1994
5 from requesting or requiring genetic testing or genetic
6 information of such employer's employees, but only to the
7 extent that such genetic testing or genetic information is used
8 for analysis of DNA identification markers for quality control
9 to detect sample contamination.

10 (i) Nothing in this Act shall be construed to prohibit an
11 employer from requesting or requiring genetic information to be
12 used for genetic monitoring of the biological effects of toxic
13 substances in the workplace, but only if (1) the employer
14 provides written notice of the genetic monitoring to the
15 employee; (2) the employee provides written authorization ~~and~~
16 ~~informed consent~~ under Section 30 of this Act or the genetic
17 monitoring is required by federal or State law; (3) the
18 employee is informed of individual monitoring results; (4) the
19 monitoring is in compliance with any federal genetic monitoring
20 regulations or State genetic monitoring regulations under the
21 authority of the federal Occupational Safety and Health Act of
22 1970; and (5) the employer, excluding any health care provider,
23 ~~licensed~~ health care professional, or health facility ~~licensed~~
24 ~~genetic counselor~~ that is involved in the genetic monitoring
25 program, receives the results of the monitoring only in
26 aggregate terms that do not disclose the identity of specific

1 employees.

2 (j) Despite lawful acquisition of genetic testing or
3 genetic information under subsections (e) through (i) of this
4 Section, an employer, employment agency, labor organization,
5 and licensing agency still may not use or disclose the genetic
6 test or genetic information in violation of this Act.

7 (k) Except as provided in subsections (e), (f), (h), and
8 (i) of this Section, a person shall not knowingly sell to or
9 interpret for an employer, employment agency, labor
10 organization, or licensing agency, or its employees, agents, or
11 members, a genetic test of an employee, labor organization
12 member, or license holder, or of a prospective employee,
13 member, or license holder.

14 (Source: P.A. 95-927, eff. 1-1-09.)

15 (410 ILCS 513/30)

16 Sec. 30. Disclosure of person tested and test results.

17 (a) No person may disclose or be compelled to disclose the
18 identity of any person upon whom a genetic test is performed or
19 the results of a genetic test in a manner that permits
20 identification of the subject of the test, except to the
21 following persons:

22 (1) The subject of the test or the subject's legally
23 authorized representative. This paragraph does not create
24 a duty or obligation under which a health care provider
25 must notify the subject's spouse or legal guardian of the

1 test results, and no such duty or obligation shall be
2 implied. No civil liability or criminal sanction under this
3 Act shall be imposed for any disclosure or nondisclosure of
4 a test result to a spouse by a physician acting in good
5 faith under this paragraph. For the purpose of any
6 proceedings, civil or criminal, the good faith of any
7 physician acting under this paragraph shall be presumed.

8 (2) Any person designated in a specific written legally
9 effective authorization for release ~~release~~ of the test
10 results executed by the subject of the test or the
11 subject's legally authorized representative.

12 (3) An authorized agent or employee of a health
13 facility or health care provider if the health facility or
14 health care provider itself is authorized to obtain the
15 test results, the agent or employee provides patient care,
16 and the agent or employee has a need to know the
17 information in order to conduct the tests or provide care
18 or treatment.

19 (4) A health facility, ~~or~~ health care provider, or
20 health care professional that procures, processes,
21 distributes, or uses:

22 (A) a human body part from a deceased person with
23 respect to medical information regarding that person;
24 or

25 (B) semen provided prior to the effective date of
26 this Act for the purpose of artificial insemination.

1 (5) Health facility staff committees for the purposes
2 of conducting program monitoring, program evaluation, or
3 service reviews.

