

# Illinois

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## Analysis

### **Illinois repealed its criminal statutes explicitly targeting HIV exposure, but transmission of HIV or other sexually transmitted diseases (STIs) still can serve as an aggravating factor in sexual assault offenses.**

In 2021, Illinois became the second state, after Texas in 1994, to fully repeal its HIV-specific criminal law, removing any specific mention of HIV from the Illinois Criminal Code.<sup>1</sup>

However, transmission of HIV or other STIs are still potential aggravating factors in prosecutions for sexual assault. Circumstances that elevate sexual assault to aggravated sexual assault include causing bodily harm<sup>2</sup> to the victim during the commission of the offense<sup>3</sup> or acting in a manner that threatens or endangers another person during the commission of the offense.<sup>4</sup>

In *People v. Giraud* (2012), the Illinois Supreme Court examined whether a PLHIV knowingly exposing someone to HIV during the commission of a sexual assault constitutes life endangerment or bodily harm sufficient to elevate the offense to the level of a felony.<sup>5</sup> The defendant had appealed his conviction for aggravated sexual assault on the basis of the victim's exposure to HIV during the commission of the crime, which the appellate court reduced to sexual assault because it concluded that exposure to HIV alone does not satisfy the requirements for an aggravated offense.<sup>6</sup>

The court concluded that a threat must actually be communicated to a victim in word or deed, and that the mere risk of future harm is not equivalent to a threat of harm during the commission of an offense.<sup>7</sup> As to whether exposure to HIV constitutes bodily harm, the court found that only in the case of actual disease transmission would the sexual assault be aggravated due to infliction of bodily harm on the

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<sup>1</sup> *Illinois Becomes Second State to Repeal HIV Criminalization Laws*, CENTER FOR HIV LAW AND POLICY, July 28, 2021, available at <https://www.hivlawandpolicy.org/news/illinois-becomes-second-state-repeal-hiv-criminalization-laws>. Under the previous Illinois HIV criminal law, PLHIV could face prosecution for: 1) engaging in condomless sexual intercourse without first disclosing their HIV status; 2) donating, transferring, or providing blood, tissue, semen, organs, or "other potentially infectious bodily fluids" for transfusion, transplant, insemination, or administration to another; or 3) sharing or exchanging non-sterile needles and other drug paraphernalia. PLHIV who violated the statute could be subject to a Class 2 felony, punishable by three to seven years in prison and a \$25,000 fine. 720 ILL. COMP. STAT. 5/12-5.01 (repealed 2021).

<sup>2</sup> Defined in the context of sex offenses as "physical harm," including but not limited to "sexually transmitted disease, pregnancy, and impotence." 720 ILL. COMP. STAT. ANN. 5/11-0.1 (2023).

<sup>3</sup> 720 ILL. COMP. STAT. ANN. 5/11-1.30(a)(2) (2023).

<sup>4</sup> 720 ILL. COMP. STAT. ANN. 5/11-1.30(a)(3) (2023).

<sup>5</sup> 980 N.E.2d 1107, 1109 (Ill. 2012).

<sup>6</sup> *Id.* at 1108-09.

<sup>7</sup> *Id.* at 1112.

victim.<sup>8</sup> In its explanation, the court observed that relying on the State’s reasoning would have negative unintended consequences, stating that “the State’s reading of the statute, equating mere exposure to a communicable disease to endangering the life of a victim, could apply just as well to exposure to the HPV virus, which causes cervical cancer, or to exposure to hepatitis, which can lead to liver cancer, or exposure to tuberculosis, which can be fatal.”<sup>9</sup>

The court also pointed to the fact that a defendant who exposes someone to HIV during a sexual assault that does not result in HIV transmission, will serve consecutive sentences for criminal exposure to HIV and the underlying assault.<sup>10</sup> A consecutive sentence is when an individual who is sentenced to two or more offenses cannot serve the sentences at the same time and one sentence does not begin to run until the expiration of the prior sentence. Consecutive sentences are mandatory when a defendant has been convicted of criminal sexual assault, aggravated criminal sexual assault, or predatory criminal assault of a child.<sup>11</sup>

