

MAR 7 2001
HUMAN RESOURCES

HOUSE FILE 558
BY GIPP, CONNORS, and HUSER

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

A BILL FOR

1 An Act relating to the consenting of individuals to testing and
2 the release of results of tests for communicable and
3 infectious diseases and for the human immunodeficiency virus.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 558

1 Section 1. Section 139A.2, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 1A. "Care provider" means any health care
4 provider, emergency medical care provider as defined in
5 section 147A.1, fire fighter, peace officer, or any other
6 individual providing health care services or services of any
7 kind in the course of the individual's official duties. "Care
8 provider" also includes an individual who is trained and
9 authorized by federal or state law to provide emergency
10 medical assistance for compensation, or in a voluntary
11 capacity, and an individual who renders emergency aid without
12 compensation.

13 Sec. 2. Section 139A.2, subsection 6, Code 2001, is
14 amended by striking the subsection.

15 Sec. 3. Section 139A.19, Code 2001, is amended by striking
16 the section and inserting in lieu thereof the following:

17 139A.19 CARE PROVIDER NOTIFICATION.

18 1. a. If a care provider sustains an exposure from an
19 individual while rendering health care services or other
20 services, the individual to whom the care provider was exposed
21 is deemed to consent to a test to determine if the individual
22 has a contagious or infectious disease and is deemed to
23 consent to notification of the care provider of the results of
24 the test, upon submission of an exposure report by the care
25 provider to the hospital, health care provider, or other
26 person specified in this section to whom the individual is
27 delivered by the care provider. The exposure report form may
28 be incorporated into the Iowa prehospital care report, the
29 Iowa prehospital advanced care report, or a similar report
30 used by an ambulance, rescue, or first response service or law
31 enforcement agency.

32 b. The hospital, health care provider, or other person
33 specified in this section to whom the individual is delivered
34 shall conduct the test. If the individual is delivered by the
35 care provider to an institution administered by the Iowa

1 department of corrections, the test shall be conducted by the
2 staff physician of the institution. If the individual is
3 delivered by the care provider to a jail, the test shall be
4 conducted by the attending physician of the jail or the county
5 medical examiner. The sample and test results shall only be
6 identified by a number and shall not otherwise identify the
7 individual tested.

8 2. If the individual tested is diagnosed or confirmed as
9 having a contagious or infectious disease, the hospital,
10 health care provider, or other person conducting the test
11 shall notify the care provider or shall notify the designated
12 officer of the care provider who shall then notify the care
13 provider.

14 3. The notification to the care provider shall advise the
15 care provider of possible exposure to a particular contagious
16 or infectious disease and recommend that the care provider
17 seek medical attention. The notification shall be provided as
18 soon as is reasonably possible following determination that
19 the individual tested has a contagious or infectious disease.
20 The notification shall not include the name of the individual
21 tested for the contagious or infectious disease, unless the
22 individual consents. If the care provider who sustained an
23 exposure determines the identity of the individual diagnosed
24 or confirmed as having a contagious or infectious disease, the
25 identity of the individual shall be confidential information
26 and shall not be disclosed to any other person unless a
27 specific written release is obtained from the individual
28 diagnosed with or confirmed as having a contagious or
29 infectious disease.

30 4. This section does not require or permit, unless
31 otherwise provided, a hospital, health care provider, or other
32 person to administer a test for the express purpose of
33 determining the presence of a contagious or infectious
34 disease, except that testing may be performed if the
35 individual consents and if the requirements of this section

1 are satisfied.

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

9 6. A hospital, health care provider, or other person
10 participating in good faith in making a report under the
11 notification provisions of this section, or failing to make a
12 report under this section, or a hospital, health care
13 provider, or other person participating in good faith in
14 performing a test under this section, is immune from any
15 liability, civil or criminal, which might otherwise be
16 incurred or imposed.

17 7. A hospital's or health care provider's duty of
18 notification under this section is not continuing but is
19 limited to a diagnosis of a contagious or infectious disease
20 made based upon the submission of an exposure report under
21 this section.

22 8. The department shall adopt rules pursuant to chapter
23 17A to administer this section.

24 Sec. 4. Section 141A.1, subsection 5, Code 2001, is
25 amended to read as follows:

26 5. "Care provider" means any emergency-care-provider,
27 health care provider, emergency medical care provider as
28 defined in section 147A.1, fire fighter, peace officer, or any
29 other person individual providing health care services or
30 services of any kind in the course of the individual's
31 official duties. "Care provider" also includes an individual
32 who is trained and authorized by federal or state law to
33 provide emergency medical assistance for compensation or in a
34 voluntary capacity and an individual who renders emergency aid
35 without compensation.