4 (6) In the case of a minor under 18 years of age, the
5 health care provider, health care professional, or health
6 facility who ordered the test shall make a reasonable
7 effort to notify the minor's parent or legal guardian if,
8 in the professional judgment of the health care provider,
9 health care professional, or health facility, notification
10 would be in the best interest of the minor and the health
11 care provider, health care professional, or health
12 facility has first sought unsuccessfully to persuade the
13 minor to notify the parent or legal guardian or after a
14 reasonable time after the minor has agreed to notify the
15 parent or legal guardian, the health care provider, health
16 care professional, or health facility has reason to believe
17 that the minor has not made the notification. This
18 paragraph shall not create a duty or obligation under which
19 a health care provider, health care professional, or health
20 facility must notify the minor's parent or legal guardian
21 of the test results, nor shall a duty or obligation be
22 implied. No civil liability or criminal sanction under this
23 Act shall be imposed for any notification or
24 non-notification of a minor's test result by a health care
25 provider, health care professional, or health facility
26 acting in good faith under this paragraph. For the purpose

1 of any proceeding, civil or criminal, the good faith of any
2 health care provider, health care professional, or health
3 facility acting under this paragraph shall be presumed.

4 (b) (7) All information and records held by a State agency, l
5 ~~or~~ local health authority, or health oversight agency
6 pertaining to genetic information shall be strictly
7 confidential and exempt from copying and inspection under the
8 Freedom of Information Act. The information and records shall
9 not be released or made public by the State agency, l ~~or~~ local
10 health authority, or health oversight agency and shall not be
11 admissible as evidence nor discoverable in any action of any
12 kind in any court or before any tribunal, board, agency, or
13 person and shall be treated in the same manner as the
14 information and those records subject to the provisions of Part
15 21 of Article VIII of the Code of Civil Procedure except under
16 the following circumstances:

17 (A) when made with the written consent of all
18 persons to whom the information pertains;

19 (B) when authorized by Section 5-4-3 of the Unified
20 Code of Corrections;

21 (C) when made for the sole purpose of implementing
22 the Newborn Metabolic Screening Act and rules; or

23 (D) when made under the authorization of the
24 Illinois Parentage Act of 1984.

25 Disclosure shall be limited to those who have a need to
26 know the information, and no additional disclosures may be

1 made.

2 (c) ~~(b)~~ Disclosure by an insurer in accordance with the
3 requirements of the Article XL of the Illinois Insurance Code
4 shall be deemed compliance with this Section.

5 (Source: P.A. 96-328, eff. 8-11-09.)

6 (410 ILCS 513/31 new)

7 Sec. 31. Uses and disclosures for treatment, payment, and
8 health care operations. Notwithstanding Sections 30 and 35 of
9 this Act, a covered entity may, without a patient's consent:

10 (1) use or disclose genetic information for its own
11 treatment, payment, or health care operations;

12 (2) disclose genetic information for treatment activities
13 of a health care provider;

14 (3) disclose genetic information to another covered entity
15 or health care provider for the payment activities of the
16 entity that receives the information;

17 (4) disclose genetic information to another covered entity
18 for health care operations activities of the entity that
19 receives the information, if each entity has or had a
20 relationship with the individual who is the subject of the
21 genetic information being requested, the genetic information
22 pertains to such relationship, and the disclosure is for the
23 purpose of (A) conducting quality assessment and improvement
24 activities, including outcomes evaluation and development of
25 clinical guidelines, provided that the obtaining of

1 generalizable knowledge is not the primary purpose of any
2 studies resulting from such activities; patient safety
3 activities; population-based activities relating to improving
4 health or reducing health care costs, protocol development,
5 case management, and care coordination, contacting of health
6 care providers and patients with information about treatment
7 alternatives; and related functions that do not include
8 treatment; (B) reviewing the competence or qualifications of
9 health care professionals or health care providers, evaluating
10 practitioner and provider performance, health plan
11 performance, conducting training programs in which students,
12 trainees, or practitioners in areas of health care learn under
13 supervision to practice or improve their skills as health care
14 providers, training of non-health care professionals,
15 accreditation, certification, licensing, or credentialing
16 activities; or (C) health care fraud and abuse detection or
17 compliance; and

18 (5) disclose genetic information to other participants in
19 an organized health care arrangement in which the covered
20 entity is also a participant for any health care operations
21 activities of the organized health care arrangement.

