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MAR 13 2001

Place On Calendar

HOUSE FILE 590

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 331)

(P. 870) Passed House, Date 3-26-01 Passed Senate, Date 4-17-01
 Vote: Ayes 98 Nays 0 Vote: Ayes 50 Nays 0

(P. 1427) Re-passed 4-24-01 Approved May 22, 2001
 Vote 94-0

A BILL FOR

1 An Act relating to the testing of individuals and the release of
 2 the results of tests for communicable and infectious diseases
 3 and for the human immunodeficiency virus and making penalties
 4 applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 590

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

3 NEW SUBSECTION. 1A. "Care provider" means an individual
4 who is trained and authorized by federal or state law to
5 provide health care services or services of any kind in the
6 course of the individual's official duties, for compensation
7 or in a voluntary capacity, who is a health care provider,
8 emergency medical care provider as defined in section 147A.1,
9 fire fighter, or peace officer. "Care provider" also means an
10 individual who renders emergency care or assistance in an
11 emergency or due to an accident as described in section
12 613.17.

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

15 Sec. 3. Section 139A.2, subsection 7, Code 2001, is
16 amended to read as follows:

17 7. "Exposure" means the risk of contracting disease as
18 determined by the centers for disease control and prevention
19 of the United States department of health and human services
20 and adopted by rule of the department.

21 Sec. 4. Section 139A.19, Code 2001, is amended by striking
22 the section and inserting in lieu thereof the following:

23 139A.19 CARE PROVIDER NOTIFICATION.

24 1. a. Notwithstanding any provision of this chapter to
25 the contrary, if a care provider sustains an exposure from an
26 individual while rendering health care services or other
27 services, the individual to whom the care provider was exposed
28 is deemed to consent to a test to determine if the individual
29 has a contagious or infectious disease and is deemed to
30 consent to notification of the care provider of the results of
31 the test, upon submission of an exposure report by the care
32 provider to the hospital, health care provider, or other
33 person specified in this section to whom the individual is
34 delivered by the care provider. The exposure report form may
35 be incorporated into the Iowa prehospital care report, the

1 Iowa prehospital advanced care report, or a similar report
2 used by an ambulance, rescue, or first response service or law
3 enforcement agency.

4 b. The hospital, health care provider or other person
5 specified in this section to whom the individual is delivered
6 shall conduct the test. If the individual is delivered by the
7 care provider to an institution administered by the Iowa
8 department of corrections, the test shall be conducted by the
9 staff physician of the institution. If the individual is
10 delivered by the care provider to a jail, the test shall be
11 conducted by the attending physician of the jail or the county
12 medical examiner. The sample and test results shall only be
13 identified by a number and shall not otherwise identify the
14 individual tested.

15 c. A hospital, health care provider, institutions
16 administered by the department of corrections, and jails shall
17 have written policies and procedures for notification of a
18 care provider under this section. The policies and procedures
19 shall include designation of a representative of the care
20 provider to whom notification shall be provided and who shall,
21 in turn, notify the care provider. The identity of the
22 designated representative of the care provider shall not be
23 revealed to the individual tested. The designated
24 representative shall inform the hospital, health care
25 provider, institution administered by the department of
26 corrections, or jail of those parties who received the
27 notification, and following receipt of this information and
28 upon request of the individual tested, the hospital, health
29 care provider, institution administered by the department of
30 corrections, or jail shall inform the individual of the
31 parties to whom notification was provided.

32 2. If the individual tested is diagnosed or confirmed as
33 having a contagious or infectious disease, the hospital,
34 health care provider, or other person conducting the test
35 shall notify the care provider or the designated

1 representative of the care provider who shall then notify the
2 care provider.

3 3. The notification to the care provider shall advise the
4 care provider of possible exposure to a particular contagious
5 or infectious disease and recommend that the care provider
6 seek medical attention. The notification shall be provided as
7 soon as is reasonably possible following determination that
8 the individual has a contagious or infectious disease. The
9 notification shall not include the name of the individual
10 tested for the contagious or infectious disease, unless the
11 individual consents. If the care provider who sustained an
12 exposure determines the identity of the individual diagnosed
13 or confirmed as having a contagious or infectious disease, the
14 identity of the individual shall be confidential information
15 and shall not be disclosed by the care provider to any other
16 person unless a specific written release is obtained from the
17 individual diagnosed with or confirmed as having a contagious
18 or infectious disease.

19 4. This section does not require or permit, unless
20 otherwise provided, a hospital, health care provider, or other
21 person to administer a test for the express purpose of
22 determining the presence of a contagious or infectious
23 disease, except that testing may be performed if the
24 individual consents and if the requirements of this section
25 are satisfied.

