

AN ACT concerning public health.

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

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

(410 ILCS 335/5)

Sec. 5. Definitions. In this Act:

"Department" means the Department of Public Health.

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

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

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

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

(410 ILCS 335/10)

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

(a) Every health care professional who provides health care services to a pregnant woman shall provide the woman with HIV counseling and recommend ~~offer~~ HIV testing, unless she has already received an HIV test during pregnancy. HIV testing shall be provided with the woman's consent. A health care professional shall provide the counseling and recommend ~~offer~~

the testing as early in the woman's pregnancy as possible. For women at continued risk of exposure to HIV infection in the judgment of the health care professional, a repeat test should be recommended ~~offered~~ late in pregnancy or at the time of labor and delivery. The health care professional shall inform the pregnant woman that, should she refuse HIV testing during pregnancy, her newborn infant will be tested for HIV. The counseling and recommendation ~~offer~~ of testing shall be documented in the woman's medical record.

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

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

(d) The counseling required under this Section must be

provided in accordance with the AIDS Confidentiality Act and must include the following:

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

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

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

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

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

(e) All counseling and testing must be performed in accordance with the standards set forth in the AIDS Confidentiality Act, including the written informed consent provisions of Sections 4, 7, and 8 of that Act, with the exception of the requirement of consent for testing of newborn infants. Consent for testing of a newborn infant shall be presumed when a health care professional or health care facility seeks to perform a test on a newborn infant whose mother's HIV status is not known, provided that the counseling required under subsection (d) has taken place ~~and the newborn infant's parent or guardian has not indicated in writing that he or she refuses to allow the newborn infant to receive HIV testing.~~

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

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

(410 ILCS 335/15 new)

Sec. 15. Reporting.

(a) A health care facility shall adopt a policy that

provides that a report of a preliminarily HIV-positive woman and a report of a preliminarily HIV-exposed newborn infant identified by a rapid HIV test conducted during labor and delivery or after delivery shall be made to the Department's Perinatal HIV Hotline within 24 hours after birth. Section 15 of the AIDS Confidentiality Act applies to reporting under this Act, except that the immunities set forth in that Section do not apply in cases of willful or wanton misconduct.

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

(c) The confidentiality provisions of the AIDS Confidentiality Act shall apply to the reports of cases of perinatal HIV made pursuant to this Section.

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

(e) The Department or its authorized representative shall

provide case management services to the preliminarily positive pregnant woman or the parent or guardian of the preliminarily positive newborn infant to ensure access to treatment and care and other services as appropriate if the parent or guardian has consented to the services.

(410 ILCS 335/20 new)

Sec. 20. 24-hour Perinatal HIV Hotline.

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

- (1) transmission of HIV during labor and delivery; and
- (2) HIV infection of the newborn infant.

(b) The hotline must provide to health care professionals perinatal HIV treatment information in accordance with guidelines established by the U.S. Public Health Service or other nationally-recognized experts, as determined by the Department. An electronic reporting system may replace the telephone hotline if the Department determines the same services can be provided more effectively.

(410 ILCS 335/25 new)

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

(410 ILCS 335/30 new)

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

(410 ILCS 335/35 new)

Sec. 35. Department report. The Department of Public Health shall prepare an annual report for the Governor and the General Assembly on the implementation of this Act that includes information on the number of HIV-positive women who presented with known HIV status, the number of pregnant women rapidly tested for HIV in labor and delivery, the number of newborn infants rapidly tested for HIV exposure, the number of preliminarily HIV-positive pregnant women and preliminarily HIV-exposed newborn infants identified, the confirmatory test result for each preliminarily positive rapid HIV test performed on the woman and newborn, the number of families referred to case management, and other information the Department determines is necessary to measure progress under the provisions of this Act. The Department shall assess the needs of health care professionals and facilities for ongoing training in implementation of the provisions of this Act and make recommendations to improve the program.

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