However, this case was decided before Illinois repealed its criminal HIV exposure law. Because exposure to HIV alone is no longer a crime, a person would only serve time for the underlying sexual assault. Where transmission results, a defendant may be charged with aggravated sexual assault on the basis of harm to the victim, a Class X felony, and punishable by up to 30 years’ incarceration.<sup>12</sup>

### **Under Illinois’ public health code, a person living with HIV or other STI may be required to undergo mandatory examination or treatment.**

A person who is reasonably suspected of being infected with or having been exposed a sexually transmissible disease (STI) may be required to undergo mandatory examination and treatment.<sup>13</sup> Illinois defines “sexually transmissible disease” as including chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/Acute Salpingitis, syphilis, Acquired Immunodeficiency Syndrome (AIDS), and Human Immunodeficiency Virus (HIV).<sup>14</sup>

Mandatory treatment may continue until the disease is rendered non-communicable or the Department of Health concludes that “the person does not present a real and present danger to public health.”<sup>15</sup> A person may be required to undergo treatment against their will if the Department obtains a warrant on the basis that they “[are] infectious and that a real and present danger to the public health exists” and

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<sup>8</sup> *Id.* at 1114-15.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 1114.

<sup>11</sup> 730 ILL. COMP. STAT. 5/5-8-4(d)(2) (2023).

<sup>12</sup> 730 ILL. COMP. STAT. 5/5-4.5-25(a) (2023). If a court finds that a defendant’s actions presented aggravating factors, such as the age of the victim or the “brutal or heinous” nature of the assault, the sentence may be extended to up to 60 years. 30 ILL. COMP. STAT. 5/5-5-3.2 (2023).

<sup>13</sup> 410 ILL. COMP. STAT. ANN. 325/6(a), 325/6(b) (2023); 77 ILL. ADMIN. CODE § 693.50 (2016) (Note that the Administrative Code provisions do not apply to STIs generally—only syphilis, gonorrhea, chlamydia, HIV, and chancroid).

<sup>14</sup> 410 ILL. COMP. STAT. ANN. 325/3(3) (2023).

<sup>15</sup> 410 ILL. COMP. STAT. ANN. 325/6(b) (2023).

all other “reasonable means of obtaining compliance have been exhausted.”<sup>16</sup> Any legal proceedings related to the issuance of such a warrant are conducted in camera and sealed.<sup>17</sup>

Illinois law does not precisely define what kind of conduct rises to the level of “a real and present danger.” Thus, for conditions that cannot be rendered completely non-infectious, it is unclear what criteria a person would need to meet in order to be released when they are considered to no longer pose a threat to others.

### **A person living with HIV or other STI may be subject to isolation and quarantine.**

The Department of Health may order someone with an STI to be isolated or quarantined to “prevent the probable spread of a sexually transmitted disease, until such time as the condition can be corrected or the danger to the public health eliminated or reduced in such a manner that no substantial danger to the public’s health any longer exists.”<sup>18</sup> A court will only issue an order for involuntary isolation or quarantine upon the Department of Health’s showing, by clear and convincing evidence, that “the public’s health and welfare are significantly endangered by a person with a sexually transmissible disease or by a place where there is a significant amount of sexual activity likely to spread a sexually transmissible disease”<sup>19</sup> and proof that all other reasonable means of correcting the problem have been exhausted.<sup>20</sup> As above, the terms “substantial danger” and “significantly endangered,” are not defined, leaving the statute open to potentially broad interpretation and application to people with HIV or other STIs.

Illinois’ Administrative Code outlines various procedural requirements related to the issuance of an order for isolation or quarantine.<sup>21</sup> A written order from a health department must include a variety of information, including the basis for the order, anticipated duration of the order, and a restricted individual’s right to counsel.<sup>22</sup> If a health department petitions a court for a court order of restriction, an individual must receive notice at least 24 hours’ notice prior to the resulting hearing.<sup>23</sup> With respect to the required showing that no less restrictive alternative exists, the reviewing court will consider whether, given the facts of the case, quarantine or isolation is a measure provided for in Department of Health guidelines or in guidelines issued by the Centers for Disease Control or the World Health Organization.<sup>24</sup> Isolation or quarantine as a result of a court order may not exceed 30 days from the

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<sup>16</sup> 410 ILL. COMP. STAT. ANN. 325/6(c)(2023).