22 (410 ILCS 513/31.1 new)

23 Sec. 31.1. Uses and disclosures for health oversight
24 activities.

25 (a) Notwithstanding Sections 30 and 35 of this Act, a

1 covered entity may disclose genetic information, without a
2 patient's consent, to a health oversight agency for health
3 oversight activities authorized by law, including audits,
4 civil, administrative, or criminal investigations;
5 inspections; licensure or disciplinary actions; civil
6 administrative or criminal proceedings or actions; or other
7 activities necessary for appropriate oversight of (i) the
8 health care system; (ii) government benefit programs for which
9 health information is relevant to beneficiary eligibility;
10 (iii) entities subject to government regulatory programs for
11 which health information is necessary for determining
12 compliance with program standards; or (iv) entities subject to
13 civil rights laws for which health information is necessary for
14 determining compliance.

15 (b) For purposes of the disclosures permitted by this
16 Section, a health oversight activity does not include an
17 investigation or other activity in which the individual is the
18 subject of the investigation or activity and such investigation
19 or other activity does not arise out of and is not directly
20 related to (i) the receipt of health care; (ii) a claim for
21 public benefits related to health; or (iii) qualification for,
22 or receipt of, public benefits or services when a patient's
23 health is integral to the claim for public benefits or
24 services, except that, if a health oversight activity or
25 investigation is conducted in conjunction with an oversight
26 activity or investigation relating to a claim for public

1 benefits not related to health, the joint activity or
2 investigation is considered a health oversight activity for
3 purposes of this Section.

4 (c) If a covered entity is also a health oversight agency,
5 the covered entity may use genetic information for health
6 oversight activities permitted by this Section.

7 (410 ILCS 513/31.2 new)

8 Sec. 31.2. Uses and disclosures for public health
9 activities. Notwithstanding Sections 30 and 35 of this Act,
10 genetic information may be disclosed without a patient's
11 consent for public health activities and purposes to the
12 Department, when the Department is authorized by law to collect
13 or receive such information for the purpose of preventing or
14 controlling disease, injury, or disability, including, but not
15 limited to, the reporting of disease, injury, vital events such
16 as birth or death, and the conduct of public health
17 surveillance, public health investigations, and public health
18 interventions.

19 (410 ILCS 513/31.3 new)

20 Sec. 31.3. Business associates.

21 (a) Notwithstanding Sections 30 and 35 of this Act, a
22 covered entity may, without a patient's consent, disclose a
23 patient's genetic information to a business associate and may
24 allow a business associate to create, receive, maintain, or

1 transmit protected health information on its behalf, if the
2 covered entity obtains, through a written contract or other
3 written agreement or arrangement that meets the applicable
4 requirements of 45 CFR 164.504(e), satisfactory assurance that
5 the business associate will appropriately safeguard the
6 information. A covered entity is not required to obtain such
7 satisfactory assurances from a business associate that is a
8 subcontractor.

9 (b) A business associate may disclose protected health
10 information to a business associate that is a subcontractor and
11 may allow the subcontractor to create, receive, maintain, or
12 transmit protected health information on its behalf, if the
13 business associate obtains satisfactory assurances, in
14 accordance with 45 CFR 164.504(e)(1)(i), that the
15 subcontractor will appropriately safeguard the information.

16 (410 ILCS 513/31.4 new)

17 Sec. 31.4. Record locator service to support HIE. Section
18 9.9 of the Mental Health and Developmental Disabilities
19 Confidentiality Act is herein incorporated by reference.

