



Rep. Mary E. Flowers

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LRB094 16161 LJB 55379 a

1 AMENDMENT TO HOUSE BILL 4306

2 AMENDMENT NO. _____. Amend House Bill 4306, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Perinatal HIV Prevention Act is amended by
6 changing Sections 5 and 10 and by adding Sections 15, 20, 25,
7 30, and 35 as follows:

8 (410 ILCS 335/5)

9 Sec. 5. Definitions. In this Act:

10 "Department" means the Department of Public Health.

11 "Health care professional" means a physician licensed to
12 practice medicine in all its branches, a physician assistant
13 who has been delegated the provision of health services by his
14 or her supervising physician, or an advanced practice
15 registered nurse who has a written collaborative agreement with
16 a collaborating physician that authorizes the provision of
17 health services.

18 "Health care facility" or "facility" means any hospital or
19 other institution that is licensed or otherwise authorized to
20 deliver health care services.

21 "Health care services" means any prenatal medical care or
22 labor or delivery services to a pregnant woman and her newborn
23 infant, including hospitalization.

24 (Source: P.A. 93-566, eff. 8-20-03.)

1 (410 ILCS 335/10)

2 Sec. 10. HIV counseling and offer of HIV testing required.

3 (a) Every health care professional who provides health care
4 services to a pregnant woman shall provide the woman with HIV
5 counseling and recommend ~~offer~~ HIV testing, unless she has
6 already received an HIV test during pregnancy. HIV testing
7 shall be provided with the woman's consent. A health care
8 professional shall provide the counseling and recommend ~~offer~~
9 the testing as early in the woman's pregnancy as possible. For
10 women at continued risk of exposure to HIV infection in the
11 judgment of the health care professional, a repeat test should
12 be recommended ~~offered~~ late in pregnancy or at the time of
13 labor and delivery. The health care professional shall inform
14 the pregnant woman that, should she refuse HIV testing during
15 pregnancy, her newborn infant will be tested for HIV. The
16 counseling and recommendation ~~offer~~ of testing shall be
17 documented in the woman's medical record.

18 (b) Every health care professional or facility that cares
19 for a pregnant woman during labor or delivery shall provide the
20 woman with HIV counseling and recommend ~~offer~~ HIV testing. HIV
21 testing shall be provided with the woman's consent. No
22 counseling or offer of testing is required if already provided
23 during the woman's pregnancy. The counseling and offer of
24 testing shall be documented in the woman's medical record. The
25 health care facility shall adopt a policy that provides that as
26 soon as possible within medical standards after the infant's
27 birth, the mother's HIV test result, if available, shall be
28 noted in the newborn infant's medical record. It shall also be
29 noted in the newborn infant's medical record if the mother's
30 HIV test result is not available because she has not been
31 tested or has declined testing. Any testing or test results
32 shall be documented in accordance with the AIDS Confidentiality
33 Act.

1 (c) Every health care professional or facility caring for a
2 newborn infant shall, upon delivery or as soon as possible
3 within medical standards ~~48 hours~~ after the infant's birth,
4 provide counseling to the parent or guardian of the infant and
5 perform rapid HIV testing on the infant, when the HIV status of
6 the infant's mother is unknown, ~~if the parent or guardian does~~
7 ~~not refuse. The health care professional or facility shall~~
8 ~~document in the woman's medical record that counseling and the~~
9 ~~offer of testing were given, and that no written refusal was~~
10 ~~given.~~

11 (d) The counseling required under this Section must be
12 provided in accordance with the AIDS Confidentiality Act and
13 must include the following:

14 (1) For the health of the pregnant woman, the voluntary
15 nature of the testing and the ~~The~~ benefits of HIV testing,
16 ~~for the pregnant woman,~~ including the prevention of
17 transmission.

18 (2) The benefit of HIV testing for the newborn infant,
19 including interventions to prevent HIV transmission.

20 (3) The side effects of interventions to prevent HIV
21 transmission.

22 (4) The statutory confidentiality provisions that
23 relate to HIV and acquired immune deficiency syndrome
24 ("AIDS") testing.

25 ~~(5) The voluntary nature of the testing, including the~~
26 ~~opportunity to refuse testing of a newborn infant in~~
27 ~~writing.~~

28 (e) All counseling and testing must be performed in
29 accordance with the standards set forth in the AIDS
30 Confidentiality Act, including the written informed consent
31 provisions of Sections 4, 7, and 8 of that Act, with the
32 exception of the requirement of consent for testing of newborn
33 infants. Consent for testing of a newborn infant shall be
34 presumed when a health care professional or health care

1 facility seeks to perform a test on a newborn infant whose
2 mother's HIV status is not known, provided that the counseling
3 required under subsection (d) has taken place ~~and the newborn~~
4 ~~infant's parent or guardian has not indicated in writing that~~
5 ~~he or she refuses to allow the newborn infant to receive HIV~~
6 ~~testing.~~

7 (f) The Illinois Department of Public Health shall adopt
8 necessary rules to implement this Act.