<sup>17</sup> *Id.*

<sup>18</sup> 410 ILL. COMP. STAT. ANN. 325/7(a) (2023); 77 ILL. ADMIN. CODE § 693.60(a) (2016) (Note that these Administrative Code provisions do not apply to STIs generally—only syphilis, gonorrhea, chlamydia, HIV and chancroid).

<sup>19</sup> 410 ILL. COMP. STAT. ANN. 325/7(b) (2023).

<sup>20</sup> *Id.*

<sup>21</sup> 77 ILL. ADMIN. CODE § 690.1330 (2023).

<sup>22</sup> 77 ILL. ADMIN. CODE §§ 690.1330(b)(2)(C), 690.1330(b)(2)(G), 690.1330(b)(2)(E) (2023).

<sup>23</sup> 77 ILL. ADMIN. CODE § 690.1330(f) (2023).

<sup>24</sup> 77 ILL. ADM. CODE § 690.1330(g) (2023).

date of issuance;<sup>25</sup> any request to continue the order beyond that period may also be for no more than 30 days.<sup>26</sup>

### **Public health officials may release patient medical information for the purpose of obtaining a warrant to quarantine PLHIV.**

The Department of Health initiates an investigation when it receives notification of HIV infection and determines that the subject of the notification may present a possible risk of HIV transmission.<sup>27</sup> All information obtained pursuant as a result of the investigation is confidential and generally not admissible as evidence or discoverable in any legal action.<sup>28</sup> However, the information may be released for the purpose of obtaining a warrant in order to examine, treat, isolate or quarantine someone.<sup>29</sup>

***Important note:** While we have made an effort to ensure that this information is current, the law is always changing and we cannot guarantee the accuracy of the information provided. This information may or may not be applicable to your specific situation and, as such, it should not be used as a substitute for legal advice.*

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<sup>25</sup> 77 ILL. ADMIN. CODE § 690.1330(g)(1) (2023).

<sup>26</sup> 77 ILL. ADMIN. CODE § 690.1330(g)(4)(B) (2023).

<sup>27</sup> 410 ILL. COMP. STAT. ANN. 325/5.5(a) (2023).

<sup>28</sup> 410 ILL. COMP. STAT. ANN. 325/5.5(d) (2023).

<sup>29</sup> 410 ILL. COMP. STAT. ANN. 325/5.5(d)(3) (2023).

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## Illinois Compiled Statutes

**Note:** Provisions imposing punitive restrictions or listing criminal sentences are denoted with \*\* and are generally listed first. Thereafter, provisions within a particular title are listed numerically.

### CHAPTER 720, CRIMINAL OFFENSES, CRIMINAL CODE

#### **720 ILL. COMP. STAT. ANN. 5/11-0.1 (2023)**

##### *Definitions*

"Bodily harm" means physical harm, and includes, but is not limited to, sexually transmitted disease, pregnancy, and impotence.

#### **720 ILL. COMP. STAT. ANN. 5/11-1.30 (2016)**

##### *Aggravated criminal sexual assault*

(a) A person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense:

(2) the person causes bodily harm to the victim, except as provided in paragraph (10);

### CHAPTER 730, CORRECTIONS, UNIFIED CODE OF CORRECTIONS

#### **730 ILL. COMP. STAT. § 5/5-4.5-35 (2016) \*\***

##### *Class 2 Felonies; Sentence*

For a Class 2 felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than 3 years and not more than 7 years. The sentence of imprisonment for an extended term Class 2 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 7 years and not more than 14 years.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 4 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be 2 years upon release from imprisonment.