20 (410 ILCS 513/31.5 new)

21 Sec. 31.5. Use and disclosure of information to an HIE.
22 Notwithstanding the provisions of Section 30 and 35 of this
23 Act, a covered entity may, without a patient's consent,
24 disclose the identity of any patient upon whom a test is

1 performed and such patient's genetic information from a
2 patient's record to a HIE if the disclosure is a required or
3 permitted disclosure to a business associate or is a disclosure
4 otherwise required or permitted under this Act. An HIE may,
5 without a patient's consent, use or disclose such information
6 to the extent it is allowed to use or disclose such information
7 as a business associate in compliance with 45 CFR 164.502(e) or
8 for such other purposes as are specifically allowed under this
9 Act.

10 (410 ILCS 513/31.6 new)

11 Sec. 31.6. Other disclosures. Nothing in this Act shall be
12 construed (1) to limit the use of an HIE to facilitate
13 disclosures permitted by this Act or (2) to allow for the
14 disclosure of information from a patient's record to law
15 enforcement or for law enforcement purposes.

16 (410 ILCS 513/31.7 new)

17 Sec. 31.7. Establishment and disclosure of limited data
18 sets and de-identified information.

19 (a) A covered entity may, without a genetic information
20 test subject's consent, create, use, and disclose a limited
21 data set using information subject to this Act or disclose
22 information subject to this Act to a business associate for the
23 purpose of establishing a limited data set. The creation, use,
24 and disclosure of such a limited data set must comply with the

1 requirements set forth under HIPAA.

2 (b) A covered entity may, without a genetic information
3 test subject's consent, create, use, and disclose
4 de-identified information using information subject to this
5 Act or disclose information subject to this Act to a business
6 associate for the purpose of de-identifying the information.
7 The creation, use, and disclosure of such de-identified
8 information must comply with the requirements set forth under
9 HIPAA. A covered entity or a business associate may disclose
10 information that is de-identified in accordance with HIPAA.

11 (c) The recipient of de-identified information shall not
12 re-identify de-identified information using any public or
13 private data source.

14 (410 ILCS 513/31.8 new)

15 Sec. 31.8. HIE opt out. Section 9.6 of the Mental Health
16 and Developmental Disabilities Confidentiality Act is
17 incorporated herein by reference. In addition to the
18 requirements set out in Section 9.6 of the Mental Health and
19 Developmental Disabilities Confidentiality Act, at the time of
20 a patient's first encounter for genetic testing with a health
21 care provider, health care professional, or health facility
22 that participates in an HIE, or, in the event of a medical
23 emergency that makes it impossible, as soon thereafter as is
24 practicable, the patient shall receive meaningful disclosure
25 regarding the HIE in which the health care provider, health

1 care professional, or health facility participates and shall be
2 afforded an opportunity to opt out of disclosure of the
3 patient's health information through the HIE.

4 (410 ILCS 513/31.9 new)

5 Sec. 31.9. Research. Genetic information may be disclosed
6 for research, in accordance with the requirements set forth
7 under HIPAA.

8 (410 ILCS 513/31.10 new)

9 Sec. 31.10. Minimum necessary. When using or disclosing
10 genetic-related information under this Act, a covered entity
11 shall do so in accordance with the minimum necessary standard
12 under HIPAA.

13 (410 ILCS 513/35)

14 Sec. 35. Disclosure by person to whom results have been
15 disclosed. No person to whom the results of a test have been
16 disclosed may disclose the test results to another person
17 except as authorized under this Act ~~by Section 30.~~

18 (Source: P.A. 90-25, eff. 1-1-98.)

19 (410 ILCS 513/40)

20 Sec. 40. Right of action.

21 (a) Any person aggrieved by a violation of this Act shall
22 have a right of action in a State circuit court or as a

1 supplemental claim in a federal district court against an
2 offending party. A prevailing party may recover for each
3 violation:

4 (1) Against any party who negligently violates a
5 provision of this Act, liquidated damages of \$2,500 or
6 actual damages, whichever is greater.

7 (2) Against any party who intentionally or recklessly
8 violates a provision of this Act, liquidated damages of
9 \$15,000 or actual damages, whichever is greater.