26 5. This section does not preclude a hospital or a health
27 care provider from providing notification to a care provider
28 under circumstances in which the hospital's or health care
29 provider's policy provides for notification of the hospital's
30 or health care provider's own employees of exposure to a
31 contagious or infectious disease that is not life-threatening
32 if the notice does not reveal a patient's name, unless the
33 patient consents.

34 6. A hospital, health care provider, or other person
35 participating in good faith in complying with provisions

1 authorized or required under this section is immune from any
2 liability, civil or criminal, which might otherwise be
3 incurred or imposed.

4 7. A hospital's or health care provider's duty of
5 notification under this section is not continuing but is
6 limited to a diagnosis of a contagious or infectious disease
7 made in the course of admission, care, and treatment following
8 the rendering of health care services or other services to
9 which notification under this section applies.

10 8. The department shall adopt rules pursuant to chapter
11 17A to administer this section.

12 Sec. 5. Section 141A.1, subsection 5, Code 2001, is
13 amended by striking the subsection and inserting in lieu
14 thereof the following:

15 5. "Care provider" means an individual who is trained and
16 authorized by federal or state law to provide health care
17 services or services of any kind in the course of the
18 individual's official duties, for compensation or in a
19 voluntary capacity, who is a health care provider, emergency
20 medical care provider as defined in section 147A.1, fire
21 fighter, or peace officer. "Care provider" also means an
22 individual who renders emergency care or assistance in an
23 emergency or due to an accident as described in section
24 613.17.

25 Sec. 6. Section 141A.1, subsection 7, Code 2001, is
26 amended by striking the subsection.

27 Sec. 7. Section 141A.8, Code 2001, is amended by striking
28 the section and inserting in lieu thereof the following:

29 141A.8 CARE PROVIDER NOTIFICATION.

30 1. a. Notwithstanding any provision of this chapter to
31 the contrary, if a care provider sustains a significant
32 exposure from an individual, the individual to whom the care
33 provider was exposed is deemed to consent to a test to
34 determine the presence of HIV infection in that individual and
35 is deemed to consent to notification of the care provider of

1 the HIV test results of the individual, upon submission of a
2 significant exposure report by the care provider to the
3 hospital, health care provider, or other person specified in
4 this section to whom the individual is delivered by the care
5 provider. The significant exposure report form may be
6 incorporated into the Iowa prehospital care report, the Iowa
7 prehospital advanced care report, or a similar report used by
8 an ambulance, rescue, or first response service or law
9 enforcement agency.

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

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

1 care provider, institution administered by the department of
2 corrections, or jail shall inform the individual of the
3 parties to whom notification was provided.

4 2. a. If the test results are positive, the hospital,
5 health care provider, or other person performing the test
6 shall notify the subject of the test and ensure the
7 performance of counseling and reporting requirements of this
8 chapter in the same manner as for an individual from whom
9 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 the
13 designated representative of the care provider who shall then
14 notify the care provider who sustained the exposure.

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

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

32 4. 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 5. 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, under procedures
7 similar to this section for notification of its own employees
8 upon filing of a significant exposure report, or in failing to
9 make a report under this section, is immune from any
10 liability, civil or criminal, which might otherwise be
11 incurred or imposed.

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

18 7. Notwithstanding subsection 6, if, following discharge
19 from or completion of care or treatment by a hospital, an
20 individual for whom a significant exposure report was
21 submitted but which report did not result in notification,
22 wishes to provide information regarding the individual's HIV
23 infection status to the care provider who submitted the
24 report, the hospital shall provide a procedure for notifying
25 the care provider.

26 8. The employer of a care provider who sustained a
27 significant exposure under this section shall pay the costs of
28 HIV testing for the individual who is the source of the
29 significant exposure and of the testing and counseling of the
30 care provider, if the significant exposure was sustained
31 during the course of employment. However, the department
32 shall pay the costs of HIV testing for the individual who is
33 the source of the significant exposure and of the testing and
34 counseling of the care provider who renders direct aid without
35 compensation.

EXPLANATION

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This bill relates to the testing of individuals for communicable and infectious diseases or for the human immunodeficiency virus (HIV) when the individual has been assisted by a care provider.

The bill defines "care provider" under the communicable and infectious disease and poisonings chapter (Code chapter 139A) and the acquired immune deficiency syndrome chapter (Code chapter 141A) for the purposes of identifying who is to be notified if an individual, to whom the care provider provided health care or other services, is confirmed as having a contagious or infectious disease or HIV, following testing of the individual. Care providers under the bill are individuals who are trained and authorized to provide health care services or services of any kind in the course of the provider's official duties, for compensation or in a voluntary capacity, who are health care providers, emergency medical care providers, fire fighters, and peace officers. Care providers also include individuals who render emergency care or assistance in an emergency or due to an accident as described in the section of the Code that provides immunity for certain good faith actions in emergency situations.

