

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 291 Session of 2009

INTRODUCED BY ERICKSON, VANCE, M. WHITE, RAFFERTY, WASHINGTON,
BAKER, EARLL, WAUGH, O'PAKE AND BOSCOLA, FEBRUARY 20, 2009

REFERRED TO PUBLIC HEALTH AND WELFARE, FEBRUARY 20, 2009

AN ACT

1 Amending the act of November 29, 1990 (P.L.585, No.148),
2 entitled "An act providing for confidentiality of certain
3 records; providing for the authorized sharing of certain
4 information; providing for written consent prior to an HIV-
5 related test, with certain exceptions; providing for civil
6 immunity for certain licensed physicians; providing for
7 protective procedures and equipment; and creating a civil
8 cause of action," further providing for legislative intent,
9 for consent to HIV-related tests and for counseling.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Sections 2(c), 5(a) and (b) and 6(b)(1) of the
13 act of November 29, 1990 (P.L.585, No.148), known as the
14 Confidentiality of HIV-Related Information Act, are amended to
15 read:

16 Section 2. Legislative intent.

17 * * *

18 (c) Intent.--It is the intent of the General Assembly to
19 promote confidential testing on an informed and voluntary basis
20 in order to encourage those most in need to obtain testing and
21 appropriate counseling[.] and to better serve the public health

1 by making HIV testing a routine part of general medical care, as
2 recommended by the Centers for Disease Control and Prevention.

3 * * *

4 Section 5. Consent to HIV-related test.

5 (a) Consent.--

6 (1) Except as provided in section 6 with respect to the
7 involuntary testing of a source patient, no HIV-related test
8 shall be performed without first obtaining the informed
9 [written] documented consent of the subject. Any consent
10 shall be preceded by an explanation of the test, including
11 its purpose, potential uses, limitations and the meaning of
12 its results.

13 (2) A health care provider may offer opt-out HIV
14 testing, where the subject is informed that the subject will
15 be tested for HIV unless the subject refuses.

16 (3) The health care provider shall document the
17 provision of informed consent, including pre-test
18 information, and whether the subject declined the offer of
19 HIV testing.

20 [(b) Pretest counseling.--No HIV-related test may be
21 performed without first making available to the subject
22 information regarding measures for the prevention of, exposure
23 to and transmission of HIV.]

24 * * *

25 Section 6. Certification of significant exposure and testing
26 procedures.

27 * * *

28 (b) Opportunity for source patient to consent.--

29 (1) In the event that an exposed individual health care
30 provider or first responder is certified to have experienced

1 a significant exposure and has submitted to an HIV-related
2 test, no testing shall be performed on a source patient's
3 available blood unless the certifying physician provides a
4 copy of the written certification of significant exposure to
5 the source patient's physician or institutional health care
6 provider in possession of the available blood and the source
7 patient's physician or institutional health care provider has
8 made a good faith effort to:

9 (i) Notify the source patient or substitute
10 decisionmaker of the significant exposure.

11 (ii) Seek the source patient's voluntary informed
12 consent to the HIV-related testing as specified in
13 section 5(a).

14 [(iii) Provide counseling as required under section
15 5(b).]

16 * * *

17 Section 2. This act shall take effect in 60 days.