10 (3) Reasonable attorney's fees and costs, including
11 expert witness fees and other litigation expenses.

12 (4) Such other relief, including an injunction, as the
13 State or federal court may deem appropriate.

14 (b) Article XL of the Illinois Insurance Code shall provide
15 the exclusive remedy for violations of Section 30 by insurers.

16 (c) Notwithstanding any provisions of the law to the
17 contrary, any person alleging a violation of subsection (a) of
18 Section 15, subsection (b) of Section 25, Section 30, Section
19 31, or Section 35 of this Act shall have a right of action in a
20 State circuit court or as a supplemental claim in a federal
21 district court to seek a preliminary injunction preventing the
22 release or disclosure of genetic testing or genetic information
23 pending the final resolution of any action under this Act.

24 (Source: P.A. 95-927, eff. 1-1-09.)

25 Section 20. The Unified Code of Corrections is amended by

1 changing Sections 3-8-2 and 3-10-2 as follows:

2 (730 ILCS 5/3-8-2) (from Ch. 38, par. 1003-8-2)

3 Sec. 3-8-2. Social Evaluation; physical examination;
4 HIV/AIDS.

5 (a) A social evaluation shall be made of a committed
6 person's medical, psychological, educational and vocational
7 condition and history, including the use of alcohol and other
8 drugs, the circumstances of his offense, and such other
9 information as the Department may determine. The committed
10 person shall be assigned to an institution or facility in so
11 far as practicable in accordance with the social evaluation.
12 Recommendations shall be made for medical, dental,
13 psychiatric, psychological and social service treatment.

14 (b) A record of the social evaluation shall be entered in
15 the committed person's master record file and shall be
16 forwarded to the institution or facility to which the person is
17 assigned.

18 (c) Upon admission to a correctional institution each
19 committed person shall be given a physical examination. If he
20 is suspected of having a communicable disease that in the
21 judgment of the Department medical personnel requires medical
22 isolation, the committed person shall remain in medical
23 isolation until it is no longer deemed medically necessary.

24 (d) Upon arrival at a reception and classification center
25 or an inmate's final destination, the Department must provide

1 the committed person with appropriate information in writing,
2 verbally, by video or other electronic means concerning HIV and
3 AIDS. The Department shall develop the informational materials
4 in consultation with the Department of Public Health. At the
5 same time, the Department also must offer the committed person
6 the option of being tested, with no copayment, for infection
7 with human immunodeficiency virus (HIV). Pre-test information
8 shall be provided to the committed person and informed consent
9 obtained as required in subsection (g) ~~(d)~~ of Section 3 and
10 Section 5 of the AIDS Confidentiality Act. The Department may
11 conduct opt-out HIV testing as defined in Section 4 of the AIDS
12 Confidentiality Act. If the Department conducts opt-out HIV
13 testing, the Department shall place signs in English, Spanish
14 and other languages as needed in multiple, highly visible
15 locations in the area where HIV testing is conducted informing
16 inmates that they will be tested for HIV unless they refuse,
17 and refusal or acceptance of testing shall be documented in the
18 inmate's medical record. The Department shall follow
19 procedures established by the Department of Public Health to
20 conduct HIV testing and testing to confirm positive HIV test
21 results. All testing must be conducted by medical personnel,
22 but pre-test and other information may be provided by committed
23 persons who have received appropriate training. The
24 Department, in conjunction with the Department of Public
25 Health, shall develop a plan that complies with the AIDS
26 Confidentiality Act to deliver confidentially all positive or

1 negative HIV test results to inmates or former inmates. Nothing
2 in this Section shall require the Department to offer HIV
3 testing to an inmate who is known to be infected with HIV, or
4 who has been tested for HIV within the previous 180 days and
5 whose documented HIV test result is available to the Department
6 electronically. The testing provided under this subsection (d)
7 shall consist of a test approved by the Illinois Department of
8 Public Health to determine the presence of HIV infection, based
9 upon recommendations of the United States Centers for Disease
10 Control and Prevention. If the test result is positive, a
11 reliable supplemental test based upon recommendations of the
12 United States Centers for Disease Control and Prevention shall
13 be administered.