The bill provides for the deeming of consent by individuals provided health care or other services by a care provider to testing and to the notification of the care provider of the results of the test, if the care provider submits a report of exposure to the entity to which the individual is delivered by the care provider. These entities include hospitals, health care providers, corrections institutions, and jails. The bill provides a procedure for the testing of an individual and for the notification of the care provider. The bill provides for confidentiality of the testing and the test results, and provides immunity from civil and criminal liability for individuals acting in good faith compliance.

Under the AIDS chapter provisions, the bill directs the

1 employer of the care provider to pay testing and counseling
2 costs resulting from an employee's report of exposure, and
3 directs the Iowa department of public health to pay the
4 testing and counseling costs related to an exposure report of
5 an individual who renders emergency care or assistance
6 voluntarily and without compensation.

7 Under Code chapter 139A, a violation of the provisions of
8 the bill is a simple misdemeanor. Under Code chapter 141A, a
9 person who intentionally or recklessly makes an unauthorized
10 disclosure is subject to a civil penalty of \$1,000.

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HOUSE FILE 590**H-1328**

1 Amend House File 590 as follows:

2 1. Page 3, line 35, by striking the word
3 "participating" and inserting the following: "acting
4 reasonably and".

5 2. Page 4, by inserting after line 9, the
6 following:

7 "7A. A hospital, health care provider, or other
8 person who is authorized to perform a test under this
9 section who performs the test in compliance with this
10 section or who fails to perform the test authorized
11 under this section, is immune from any liability,
12 civil or criminal, which might otherwise be incurred
13 or imposed.

14 7B. A hospital, health care provider, or other
15 person who is authorized to perform a test under this
16 section has no duty to perform the test authorized."

17 3. Page 4, line 11, by inserting after the word
18 "section." the following: "The department may
19 determine by rule the contagious or infectious
20 diseases for which testing is reasonable and
21 appropriate and which may be administered under this
22 section."

23 4. Page 4, by inserting after line 11, the
24 following:

25 "____. The employer of a care provider who
26 sustained an exposure under this section shall pay the
27 costs of testing for the individual who is the source
28 of the exposure and of the testing of the care
29 provider, if the exposure was sustained during the
30 course of employment. However, the department shall
31 pay the costs of testing for the individual who is the
32 source of the significant exposure and of the testing
33 of the care provider who renders direct aid without
34 compensation."

35 5. Page 7, line 5, by striking the word
36 "participating" and inserting the following: "acting
37 reasonably and".

38 6. Page 7, by inserting after line 25, the
39 following:

40 "____. A hospital, health care provider, or other
41 person who is authorized to perform an HIV test under
42 this section, who performs the HIV test in compliance
43 with this section or who fails to perform an HIV test
44 authorized under this section, is immune from any
45 liability, civil or criminal, which might otherwise be
46 incurred or imposed.

47 _____. A hospital, health care provider, or other
48 person who is authorized to perform a test under this
49 section has no duty to perform the HIV test
50 authorized."

H-1328

H-1328

Page 2

1 7. By renumbering as necessary.

By CARROLL of Poweshiek

H-1328 FILED MARCH 22, 2001*W/D 3-26-01* HOUSE FILE 590**H-1329** (*p. 870*)

1 Amend House File 590 as follows:

2 1. Page 4, by inserting after line 9, the
3 following:4 "7A. A hospital, health care provider, or other
5 person who is authorized to perform a test under this
6 section who performs the test in compliance with this
7 section or who fails to perform the test authorized
8 under this section, is immune from any liability,
9 civil or criminal, which might otherwise be incurred
10 or imposed.11 7B. A hospital, health care provider, or other
12 person who is authorized to perform a test under this
13 section has no duty to perform the test authorized."14 2. Page 4, line 11, by inserting after the word
15 "section." the following: "The department may
16 determine by rule the contagious or infectious
17 diseases for which testing is reasonable and
18 appropriate and which may be administered under this
19 section."20 3. Page 4, by inserting after line 11, the
21 following:22 "____. The employer of a care provider who
23 sustained an exposure under this section shall pay the
24 costs of testing for the individual who is the source
25 of the exposure and of the testing of the care
26 provider, if the exposure was sustained during the
27 course of employment. However, the department shall
28 pay the costs of testing for the individual who is the
29 source of the significant exposure and of the testing
30 of the care provider who renders direct aid without
31 compensation."32 4. Page 7, by inserting after line 25, the
33 following:34 "____. A hospital, health care provider, or other
35 person who is authorized to perform an HIV test under
36 this section, who performs the HIV test in compliance
37 with this section or who fails to perform an HIV test
38 authorized under this section, is immune from any
39 liability, civil or criminal, which might otherwise be
40 incurred or imposed.41 _____. A hospital, health care provider, or other
42 person who is authorized to perform a test under this
43 section has no duty to perform the HIV test
44 authorized."