1 Sec. 5. Section 141A.1, subsection 7, Code 2001, is
2 amended by striking the subsection.

3 Sec. 6. Section 141A.8, Code 2001, is amended by striking
4 the section and inserting in lieu thereof the following:

5 141A.8 CARE PROVIDER NOTIFICATION.

6 1. a. If a care provider sustains a significant exposure
7 from an individual, the individual to whom the care provider
8 was exposed is deemed to consent to a test to determine the
9 presence of HIV infection in that individual and is deemed to
10 consent to notification of the care provider of the HIV test
11 results of the individual, upon submission of a significant
12 exposure report by the care provider to the hospital, health
13 care provider, or other person specified in this section to
14 whom the individual is delivered by the care provider. The
15 significant exposure report form may be incorporated into the
16 Iowa prehospital care report, the Iowa prehospital advanced
17 care report, or a similar report used by an ambulance, rescue,
18 or first response service, or law enforcement agency.

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

31 2. In other than an emergency situation, a care provider
32 shall inform an individual to whom the care provider is
33 providing services, that if the care provider sustains a
34 significant exposure from the individual, the individual is
35 deemed to consent to a test to determine the presence of HIV

1 infection in that individual and is deemed to consent to
2 notification of the care provider of the HIV test results of
3 the individual.

4 3. a. If prior consent to testing was not obtained, and
5 if the test results are positive, the hospital, health care
6 provider, or other person performing the test shall notify the
7 subject of the test and ensure the performance of counseling
8 and reporting requirements of this chapter in the same manner
9 as for an individual from whom actual consent was obtained.

10 b. If the HIV test results of the subject of the test are
11 positive, the hospital, health care provider, or other person
12 performing the test shall notify the care provider or shall
13 notify the designated officer of the care provider who shall
14 then notify the care provider who sustained the significant
15 exposure.

16 c. The notification shall be provided as soon as is
17 reasonably possible following determination that the HIV test
18 results of the subject of the test are positive. The
19 notification shall not include the name of the individual
20 tested for HIV infection unless the individual consents. If
21 the care provider who sustained the significant exposure
22 determines the identity of the individual tested, the identity
23 of the individual shall be confidential information and shall
24 not be disclosed to any other person unless a specific written
25 release is obtained from the individual tested.

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

32 5. This section does not preclude a hospital or health
33 care provider from providing notification to a care provider
34 under circumstances in which the hospital's or health care
35 provider's policy provides for notification of the hospital's

1 or health care provider's own employees of exposure to HIV
2 infection if the notice does not reveal a patient's name,
3 unless the patient consents.

4 6. A hospital, health care provider, or other person
5 participating in good faith in making a report under the
6 notification provisions of this section, or failing to make a
7 report under this section, or a hospital, health care
8 provider, or other person participating in good faith in
9 performing a test under this section, is immune from any
10 liability, civil or criminal, which might otherwise be
11 incurred or imposed.

12 7. A hospital's or health care provider's duty of
13 notification under this section is not continuing but is
14 limited to a diagnosis of HIV infection made based upon the
15 submission of a significant exposure report under this
16 section.

17 8. The employer of a care provider who sustained a
18 significant exposure under this section shall pay the costs of
19 HIV testing for the individual who is the source of the
20 significant exposure and of the testing and counseling of the
21 care provider, if the significant exposure was sustained
22 during the course of employment. However, the department
23 shall pay the costs of HIV testing for the individual who is
24 the source of the significant exposure and of the testing and
25 counseling of the care provider who renders direct aid without
26 compensation.

27 EXPLANATION

28 This bill relates to the deeming of consent to testing by
29 and the release of positive test results of individuals for
30 communicable and infectious diseases or for human
31 immunodeficiency virus when the individual has been assisted
32 by a care provider and the care provider has potentially been
33 exposed to the disease or virus.

34 The bill defines "care provider" under the communicable and
35 infectious disease chapter (Code chapter 139A) and the

1 acquired immune deficiency syndrome (AIDS) (Code chapter 141A)
2 for purposes of specifying who may submit an exposure or
3 significant exposure report and be notified if an individual
4 is diagnosed or confirmed as having a contagious or infectious
5 disease or has confirmed positive HIV test results. Under the
6 bill, care providers are health care providers, emergency
7 medical care providers as defined in Code section 147A.1, fire
8 fighters, peace officers, or any other individual providing
9 health care services or services of any kind in the course of
10 the individual's official duties. "Care provider" also
11 includes an individual who is trained and authorized by
12 federal or state law to provide emergency medical assistance
13 for compensation or in a voluntary capacity and an individual
14 who renders emergency aid without compensation.

15 The bill provides a process for notification of a care
16 provider of test results, provides confidentiality measures in
17 the process, and provides civil and criminal immunity for good
18 faith compliance with the provisions of the bill.

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