14 (Source: P.A. 97-244, eff. 8-4-11; 97-323, eff. 8-12-11;
15 97-813, eff. 7-13-12.)

16 (730 ILCS 5/3-10-2) (from Ch. 38, par. 1003-10-2)

17 Sec. 3-10-2. Examination of Persons Committed to the
18 Department of Juvenile Justice.

19 (a) A person committed to the Department of Juvenile
20 Justice shall be examined in regard to his medical,
21 psychological, social, educational and vocational condition
22 and history, including the use of alcohol and other drugs, the
23 circumstances of his offense and any other information as the
24 Department of Juvenile Justice may determine.

25 (a-5) Upon admission of a person committed to the

1 Department of Juvenile Justice, the Department of Juvenile
2 Justice must provide the person with appropriate information
3 concerning HIV and AIDS in writing, verbally, or by video or
4 other electronic means. The Department of Juvenile Justice
5 shall develop the informational materials in consultation with
6 the Department of Public Health. At the same time, the
7 Department of Juvenile Justice also must offer the person the
8 option of being tested, at no charge to the person, for
9 infection with human immunodeficiency virus (HIV). Pre-test
10 information shall be provided to the committed person and
11 informed consent obtained as required in subsection (g) ~~(d)~~ of
12 Section 3 and Section 5 of the AIDS Confidentiality Act. The
13 Department of Juvenile Justice may conduct opt-out HIV testing
14 as defined in Section 4 of the AIDS Confidentiality Act. If the
15 Department conducts opt-out HIV testing, the Department shall
16 place signs in English, Spanish and other languages as needed
17 in multiple, highly visible locations in the area where HIV
18 testing is conducted informing inmates that they will be tested
19 for HIV unless they refuse, and refusal or acceptance of
20 testing shall be documented in the inmate's medical record. The
21 Department shall follow procedures established by the
22 Department of Public Health to conduct HIV testing and testing
23 to confirm positive HIV test results. All testing must be
24 conducted by medical personnel, but pre-test and other
25 information may be provided by committed persons who have
26 received appropriate training. The Department, in conjunction

1 with the Department of Public Health, shall develop a plan that
2 complies with the AIDS Confidentiality Act to deliver
3 confidentially all positive or negative HIV test results to
4 inmates or former inmates. Nothing in this Section shall
5 require the Department to offer HIV testing to an inmate who is
6 known to be infected with HIV, or who has been tested for HIV
7 within the previous 180 days and whose documented HIV test
8 result is available to the Department electronically. The
9 testing provided under this subsection (a-5) shall consist of a
10 test approved by the Illinois Department of Public Health to
11 determine the presence of HIV infection, based upon
12 recommendations of the United States Centers for Disease
13 Control and Prevention. If the test result is positive, a
14 reliable supplemental test based upon recommendations of the
15 United States Centers for Disease Control and Prevention shall
16 be administered.

17 Also upon admission of a person committed to the Department
18 of Juvenile Justice, the Department of Juvenile Justice must
19 inform the person of the Department's obligation to provide the
20 person with medical care.

21 (b) Based on its examination, the Department of Juvenile
22 Justice may exercise the following powers in developing a
23 treatment program of any person committed to the Department of
24 Juvenile Justice:

25 (1) Require participation by him in vocational,
26 physical, educational and corrective training and

1 activities to return him to the community.

2 (2) Place him in any institution or facility of the
3 Department of Juvenile Justice.

4 (3) Order replacement or referral to the Parole and
5 Pardon Board as often as it deems desirable. The Department
6 of Juvenile Justice shall refer the person to the Parole
7 and Pardon Board as required under Section 3-3-4.