45 5. By renumbering as necessary.

By CARROLL of Poweshiek

H-1329 FILED MARCH 22, 2001*Adopted 3-26-01* (*p. 870*)

Human Resources
5-4/3/01 Amend/Re Pass
w/ S-3299

S-4/12/01

OFFICE BUSINESS CALENDAR

HOUSE FILE 590
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 331)

(As Amended and Passed by the House March 26, 2001)

Passed House, Date (P. 1427) 4-24-01 Passed Senate, Date (P. 1151) 4-17-01
Vote: Ayes 94 Nays 0 Vote: Ayes 50 Nays 0
Approved May 22, 2001

(P. 1349) Repassed. 4/30/01
Vote 45-4

A BILL FOR

1 An Act relating to the testing of individuals and the release of
2 the results of tests for communicable and infectious diseases
3 and for the human immunodeficiency virus and making penalties
4 applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

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

3 NEW SUBSECTION. 1A. "Care provider" means an individual
4 who is trained and authorized by federal or state law to
5 provide health care services or services of any kind in the
6 course of the individual's official duties, for compensation
7 or in a voluntary capacity, who is a health care provider,
8 emergency medical care provider as defined in section 147A.1,
9 fire fighter, or peace officer. "Care provider" also means an
10 individual who renders emergency care or assistance in an
11 emergency or due to an accident as described in section
12 613.17.

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

15 Sec. 3. Section 139A.2, subsection 7, Code 2001, is
16 amended to read as follows:

17 7. "Exposure" means the risk of contracting disease as
18 determined by the centers for disease control and prevention
19 of the United States department of health and human services
20 and adopted by rule of the department.

21 Sec. 4. Section 139A.19, Code 2001, is amended by striking
22 the section and inserting in lieu thereof the following:

23 139A.19 CARE PROVIDER NOTIFICATION.

24 1. a. Notwithstanding any provision of this chapter to
25 the contrary, if a care provider sustains an exposure from an
26 individual while rendering health care services or other
27 services, the individual to whom the care provider was exposed
28 is deemed to consent to a test to determine if the individual
29 has a contagious or infectious disease and is deemed to
30 consent to notification of the care provider of the results of
31 the test, upon submission of an exposure report by the care
32 provider to the hospital, health care provider, or other
33 person specified in this section to whom the individual is
34 delivered by the care provider. The exposure report form may
35 be incorporated into the Iowa prehospital care report, the

1 Iowa prehospital advanced care report, or a similar report
2 used by an ambulance, rescue, or first response service or law
3 enforcement agency.

4 b. The hospital, health care provider or other person
5 specified in this section to whom the individual is delivered
6 shall conduct the test. If the individual is delivered by the
7 care provider to an institution administered by the Iowa
8 department of corrections, the test shall be conducted by the
9 staff physician of the institution. If the individual is
10 delivered by the care provider to a jail, the test shall be
11 conducted by the attending physician of the jail or the county
12 medical examiner. The sample and test results shall only be
13 identified by a number and shall not otherwise identify the
14 individual tested.

15 c. A hospital, health care provider, institutions
16 administered by the department of corrections, and jails shall
17 have written policies and procedures for notification of a
18 care provider under this section. The policies and procedures
19 shall include designation of a representative of the care
20 provider to whom notification shall be provided and who shall,
21 in turn, notify the care provider. The identity of the
22 designated representative of the care provider shall not be
23 revealed to the individual tested. The designated
24 representative shall inform the hospital, health care
25 provider, institution administered by the department of
26 corrections, or jail of those parties who received the
27 notification, and following receipt of this information and
28 upon request of the individual tested, the hospital, health
29 care provider, institution administered by the department of
30 corrections, or jail shall inform the individual of the
31 parties to whom notification was provided.

32 2. If the individual tested is diagnosed or confirmed as
33 having a contagious or infectious disease, the hospital,
34 health care provider, or other person conducting the test
35 shall notify the care provider or the designated

1 representative of the care provider who shall then notify the
2 care provider.