**730 ILL. COMP. STAT. § 5/5-4.5-50 \*\***

*Sentence Provisions; All Felonies*

(b) FELONY FINES. An offender may be sentenced to pay a fine not to exceed, for each offense, \$25,000 or the amount specified in the offense, whichever is greater, or if the offender is a corporation, \$50,000 or the amount specified in the offense, whichever is greater. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9 [(730 ILCS 5/5-9-1 et seq.)]) for imposition of additional amounts and determination of amounts and payment.

**CHAPTER 410, PUBLIC HEALTH, COMMUNICABLE DISEASES**

**410 ILL. COMP. STAT. ANN. 325/3 (2016)**

*Definitions*

(3) "Sexually transmissible disease" means a bacterial, viral, fungal or parasitic disease, determined by rule of the Department to be sexually transmissible, to be a threat to the public health and welfare, and to be a disease for which a legitimate public interest will be served by providing for regulation and treatment. In considering which diseases are to be designated sexually transmissible diseases, the Department shall consider such diseases as chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/Acute Salpingitis, syphilis, Acquired Immunodeficiency Syndrome (AIDS), and Human Immunodeficiency Virus (HIV) for designation, and shall consider the recommendations and classifications of the Centers for Disease Control and other nationally recognized medical authorities. Not all diseases that are sexually transmissible need be designated for purposes of this Act.

**410 ILL. COMP. STAT. ANN. 325/5.5 (2021)**

*Risk assessment*

(a) Whenever the Department receives a report of HIV infection or AIDS pursuant to this Act and the Department determines that the subject of the report may present or may have presented a possible risk of HIV transmission, the Department shall, when medically appropriate, investigate the subject of the report and that person's contacts as defined in subsection (c), to assess the potential risks of transmission. Any investigation and action shall be conducted in a timely fashion. All contacts other than those defined in subsection (c) shall be investigated in accordance with Section 5 of this Act [410 ILCS 325/5]

(d) All information and records held by the Department and local health authorities pertaining to activities conducted pursuant to this Section shall be strictly confidential and exempt from copying and inspection under the Freedom of Information Act [5 ILCS 140/1 et seq.]. Such information and records shall not be released or made public by the Department or local health authorities, and shall not be admissible as evidence, nor discoverable in any action of any kind in any court or before any tribunal, board, agency or person and shall be treated in the same manner as the information and those records subject to the provisions of Part 21 of Article VIII of the Code of Civil Procedure [735 ILCS 5/2-2101 et seq.] except under the following circumstances:

(3) When made by the Department for the purpose of seeking a warrant authorized by Sections 6 and 7 of this Act. Such disclosure shall conform to the requirements of subsection (a) of Section 8 of this Act.

**410 ILL. COMP. STAT. ANN. 325/6 (2023)**

*Physical examination and treatment*

(a) Subject to the provisions of subsection (c) of this Section, the Department and its authorized representatives may examine or cause to be examined persons reasonably believed to be infected with or to have been exposed to a sexually transmissible disease.

(b) Subject to the provisions of subsection (c) of this Section, persons with a sexually transmissible disease shall report for complete treatment to a physician licensed under the provisions of the Medical Practice Act of 1987, or shall submit to treatment at a facility provided by a local health authority or other public facility, as the Department shall require by rule or regulation until the disease is noncommunicable or the Department determines that the person does not present a real and present danger to the public health. This subsection (b) shall not be construed to require the Department or local health authorities to pay for or provide such treatment.

(c) No person shall be apprehended, examined or treated for a sexually transmissible disease against his will, under the provisions of this Act, except upon the presentation of a warrant duly authorized by a court of competent jurisdiction. In requesting the issuance of such a warrant, the Department shall show by a preponderance of evidence that the person is infectious and that a real and present danger to the public health and welfare exists unless such warrant is issued and shall show that all other reasonable means of obtaining compliance have been exhausted and that no other less restrictive alternative is available. The court shall require any proceedings authorized by this subsection (c) to be conducted in camera. A record shall be made of such proceedings but shall be sealed, impounded and preserved in the records of the court, to be made available to the reviewing court in the event of an appeal.