8 (4) Enter into agreements with the Secretary of Human
9 Services and the Director of Children and Family Services,
10 with courts having probation officers, and with private
11 agencies or institutions for separate care or special
12 treatment of persons subject to the control of the
13 Department of Juvenile Justice.

14 (c) The Department of Juvenile Justice shall make periodic
15 reexamination of all persons under the control of the
16 Department of Juvenile Justice to determine whether existing
17 orders in individual cases should be modified or continued.
18 This examination shall be made with respect to every person at
19 least once annually.

20 (d) A record of the treatment decision including any
21 modification thereof and the reason therefor, shall be part of
22 the committed person's master record file.

23 (e) The Department of Juvenile Justice shall by certified
24 mail, return receipt requested, notify the parent, guardian or
25 nearest relative of any person committed to the Department of
26 Juvenile Justice of his physical location and any change

1 thereof.

2 (Source: P.A. 97-244, eff. 8-4-11; 97-323, eff. 8-12-11;
3 97-813, eff. 7-13-12.)

4 Section 25. The County Jail Act is amended by changing
5 Section 17.10 as follows:

6 (730 ILCS 125/17.10)

7 Sec. 17.10. Requirements in connection with HIV/AIDS.

8 (a) In each county other than Cook, during the medical
9 admissions exam, the warden of the jail, a correctional officer
10 at the jail, or a member of the jail medical staff must provide
11 the prisoner with appropriate written information concerning
12 human immunodeficiency virus (HIV) and acquired
13 immunodeficiency syndrome (AIDS). The Department of Public
14 Health and community-based organizations certified to provide
15 HIV/AIDS testing must provide these informational materials to
16 the warden at no cost to the county. The warden, a correctional
17 officer, or a member of the jail medical staff must inform the
18 prisoner of the option of being tested for infection with HIV
19 by a certified local community-based agency or other available
20 medical provider at no charge to the prisoner.

21 (b) In Cook County, during the medical admissions exam, an
22 employee of the Cook County Health & Hospitals System must
23 provide the prisoner with appropriate information in writing,
24 verbally or by video or other electronic means concerning human

1 immunodeficiency virus (HIV) and acquired immunodeficiency
2 syndrome (AIDS) and must also provide the prisoner with option
3 of testing for infection with HIV or any other identified
4 causative agent of AIDS, as well as counseling in connection
5 with such testing. The Cook County Health & Hospitals System
6 may provide the inmate with opt-out human immunodeficiency
7 virus (HIV) testing, as defined in Section 4 of the AIDS
8 Confidentiality Act, unless the inmate refuses. If opt-out HIV
9 testing is conducted, the Cook County Health & Hospitals System
10 shall place signs in English, Spanish, and other languages as
11 needed in multiple, highly visible locations in the area where
12 HIV testing is conducted informing inmates that they will be
13 tested for HIV unless they refuse, and refusal or acceptance of
14 testing shall be documented in the inmate's medical record.
15 Pre-test information shall be provided to the inmate and
16 informed consent obtained from the inmate as required in
17 subsection (g) ~~(d)~~ of Section 3 and Section 5 of the AIDS
18 Confidentiality Act. The Cook County Health & Hospitals System
19 shall follow procedures established by the Department of Public
20 Health to conduct HIV testing and testing to confirm positive
21 HIV test results. All aspects of HIV testing shall comply with
22 the requirements of the AIDS Confidentiality Act, including
23 delivery of test results, as determined by the Cook County
24 Health & Hospitals System in consultation with the Illinois
25 Department of Public Health. Nothing in this Section shall
26 require the Cook County Health & Hospitals System to offer HIV

1 testing to inmates who are known to be infected with HIV. The
2 Department of Public Health and community-based organizations
3 certified to provide HIV/AIDS testing may provide these
4 informational materials to the Bureau at no cost to the county.
5 The testing provided under this subsection (b) shall consist of
6 a test approved by the Illinois Department of Public Health to
7 determine the presence of HIV infection, based upon
8 recommendations of the United States Centers for Disease
9 Control and Prevention. If the test result is positive, a
10 reliable supplemental test based upon recommendations of the
11 United States Centers for Disease Control and Prevention shall
12 be administered.