3 3. The notification to the care provider shall advise the
4 care provider of possible exposure to a particular contagious
5 or infectious disease and recommend that the care provider
6 seek medical attention. The notification shall be provided as
7 soon as is reasonably possible following determination that
8 the individual has a contagious or infectious disease. The
9 notification shall not include the name of the individual
10 tested for the contagious or infectious disease, unless the
11 individual consents. If the care provider who sustained an
12 exposure determines the identity of the individual diagnosed
13 or confirmed as having a contagious or infectious disease, the
14 identity of the individual shall be confidential information
15 and shall not be disclosed by the care provider to any other
16 person unless a specific written release is obtained from the
17 individual diagnosed with or confirmed as having a contagious
18 or infectious disease.

19 4. This section does not require or permit, unless
20 otherwise provided, a hospital, health care provider, or other
21 person to administer a test for the express purpose of
22 determining the presence of a contagious or infectious
23 disease, except that testing may be performed if the
24 individual consents and if the requirements of this section
25 are satisfied.

26 5. This section does not preclude a hospital or a health
27 care provider from providing notification to a care provider
28 under circumstances in which the hospital's or health care
29 provider's policy provides for notification of the hospital's
30 or health care provider's own employees of exposure to a
31 contagious or infectious disease that is not life-threatening
32 if the notice does not reveal a patient's name, unless the
33 patient consents.

34 6. A hospital, health care provider, or other person
35 participating in good faith in complying with provisions

1 authorized or required under this section is immune from any
2 liability, civil or criminal, which might otherwise be
3 incurred or imposed.

4 7. A hospital's or health care provider's duty of
5 notification under this section is not continuing but is
6 limited to a diagnosis of a contagious or infectious disease
7 made in the course of admission, care, and treatment following
8 the rendering of health care services or other services to
9 which notification under this section applies.

10 7A. A hospital, health care provider, or other person who
11 is authorized to perform a test under this section who
12 performs the test in compliance with this section or who fails
13 to perform the test authorized under this section, is immune
14 from any liability, civil or criminal, which might otherwise
15 be incurred or imposed.

16 7B. A hospital, health care provider, or other person who
17 is authorized to perform a test under this section has no duty
18 to perform the test authorized.

19 8. The department shall adopt rules pursuant to chapter
20 17A to administer this section. The department may determine
21 by rule the contagious or infectious diseases for which
22 testing is reasonable and appropriate and which may be
23 administered under this section.

24 9. The employer of a care provider who sustained an
25 exposure under this section shall pay the costs of testing for
26 the individual who is the source of the exposure and of the
27 testing of the care provider, if the exposure was sustained
28 during the course of employment. However, the department
29 shall pay the costs of testing for the individual who is the
30 source of the significant exposure and of the testing of the
31 care provider who renders direct aid without compensation.

32 Sec. 5. Section 141A.1, subsection 5, Code 2001, is
33 amended by striking the subsection and inserting in lieu
34 thereof the following:

35 5. "Care provider" means an individual who is trained and

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13 the section and inserting in lieu thereof the following:

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16 the contrary, if a care provider sustains a significant
17 exposure from an individual, the individual to whom the care
18 provider was exposed is deemed to consent to a test to
19 determine the presence of HIV infection in that individual and
20 is deemed to consent to notification of the care provider of
21 the HIV test results of the individual, upon submission of a
22 significant exposure report by the care provider to the
23 hospital, health care provider, or other person specified in
24 this section to whom the individual is delivered by the care
25 provider. The significant exposure report form may be
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15 revealed to the individual tested. The designated
16 representative shall inform the hospital, health care
17 provider, institution administered by the department of
18 corrections, or jail of those parties who received the
19 notification, and following receipt of this information and
20 upon request of the individual tested, the hospital, health
21 care provider, institution administered by the department of
22 corrections, or jail shall inform the individual of the
23 parties to whom notification was provided.

24 2. a. If the test results are positive, the hospital,
25 health care provider, or other person performing the test
26 shall notify the subject of the test and ensure the
27 performance of counseling and reporting requirements of this
28 chapter in the same manner as for an individual from whom
29 actual consent was obtained.

30 b. If the HIV test results of the subject of the test are
31 positive, the hospital, health care provider, or other person
32 performing the test shall notify the care provider or the
33 designated representative of the care provider who shall then
34 notify the care provider who sustained the exposure.

35 c. The notification shall be provided as soon as is

1 reasonably possible following determination that the HIV test
2 results of the subject of the test are positive. The
3 notification shall not include the name of the individual
4 tested for HIV infection, unless the individual provides a
5 specific written release. If the care provider who sustained
6 the significant exposure determines the identity of the
7 individual tested, the identity of the individual shall be
8 confidential information and shall not be disclosed by the
9 care provider to any other person unless a specific written
10 release is obtained from the individual tested.