**410 ILL. COMP. STAT. ANN. 325/7 (2023)**

*Quarantine and Isolation*

(a) Subject to the provisions of subsection (b) of this Section, the Department may order a person to be isolated or a place to be quarantined and made off limits to the public to prevent the probable spread of a sexually transmissible disease, until such time as the condition can be corrected or the danger to the public health eliminated or reduced in such a manner that no substantial danger to the public's health any longer exists.

(b) No person may be ordered to be isolated, and no place may be ordered to be quarantined, except with the consent of such person or owner of such place or upon the order of a court of competent jurisdiction and upon proof by the Department, by clear and convincing evidence, that the public's health and welfare are significantly endangered by a person with a sexually transmissible disease or by a place where there is a significant amount of sexual activity likely to spread a sexually transmissible disease, and upon proof that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists.

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## Illinois Administrative Code

### TITLE 77, PUBLIC HEALTH, CHAPTER I, DEPARTMENT OF PUBLIC HEALTH

#### **77 ILL. ADMIN. CODE § 690.1330 (2016)**

##### *Order and Procedure for Isolation, Quarantine and Closure*

a) The Department or certified local health department may order a person or group of persons to be quarantined or isolated or may order a place to be closed and made off limits to the public on an immediate basis without prior consent or court order if, in the reasonable judgment of the Department or certified local health department, immediate action is required to protect the public from a dangerously contagious or infectious disease. (Section 2(c) of the Act) The determination that immediate action is required shall be based on the following:

(1) The Department or the certified local health department has reason to believe that a person or group of persons is, or is suspected to be, infected with, exposed to, or contaminated with a dangerously contagious or infectious disease that could spread to or contaminate others if remedial action is not taken; and

(2) The Department or the certified local health department has reason to believe that the person or group of persons would pose a serious and imminent risk to the health and safety of others if not detained for isolation; and

(3) The Department or the certified local health department has first made efforts, which shall be documented, to obtain voluntary compliance with requests for medical examination, testing, treatment, counseling, vaccination, decontamination of persons or animals, isolation, and inspection and closure of facilities, or has determined that seeking voluntary compliance would create a risk of serious harm.

(b) All police officers, sheriffs and all other officers and employees of the State or any locality shall enforce the rules and regulations so adopted and orders issued by the Department or the certified local health department. (Section 2(a) of the Act) The Department or certified local health department may request the assistance of police officers, sheriffs, and all other officers and employees of any political subdivision within the jurisdiction of the Department or certified local health department to immediately enforce an order given to effectuate the purposes of this Subpart.

(c) If the Department or certified local health department orders the immediate isolation or quarantine of a person or group of persons:

(1) The immediate isolation or quarantine order shall be for a period not to exceed the period of incubation and communicability, as determined by the Department or certified local health department, for the dangerously contagious or infectious disease.

(2) The Department or certified local health department shall issue a written isolation or quarantine order within 24 hours after the commencement of isolation or quarantine pursuant to a verbal order, which shall specify the following:

(A) The identity of all persons or groups subject to quarantine or isolation, if known;



- (B) The premises subject to quarantine, isolation or closure;
- (C) Notice of the right to counsel;
- (D) Notice that if the person or owner is indigent, the court will appoint counsel for that person or owner;
- (E) Notice of the reason for the order for isolation, quarantine or closure, including the suspected dangerously contagious or infectious disease, if known;
- (F) Notice of whether the order is an immediate order, and if so, the time frame for the Department or certified local health department to seek consent or to file a petition requesting a court order;
- (G) Notice of the anticipated duration of the isolation, quarantine, or closure, including the dates and times at which isolation, quarantine, or closure commences and ends (Section 2(c) of the Act);
- (H) A statement of the measures taken by the Department or the certified local health department to seek voluntary compliance or the basis on which the Department or the certified local health department determined that seeking voluntary compliance would create a risk of serious harm;
- (I) A statement regarding the medical basis on which isolation, quarantine, or closure is justified, e.g., clinical manifestations; physical examination; laboratory tests, diagnostic tests or other medical tests; epidemiologic information; or other evidence of exposure or infection available to the Department or certified local health department at the time;
- (J) A statement that such persons may refuse examination, medical monitoring, medical treatment, prophylaxis, or vaccination, but remain subject to isolation or quarantine; and
- (K) A statement that, at any time while the isolation, quarantine or closure order is in effect, persons under isolation, quarantine, or closure may request a hearing to review the isolation, quarantine or closure order as set forth in Section 690.1345 of this Subpart.

