

The Illinois Perinatal HIV Prevention Law and 2006 Amendments

This fact sheet highlights Illinois law regarding HIV counseling and testing for pregnant women and newborns. The Illinois Perinatal HIV Prevention Act (Public Act [93-0566](#)) was enacted in 2003 and amended in 2006 by P.A. [94-0910](#) to further reduce the risk of mother-to-newborn HIV transmission. Download copies of the Acts from www.ilga.gov.

The Illinois Department of Public Health has issued to health providers information regarding implementation of the law. A copy of these guidelines is available at aidschicago.org/pdf/2006/adv_whitaker.pdf.

What is the benefit of the Illinois Perinatal Prevention Law? By screening early for HIV, pregnant women and newborns can receive medications that greatly reduce the risk of HIV transmission from mother to child.

Who is required to offer HIV counseling and testing? Every healthcare provider involved in prenatal care, labor, or delivery services, or a health worker who provides care for pregnant women or newborns—including licensed physicians, physician's assistants, and registered nurses—must counsel pregnant women about HIV and recommend HIV testing.

What services must providers offer?

- Every pregnant woman must receive HIV counseling and providers must recommend that they be tested for HIV if they do not have documentation of previous testing during the current pregnancy.
- During prenatal care, pregnant women must be provided with HIV counseling, and providers must recommend that pregnant women be tested for HIV in each pregnancy. Providers must inform pregnant women that if they are not tested prenatally, their newborns will be tested for HIV.
- When a pregnant woman arrives to deliver her baby, if she has not already received HIV counseling and information on HIV testing during the current pregnancy, she must be provided with both.
- After a woman delivers her baby, or as soon as possible within medical standards, a mother whose HIV status is unknown must be provided with HIV counseling. In any case in which the mother's status is unknown, the newborn must be tested for HIV and the mother or guardian's consent is not required.
- The only exception to mandatory newborn testing, required when the mother's HIV status is unknown, is if the parent or guardian presents a written statement objecting to testing on religious grounds.

How must the HIV test be administered?

- All testing of pregnant women must be voluntary. Healthcare providers must recommend the test and obtain written consent for the testing. Providers must explain that if testing is refused, the woman's newborn will be tested without her consent.
- Any testing and test results must be documented in accordance with the AIDS Confidentiality Act (see www.ilga.gov under Chapter 410 of the Compiled Statutes). All counseling and offers of testing must be recorded in the woman's medical records.
- The law requires that the mother's test results be recorded in the newborn's chart. The provider must note if the test results are not available because the mother refused testing or was not tested.

What must HIV counseling include? All HIV counseling to pregnant women must be in accordance with the AIDS Confidentiality Act and include:

- The benefits of HIV testing for pregnant women, including the opportunity to prevent HIV transmission to the newborn.
- The benefit of HIV testing for the infant, including interventions to prevent transmission, and the side effects of those interventions.
- The confidentiality provisions that relate to HIV and AIDS.
- The voluntary nature of testing for pregnant women.

What are other requirements added by the 2006 law?

- *Hospital requirements:* Providers must report all preliminary HIV-positive pregnant women or HIV-exposed newborns to the 24-hour perinatal HIV hotline (800-439-4079), must report aggregate statistics monthly, and must inform parents of the importance of treatment to prevent HIV infection of the newborn.
- *Illinois Department of Public Health (IDPH) requirements:* IDPH must provide case management to HIV-positive pregnant woman and their newborns, maintain the 24-hour perinatal HIV hotline, and prepare an annual report on the implementation of the Act.

For more information on the Illinois AIDS Confidentiality Act and other legal topics, download a legal guide at www.aidslegal.com or contact the AIDS Legal Council of Chicago at 312-427-8990. For more information on the implementation of rapid HIV testing, contact Perinatal Rapid Testing Implementation in Illinois (PRTII) at 773-880-4537.

Major differences between the 2003 and 2006 perinatal HIV prevention Acts

2003 law	2006 law
Providers must <i>offer</i> HIV testing to pregnant women.	Providers must <i>recommend</i> HIV testing to pregnant women.
None	Pregnant woman must be informed that if she is not tested for HIV before giving birth, her baby will be tested when born.
None	Mother’s HIV status must be recorded in newborn’s chart. Note must also be placed in chart if mother has not been tested or has refused testing. Healthcare facilities must adopt a policy to implement this provision.
<i>Newborn Testing</i>	
If mother’s HIV status is unknown when baby is born, baby must be tested for HIV unless mother refuses in writing.	If mother’s HIV status is unknown when baby is born, baby must be tested for HIV. Mother may not refuse testing, except for religious reasons. Mother objecting for religious reasons must present a written statement to physician.
Test must be performed within 48 hours.	Rapid HIV test must be performed “as soon as possible within medical standards.”
<i>Other provisions</i>	
No provision	Facility must report to 24-hour perinatal HIV hotline preliminary positive women and preliminary positive HIV-exposed newborns identified during labor and delivery or after delivery. Reports must be made within 24 hours. Facility must adopt policy. IDPH must adopt rules to specify the reporting that is required.
No provision	Healthcare facilities must report monthly aggregate statistics.
No provision	IDPH must maintain case management services for pregnant women to ensure access to treatment and care.
No provision	IDPH must maintain 24-hour perinatal HIV hotline. Purpose is to provide linkage to case management and consultation to prevent mother-to-child HIV transmission during labor and delivery. Information given to providers must be based on current U.S. Public Health Services guidelines or other experts.
No provision	Parent/guardian of HIV-exposed newborn must be informed of importance of treatment. IDPH must develop brochure. Healthcare facilities must adopt a policy to implement this provision.