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

17 4. This section does not preclude a hospital or health
18 care provider from providing notification to a care provider
19 under circumstances in which the hospital's or health care
20 provider's policy provides for notification of the hospital's
21 or health care provider's own employees of exposure to HIV
22 infection if the notice does not reveal a patient's name,
23 unless the patient consents.

24 5. A hospital, health care provider, or other person
25 participating in good faith in making a report under the
26 notification provisions of this section, under procedures
27 similar to this section for notification of its own employees
28 upon filing of a significant exposure report, or in failing to
29 make a report under this section, is immune from any
30 liability, civil or criminal, which might otherwise be
31 incurred or imposed.

32 6. A hospital's or health care provider's duty to notify
33 under this section is not continuing but is limited to the
34 diagnosis of HIV infection made in the course of admission,
35 care, and treatment following the rendering of health care

1 services or other services to the individual with the
2 infection to which notification under this section applies.

3 7. Notwithstanding subsection 6, if, following discharge
4 from or completion of care or treatment by a hospital, an
5 individual for whom a significant exposure report was
6 submitted but which report did not result in notification,
7 wishes to provide information regarding the individual's HIV
8 infection status to the care provider who submitted the
9 report, the hospital shall provide a procedure for notifying
10 the care provider.

11 8. A hospital, health care provider, or other person who
12 is authorized to perform an HIV test under this section, who
13 performs the HIV test in compliance with this section or who
14 fails to perform an HIV test authorized under this section, is
15 immune from any liability, civil or criminal, which might
16 otherwise be incurred or imposed.

17 9. A hospital, health care provider, or other person who
18 is authorized to perform a test under this section has no duty
19 to perform the HIV test authorized.

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

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S-3299

- 1 Amend House File 590, as amended, passed and
2 reprinted by the House, as follows:
- 3 1. Page 1, line 32, by striking the words "
4 health care provider,".
- 5 2. Page 2, line 4, by striking the words "
6 health care provider".
- 7 3. Page 2, line 15, by striking the words "health
8 care provider,".
- 9 4. Page 2, lines 24 and 25, by striking the words
10 "health care provider,".
- 11 5. Page 2, lines 28 and 29, by striking the words
12 "health care provider,".
- 13 6. Page 2, by inserting after line 31, the
14 following:
- 15 "d. Notwithstanding any other provision of law to
16 the contrary, a care provider may transmit cautions
17 regarding contagious or infectious disease information
18 in the course of the care provider's duties over the
19 police radio broadcasting system under chapter 693 or
20 any other radio-based communications system, if the
21 information transmitted does not personally identify
22 an individual or the contagious or infectious
23 disease."
- 24 7. Page 2, line 34, by striking the words "health
25 care provider,".
- 26 8. Page 5, line 23, by striking the words "
27 health care provider,".
- 28 9. Page 5, line 30, by striking the words "
29 health care provider,".
- 30 10. Page 6, line 7, by striking the words "health
31 care provider,".
- 32 11. Page 6, lines 16 and 17, by striking the
33 words "health care provider,".
- 34 12. Page 6, lines 20 and 21, by striking the
35 words "health care provider,".
- 36 13. Page 6, line 25, by striking the words
37 "health care provider,".
- 38 14. Page 6, line 31, by striking the words
39 "health care provider,".

By COMMITTEE ON HUMAN RESOURCES
JOHN REDWINE, CHAIRPERSON

Adopted 4-17-01
(P.1151)

S-3299 FILED APRIL 3, 2001

SENATE AMENDMENT TO HOUSE FILE 590

H-1574

- 1 Amend House File 590, as amended, passed and
2 reprinted by the House, as follows:
3 1. Page 1, line 32, by striking the words "
4 health care provider,".
5 2. Page 2, line 4, by striking the words "
6 health care provider".
7 3. Page 2, line 15, by striking the words "health
8 care provider,".
9 4. Page 2, lines 24 and 25, by striking the words
10 "health care provider,".
11 5. Page 2, lines 28 and 29, by striking the words
12 "health care provider,".
13 6. Page 2, by inserting after line 31, the
14 following:
15 "d. Notwithstanding any other provision of law to
16 the contrary, a care provider may transmit cautions
17 regarding contagious or infectious disease information
18 in the course of the care provider's duties over the
19 police radio broadcasting system under chapter 693 or
20 any other radio-based communications system, if the
21 information transmitted does not personally identify
22 an individual or the contagious or infectious
23 disease."
24 7. Page 2, line 34, by striking the words "health
25 care provider,".
26 8. Page 5, line 23, by striking the words "
27 health care provider,".
28 9. Page 5, line 30, by striking the words "
29 health care provider,".
30 10. Page 6, line 7, by striking the words "health
31 care provider,".
32 11. Page 6, lines 16 and 17, by striking the
33 words "health care provider,".
34 12. Page 6, lines 20 and 21, by striking the
35 words "health care provider,".
36 13. Page 6, line 25, by striking the words
37 "health care provider,".
38 14. Page 6, line 31, by striking the words
39 "health care provider,".