(f) Upon filing a petition requesting a court order authorizing the isolation, quarantine or closure, or a petition requesting continued isolation, quarantine, or closure, the Department or certified local health department shall serve a notice of the hearing upon the person or persons who are being quarantined or isolated or upon the owner of the property that is being closed at least 24 hours before the hearing. If it is impractical to provide individual notice to large groups who are isolated or quarantined, a copy of the notice shall be posted in a designated location. The notice shall contain the following information:

- (1) The time, date and place of the hearing;
- (2) The grounds and underlying facts upon which continued isolation, quarantine or closure is sought;

- (3) The person's right to appear at the hearing; and
- (4) The person's right to counsel, including the right, if the person is indigent, to be represented by counsel designated by the court.

(g) To obtain a court order, the Department or certified local health department, by clear and convincing evidence, must prove that the public's health and welfare are significantly endangered by a person or group of persons that has, that is suspected of having, that has been exposed to, or that is reasonably believed to have been exposed to a dangerously contagious or infectious disease, including non-compliant tuberculosis patients or that the public's health and welfare have been significantly endangered by a place where there is a significant amount of activity likely to spread a dangerously contagious or infectious disease. The Department or certified local health department must also prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists. For purposes of this subsection, in determining whether no less restrictive alternative exists, the court shall consider evidence showing that, under the circumstances presented by the case in which an order is sought, quarantine or isolation is the measure provided for in a rule of the Department or in guidelines issued by the Centers for Disease Control and Prevention or the World Health Organization. (Section 2(c) of the Act)

- (1) Isolation, quarantine, or closure authorized as a result of a court order shall be for a period not to exceed 30 days from the date of issuance of the court order.
- (2) The Department or certified local health department may petition the court to continue the isolation, quarantine, or closure beyond the initial 30 days.
- (3) The Department or the certified local health department may petition the court to provide interpreters.
- (4) Prior to the expiration of a court order for continued isolation, quarantine, or closure, the Department or certified local health department may petition the court to continue isolation, quarantine, or closure, provided that:

(A) The Department or certified local health department provides the court with a reasonable basis to require continued isolation, quarantine, or closure to prevent a serious and imminent threat to the health and safety of others.

(B) The request for a continued order shall be for a period not to exceed 30 days.

**77 ILL. ADMIN. CODE § 693.50 (2023)**

*Physical Examination and Medical Treatment for Syphilis, Gonorrhea, Chlamydia, HIV or Chancroid*

- (a) The Department and certified local health departments may examine or cause to be examined persons reasonably believed to be infected with or to have been exposed to a reportable STI. (Section 6(a) of the Act)
- (b) Persons with syphilis, gonorrhea, chlamydia, or chancroid shall report for complete treatment to a physician licensed under the provisions of the Medical Practice Act of 1987, or shall submit to treatment at a facility provided by a certified local health department or other public facility until the disease is

noncommunicable or the Department or the certified local health department determines that the person does not present a real and present danger to the public health. This subsection shall not be construed to require the Department or the certified local health department to pay for or provide such treatment. (Section 6(b) of the Act)

(c) Persons with HIV shall report for treatment to a physician licensed under the provisions of the Medical Practice Act of 1987, or shall submit to treatment at a facility provided by a certified local health department or other public facility. This subsection shall not be construed to require the Department or the certified local health department to pay for or provide such treatment. (Section 6(b) of the Act).