13 (c) In each county, the warden of the jail must make
14 appropriate written information concerning HIV/AIDS available
15 to every visitor to the jail. This information must include
16 information concerning persons or entities to contact for local
17 counseling and testing. The Department of Public Health and
18 community-based organizations certified to provide HIV/AIDS
19 testing must provide these informational materials to the
20 warden at no cost to the office of the county sheriff.

21 (d) Implementation of this Section is subject to
22 appropriation.

23 (Source: P.A. 97-244, eff. 8-4-11; 97-323, eff. 8-12-11;
24 97-813, eff. 7-13-12.)

25 Section 30. The Code of Civil Procedure is amended by

1 changing Section 8-802 as follows:

2 (735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

3 Sec. 8-802. Physician and patient. No physician or surgeon
4 shall be permitted to disclose any information he or she may
5 have acquired in attending any patient in a professional
6 character, necessary to enable him or her professionally to
7 serve the patient, except only (1) in trials for homicide when
8 the disclosure relates directly to the fact or immediate
9 circumstances of the homicide, (2) in actions, civil or
10 criminal, against the physician for malpractice, (3) with the
11 expressed consent of the patient, or in case of his or her
12 death or disability, of his or her personal representative or
13 other person authorized to sue for personal injury or of the
14 beneficiary of an insurance policy on his or her life, health,
15 or physical condition, or as authorized by Section 8-2001.5,
16 (4) in all actions brought by or against the patient, his or
17 her personal representative, a beneficiary under a policy of
18 insurance, or the executor or administrator of his or her
19 estate wherein the patient's physical or mental condition is an
20 issue, (5) upon an issue as to the validity of a document as a
21 will of the patient, (6) in any criminal action where the
22 charge is either first degree murder by abortion, attempted
23 abortion or abortion, (7) in actions, civil or criminal,
24 arising from the filing of a report in compliance with the
25 Abused and Neglected Child Reporting Act, (8) to any

1 department, agency, institution or facility which has custody
2 of the patient pursuant to State statute or any court order of
3 commitment, (9) in prosecutions where written results of blood
4 alcohol tests are admissible pursuant to Section 11-501.4 of
5 the Illinois Vehicle Code, (10) in prosecutions where written
6 results of blood alcohol tests are admissible under Section
7 5-11a of the Boat Registration and Safety Act, (11) in criminal
8 actions arising from the filing of a report of suspected
9 terrorist offense in compliance with Section 29D-10(p)(7) of
10 the Criminal Code of 2012, ~~or~~ (12) upon the issuance of a
11 subpoena pursuant to Section 38 of the Medical Practice Act of
12 1987; the issuance of a subpoena pursuant to Section 25.1 of
13 the Illinois Dental Practice Act; the issuance of a subpoena
14 pursuant to Section 22 of the Nursing Home Administrators
15 Licensing and Disciplinary Act; or the issuance of a subpoena
16 pursuant to Section 25.5 of the Workers' Compensation Act, or
17 (13) to or through a health information exchange, as that term
18 is defined in Section 2 of the Mental Health and Developmental
19 Disabilities Confidentiality Act, in accordance with State or
20 federal law.

21 In the event of a conflict between the application of this
22 Section and the Mental Health and Developmental Disabilities
23 Confidentiality Act to a specific situation, the provisions of
24 the Mental Health and Developmental Disabilities
25 Confidentiality Act shall control.

26 (Source: P.A. 97-18, eff. 6-28-11; 97-623, eff. 11-23-11;

1 97-813, eff. 7-13-12; 97-1150, eff. 1-25-13.)