RECEIVED FROM THE SENATE

H-1574 FILED APRIL 17, 2001

House Concurred
4-24-01
(P. 1427)

HOUSE FILE 590

H-1597

- 1 Amend the Senate Amendment, H-1574, to House File
- 2 590 as amended, passed and reprinted by the House, as
- 3 follows:
- 4 1. Page 1, by striking lines 22 and 23, and
- 5 inserting the following: "an individual."

By CARROLL of Poweshiek

H-1597 FILED APRIL 19, 2001

adopted 4/24/01 (p. 1426)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 590

S-3456

- 1 Amend the Senate Amendment, H-1574, to House File
- 2 590 as amended, passed and reprinted by the House, as
- 3 follows:
- 4 1. Page 1, by striking lines 22 and 23, and
- 5 inserting the following: "an individual."

RECEIVED FROM THE HOUSE

S-3456 FILED APRIL 24, 2001

Senate Concurred
4-30-01
(P. 1399)

HOUSE FILE 590

AN ACT

RELATING TO THE TESTING OF INDIVIDUALS AND THE RELEASE OF THE RESULTS OF TESTS FOR COMMUNICABLE AND INFECTIOUS DISEASES AND FOR THE HUMAN IMMUNODEFICIENCY VIRUS AND MAKING PENALTIES APPLICABLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

NEW SUBSECTION. 1A. "Care provider" means an individual who is trained and authorized by federal or state law to provide health care services or services of any kind in the course of the individual's official duties, for compensation or in a voluntary capacity, who is a health care provider, emergency medical care provider as defined in section 147A.1, fire fighter, or peace officer. "Care provider" also means an individual who renders emergency care or assistance in an emergency or due to an accident as described in section 613.17.

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

Sec. 3. Section 139A.2, subsection 7, Code 2001, is amended to read as follows:

7. "Exposure" means the risk of contracting disease as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.

Sec. 4. Section 139A.19, Code 2001, is amended by striking the section and inserting in lieu thereof the following:
139A.19 CARE PROVIDER NOTIFICATION.

1. a. Notwithstanding any provision of this chapter to the contrary, if a care provider sustains an exposure from an

individual while rendering health care services or other services, the individual to whom the care provider was exposed is deemed to consent to a test to determine if the individual has a contagious or infectious disease and is deemed to consent to notification of the care provider of the results of the test, upon submission of an exposure report by the care provider to the hospital or other person specified in this section to whom the individual is delivered by the care provider. The exposure report form may be incorporated into the Iowa prehospital care report, the Iowa prehospital advanced care report, or a similar report used by an ambulance, rescue, or first response service or law enforcement agency.

b. The hospital or other person specified in this section to whom the individual is delivered shall conduct the test. If the individual is delivered by the care provider to an institution administered by the Iowa department of corrections, the test shall be conducted by the staff physician of the institution. If the individual is delivered by the care provider to a jail, the test shall be conducted by the attending physician of the jail or the county medical examiner. The sample and test results shall only be identified by a number and shall not otherwise identify the individual tested.

c. A hospital, institutions administered by the department of corrections, and jails shall have written policies and procedures for notification of a care provider under this section. The policies and procedures shall include designation of a representative of the care provider to whom notification shall be provided and who shall, in turn, notify the care provider. The identity of the designated representative of the care provider shall not be revealed to the individual tested. The designated representative shall inform the hospital, institution administered by the department of corrections, or jail of those parties who

received the notification, and following receipt of this information and upon request of the individual tested, the hospital, institution administered by the department of corrections, or jail shall inform the individual of the parties to whom notification was provided.

d. Notwithstanding any other provision of law to the contrary, a care provider may transmit cautions regarding contagious or infectious disease information in the course of the care provider's duties over the police radio broadcasting system under chapter 693 or any other radio-based communications system, if the information transmitted does not personally identify an individual.

2. If the individual tested is diagnosed or confirmed as having a contagious or infectious disease, the hospital, or other person conducting the test shall notify the care provider or the designated representative of the care provider who shall then notify the care provider.