(2) If a medical examination or appropriate treatment has not been provided, the certified local health department shall request that individual to report for examination or treatment at a specific date, time and location, or otherwise submit verifiable proof of examination or treatment by a specific date. For persons with HIV, if a medical examination or treatment has not been provided, the certified local health department shall request that individual to consider examination, testing and treatment;

(e) No person shall be apprehended, examined or treated for syphilis, gonorrhea, chlamydia, HIV or chancroid against his or her will, except upon the presentation of a warrant duly authorized by a court of competent jurisdiction. In requesting the issuance of such a warrant, the Department or certified local health department shall show by a preponderance of the evidence that the person is infectious and that a real and present danger to the public health and welfare exists unless the warrant is issued and shall show that all other reasonable means of obtaining compliance have been exhausted and that no other less restrictive alternative is available. (Section 6(c) of the Act) The Department does not delegate the responsibility to seek a court order to a delegated agency.

(1) In determining whether no less restrictive means exist, the court shall consider evidence showing that, under the circumstances presented by the case in which an order is sought, apprehension, examination or treatment is the measure provided for in guidelines issued by the Centers for Disease Control and Prevention.

(2) The court shall require any proceedings authorized by this Section to be conducted in camera. A record shall be made of such proceedings but shall be sealed, impounded and preserved in the records of the court, to be made available to the reviewing court in the event of an appeal. (Section 6(c) of the Act)

(3) The individual shall be given a written notice of any court proceedings conducted under this Section. The notice shall follow the procedures listed in 77 Ill. Adm. Code 690.1330 (Control of Communicable Diseases Code).

### **77 ILL. ADMIN. CODE § 693.60 (2023)**

#### *Quarantine and Isolation for Syphilis, Gonorrhea, Chlamydia, HIV and Chancroid*

(a) The Department or certified local health department may order a person to be isolated or a place to be quarantined and made off limits to the public to prevent the probable spread of syphilis, gonorrhea, chlamydia, HIV or chancroid, until such time as the condition can be corrected or the danger to the public health is eliminated or reduced in such a manner that no substantial danger to the public's health any longer exists. (Section 7(a) of the Act) The determination that action is required shall be based on the following:

(1) The Department or certified local health department has reason to believe that a person infected with syphilis, gonorrhea, chlamydia, HIV or chancroid is noncompliant and is likely to spread syphilis, gonorrhea, chlamydia, HIV or chancroid if not detained for isolation;

(2) The Department or the certified local health department has reason to believe that a place where there is significant sexual activity is likely to contribute to the spread of syphilis, gonorrhea, chlamydia, HIV or chancroid if quarantine procedures are not initiated; and

(3) The Department or the certified local health department has first made efforts, which shall be documented, to obtain voluntary compliance with requests for medical examination, testing, treatment and counseling of a noncompliant person infected with syphilis, gonorrhea, chlamydia, HIV or chancroid or the owner of a place where there is significant sexual activity that is likely to contribute to the spread of syphilis, gonorrhea, chlamydia, HIV or chancroid.

(b) No person may be ordered to be isolated, and no place may be ordered to be quarantined, except with the consent of such person or owner of such place or upon the order of a court of competent jurisdiction and upon proof by the Department or certified local health department, by clear and convincing evidence, that the public's health and welfare are significantly endangered by a person with syphilis, gonorrhea, chlamydia, HIV or chancroid or by a place where there is a significant amount of sexual activity likely to spread syphilis, gonorrhea, chlamydia, HIV or chancroid, and upon proof that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists. (Section 7(b) of the Act)

(1) A "significant danger to the public's health", for purposes of this Section, means that the continued operation or existence of the place in question would result in irreparable injury to individuals engaging in sexual activity at that place.

(2) The order and procedure for quarantine and isolation for purposes of this Section shall be the same as the order and procedure for quarantine and isolation set forth in 77 Ill. Adm. Code 690.1330 (Control of Communicable Diseases Code).

### **77 ILL. ADMIN. CODE § 693.120 (2023)**

#### *Certificate of Freedom from STIs*

No health care professional, local health department, designated agent or other person, including the Department, shall issue certificates of freedom from STIs to or for any person.