9 (Source: P.A. 93-566, eff. 8-20-03.)

10 (410 ILCS 335/15 new)

11 Sec. 15. Reporting.

12 (a) A health care facility shall adopt a policy that
13 provides that a report of a preliminarily HIV-positive woman
14 and a report of a preliminarily HIV-exposed newborn infant
15 identified by a rapid HIV test conducted during labor and
16 delivery or after delivery shall be made to the Department's
17 Perinatal HIV Hotline within 24 hours after birth. Section 15
18 of the AIDS Confidentiality Act applies to reporting under this
19 Act, except that the immunities set forth in that Section do
20 not apply in cases of willful or wanton misconduct.

21 (b) The Department shall adopt rules specifying the
22 information required in reporting the preliminarily
23 HIV-positive woman and preliminarily HIV-exposed newborn
24 infant and the method of reporting. In adopting the rules, the
25 Department shall consider the need for information,
26 protections for the privacy and confidentiality of the infant
27 and parents, the need to provide access to care and follow-up
28 services to the infant, and procedures for destruction of
29 records maintained by the Department if, through subsequent HIV
30 testing, the woman or newborn infant is found to be
31 HIV-negative.

32 (c) The confidentiality provisions of the AIDS
33 Confidentiality Act shall apply to the reports of cases of

1 perinatal HIV made pursuant to this Section.

2 (d) Health care facilities shall monthly report aggregate
3 statistics to the Department that include the number of
4 infected women who presented with known HIV status, the number
5 of pregnant women rapidly tested for HIV in labor and delivery,
6 the number of newborn infants rapidly tested for HIV-exposure,
7 the number of preliminarily HIV-positive pregnant women and
8 preliminarily HIV-exposed newborn infants identified, the
9 number of families referred to case management, and other
10 information the Department determines is necessary to measure
11 progress under the provisions of this Act. Health care
12 facilities must report the confirmatory test result when it
13 becomes available for each preliminarily positive rapid HIV
14 test performed on the woman and newborn.

15 (e) The Department or its authorized representative shall
16 provide case management services to the preliminarily positive
17 pregnant woman or the parent or guardian of the preliminarily
18 positive newborn infant to ensure access to treatment and care
19 and other services as appropriate if the parent or guardian has
20 consented to the services.

21 (410 ILCS 335/20 new)

22 Sec. 20. 24-hour Perinatal HIV Hotline.

23 (a) The Department of Public Health or its authorized
24 representative shall establish and maintain a 24-hour
25 Perinatal HIV Hotline. The purpose of the hotline is to provide
26 linkage to case management and ensure consultation to help
27 prevent the following:

28 (1) transmission of HIV during labor and delivery; and

29 (2) HIV infection of the newborn infant.

30 (b) The hotline must provide to health care professionals
31 perinatal HIV treatment information in accordance with
32 guidelines established by the U.S. Public Health Service or
33 other nationally-recognized experts, as determined by the

1 Department. An electronic reporting system may replace the
2 telephone hotline if the Department determines the same
3 services can be provided more effectively.

4 (410 ILCS 335/25 new)

5 Sec. 25. Treatment information. A health care facility
6 shall adopt a policy that provides that when an HIV test
7 performed under this Act shows that a newborn infant is
8 preliminarily HIV-exposed, the infant's parent or guardian
9 shall be informed of the importance of obtaining timely
10 treatment for the infant in order to prevent the newborn from
11 becoming HIV infected, and the mother of the newborn infant
12 shall be informed of the importance of obtaining treatment for
13 her HIV infection. The Department shall provide to health care
14 professionals and health care facilities written information
15 that may be used to satisfy their obligation under this
16 Section.

17 (410 ILCS 335/30 new)

18 Sec. 30. Objections of parent or guardian to test. The
19 provisions of this Act shall not apply when a parent or
20 guardian of a child objects thereto on the grounds that the
21 test conflicts with his or her religious tenets and practices.
22 A written statement of the objection shall be presented to the
23 physician or other person whose duty it is to administer and
24 report the tests under the provisions of this Act.

25 (410 ILCS 335/35 new)

26 Sec. 35. Department report. The Department of Public Health
27 shall prepare an annual report for the Governor and the General
28 Assembly on the implementation of this Act that includes
29 information on the number of HIV-positive women who presented
30 with known HIV status, the number of pregnant women rapidly
31 tested for HIV in labor and delivery, the number of newborn

1 infants rapidly tested for HIV exposure, the number of
2 preliminarily HIV-positive pregnant women and preliminarily
3 HIV-exposed newborn infants identified, the confirmatory test
4 result for each preliminarily positive rapid HIV test performed
5 on the woman and newborn, the number of families referred to
6 case management, and other information the Department
7 determines is necessary to measure progress under the
8 provisions of this Act. The Department shall assess the needs
9 of health care professionals and facilities for ongoing
10 training in implementation of the provisions of this Act and
11 make recommendations to improve the program.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.".