3. The notification to the care provider shall advise the care provider of possible exposure to a particular contagious or infectious disease and recommend that the care provider seek medical attention. The notification shall be provided as soon as is reasonably possible following determination that the individual has a contagious or infectious disease. The notification shall not include the name of the individual tested for the contagious or infectious disease, unless the individual consents. If the care provider who sustained an exposure determines the identity of the individual diagnosed or confirmed as having a contagious or infectious disease, the identity of the individual shall be confidential information and shall not be disclosed by the care provider to any other person unless a specific written release is obtained from the individual diagnosed with or confirmed as having a contagious or infectious disease.

4. This section does not require or permit, unless otherwise provided, a hospital, health care provider, or other

person to administer a test for the express purpose of determining the presence of a contagious or infectious disease, except that testing may be performed if the individual consents and if the requirements of this section are satisfied.

5. This section does not preclude a hospital or a health care provider from providing notification to a care provider under circumstances in which the hospital's or health care provider's policy provides for notification of the hospital's or health care provider's own employees of exposure to a contagious or infectious disease that is not life-threatening if the notice does not reveal a patient's name, unless the patient consents.

6. A hospital, health care provider, or other person participating in good faith in complying with provisions authorized or required under this section is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

7. A hospital's or health care provider's duty of notification under this section is not continuing but is limited to a diagnosis of a contagious or infectious disease made in the course of admission, care, and treatment following the rendering of health care services or other services to which notification under this section applies.

7A. A hospital, health care provider, or other person who is authorized to perform a test under this section who performs the test in compliance with this section or who fails to perform the test authorized under this section, is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

7B. A hospital, health care provider, or other person who is authorized to perform a test under this section has no duty to perform the test authorized.

8. The department shall adopt rules pursuant to chapter 17A to administer this section. The department may determine

by rule the contagious or infectious diseases for which testing is reasonable and appropriate and which may be administered under this section.

9. The employer of a care provider who sustained an exposure under this section shall pay the costs of testing for the individual who is the source of the exposure and of the testing of the care provider, if the exposure was sustained during the course of employment. However, the department shall pay the costs of testing for the individual who is the source of the significant exposure and of the testing of the care provider who renders direct aid without compensation.

Sec. 5. Section 141A.1, subsection 5, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

5. "Care provider" means an individual who is trained and authorized by federal or state law to provide health care services or services of any kind in the course of the individual's official duties, for compensation or in a voluntary capacity, who is a health care provider, emergency medical care provider as defined in section 147A.1, fire fighter, or peace officer. "Care provider" also means an individual who renders emergency care or assistance in an emergency or due to an accident as described in section 613.17.

Sec. 6. Section 141A.1, subsection 7, Code 2001, is amended by striking the subsection.

Sec. 7. Section 141A.8, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

141A.8 CARE PROVIDER NOTIFICATION.

1. a. Notwithstanding any provision of this chapter to the contrary, if a care provider sustains a significant exposure from an individual, the individual to whom the care provider was exposed is deemed to consent to a test to determine the presence of HIV infection in that individual and is deemed to consent to notification of the care provider of

the HIV test results of the individual, upon submission of a significant exposure report by the care provider to the hospital or other person specified in this section to whom the individual is delivered by the care provider. The significant exposure report form may be incorporated into the Iowa prehospital care report, the Iowa prehospital advanced care report, or a similar report used by an ambulance, rescue, or first response service or law enforcement agency.

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

c. A hospital, institutions administered by the department of corrections, and jails shall have written policies and procedures for notification of a care provider under this section. The policies and procedures shall include designation of a representative of the care provider to whom notification shall be provided and who shall, in turn, notify the care provider. The identity of the designated representative of the care provider shall not be revealed to the individual tested. The designated representative shall inform the hospital, institution administered by the department of corrections, or jail of those parties who received the notification, and following receipt of this information and upon request of the individual tested, the hospital, institution administered by the department of corrections, or jail shall inform the individual of the parties to whom notification was provided.

2. a. If the test results are positive, the hospital, or other person performing the test shall notify the subject of the test and ensure the performance of counseling and reporting requirements of this chapter in the same manner as for an individual from whom actual consent was obtained.

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

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

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

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

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

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

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

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

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

10. The employer of a care provider who sustained a significant exposure under this section shall pay the costs of HIV testing for the individual who is the source of the significant exposure and of the testing and counseling of the

care provider, if the significant exposure was sustained during the course of employment. However, the department shall pay the costs of HIV testing for the individual who is the source of the significant exposure and of the testing and counseling of the care provider who renders direct aid without compensation.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 590, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved May 32, 2001

THOMAS J. VILSACK
Governor