

The House Committee on Health and Human Services offers the following substitute to HB 1058:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 16-13-32, Chapters 17 and 22 of Title 31, and Code Section 24-12-21 of the Official Code of Georgia Annotated, relating to transactions in drug related objects, control of venereal disease, clinical laboratories, and the disclosure of AIDS confidential information, respectively, so as to revise various statutes relating to prevention and testing for HIV and AIDS; to provide that employees and agents of harm reduction organizations are not subject to certain offenses relating to hypodermic needles; to revise a provision relating to refusal of a pregnant woman to submit to an HIV test; to provide for consent to medical treatment by a minor at risk of HIV; to eliminate the requirement that the Department of Public Health develop AIDS and HIV counseling brochures; to revise a provision relating to exposure of a health care provider to a potentially HIV infected person; to provide that disclosure to a parent or legal guardian of a minor's AIDS confidential information is permissive rather than mandatory; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 16-13-32 of the Official Code of Georgia Annotated, relating to transactions in drug related objects, is amended by revising subsection (c) as follows:

“(c) It shall be unlawful for any person or corporation, other than a licensed pharmacist, a pharmacy intern or pharmacy extern as defined in Code Section 26-4-5, ~~or a practitioner licensed to dispense dangerous drugs, or a person employed by or an agent of a harm reduction organization,~~ to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person a hypodermic syringe or needle designed or marketed primarily for human use. It shall be an affirmative defense that the hypodermic syringe or needle was marketed for a legitimate medical purpose. As used in this subsection, the term 'harm reduction organization' means an organization which provides direct assistance and services, such as syringe exchanges, counseling, homeless services, advocacy, drug treatment, and

27 screening, to at-risk individuals to slow the spread of HIV and other infectious diseases
28 among intravenous drug users."

29 **SECTION 2.**

30 Chapter 17 of Title 31 of the Official Code of Georgia Annotated, relating to control of
31 venereal disease, is amended by revising subsection (d) of Code Section 31-17-4.2, relating
32 to HIV pregnancy screening, as follows:

33 "(d) The woman shall be ~~informed~~ notified of the test to be conducted and ~~her right shall~~
34 have the opportunity to refuse ~~the test~~. A pregnant woman shall submit to an HIV test and
35 a syphilis test pursuant to this Code section unless she specifically ~~declines~~ refuses. If the
36 woman tests positive for HIV or syphilis, counseling services provided by the Department
37 of Public Health shall be made available to her and she shall be referred to appropriate
38 medical care providers for herself and her child."

39 **SECTION 3.**

40 Said chapter is further amended by revising subsection (a) of Code Section 31-17-7, relating
41 to consent of a minor to medical or surgical care or services, as follows:

42 "(a) The consent to the provision of medical or surgical care or services by a hospital or
43 public clinic or to the performance of medical or surgical care or services by a physician
44 licensed to practice medicine and surgery, when such consent is given by a minor who is
45 or professes to be afflicted with a venereal disease or at risk for HIV, shall be as valid and
46 binding as if the minor had achieved his or her majority, provided that any such treatment
47 shall involve procedures and therapy related to conditions or illnesses arising out of the
48 venereal disease or HIV diagnosis which gave rise to the consent authorized under this
49 Code section. Any such consent shall not be subject to later disaffirmation by reason of
50 minority. The consent of no other person or persons, including but not limited to a spouse,
51 parent, custodian, or guardian, shall be necessary in order to authorize the provision to such
52 minor of such medical or surgical care or services as are described in this subsection."

53 **SECTION 4.**

54 Chapter 22 of Title 31 of the Official Code of Georgia Annotated, relating to clinical
55 laboratories, is amended by revising paragraph (6) of subsection (a) of Code Section
56 31-22-9.1, relating to who may perform HIV tests, as follows:

57 "(6) 'Counseling' means providing the person with information and explanations
58 medically appropriate for that person which may include all or part of the following:
59 accurate information regarding AIDS and HIV; an explanation of behaviors that reduce
60 the risk of transmitting AIDS and HIV; an explanation of the confidentiality of

information relating to AIDS diagnoses and HIV tests; an explanation of information regarding both social and medical implications of HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and HIV. ~~The Department of Public Health shall develop brochures or other documents which meet the requirements of this paragraph and, upon delivery of such a brochure or document or of another brochure or document approved by the Department of Public Health to the person and referral of that person to the Department of Public Health for further information and explanations, counseling shall be deemed to have been provided within the meaning of this paragraph."~~

SECTION 5.

Said chapter is further amended by revising subsection (g) of Code Section 31-22-9.2, relating to HIV tests, as follows:

"(g) Notwithstanding the other provisions of this Code section, when exposure of a health care provider to any body fluids of a patient occurs in such a manner as to create any risk that such provider might become an HIV infected person if the patient were an HIV infected person, according to current infectious disease guidelines of the Centers for Disease Control and Prevention or according to infectious disease standards of the health care facility where the exposure occurred, a health care provider otherwise authorized to order an HIV test shall be authorized to order any HIV test on such patient and obtain the results thereof:

(1) If the patient or the patient's representative, if the patient is a minor, otherwise incompetent, or unconscious, does not refuse the test after being notified that the test is to be ordered ~~and after having been provided an opportunity to refuse the test; or~~

(2) If the patient or the patient's representative refuses the test, following compliance with paragraph (1) of this subsection, when at least one other health care provider who is otherwise authorized to order an HIV test concurs in writing to the testing; and the patient is informed of the results of the test and is provided counseling with regard to those results; ~~and the occurrence of that test is not made a part of the patient's medical records, where the test results are negative, without the patient's consent."~~

SECTION 6.

Code Section 24-12-21 of the Official Code of Georgia Annotated, relating to disclosure of AIDS confidential information, is amended by revising subsection (c) as follows:

"(c) AIDS confidential information shall be disclosed to the person identified by that information or, if that person is ~~a minor or an~~ incompetent person, to that person's ~~parent or~~ legal guardian. AIDS confidential information may be disclosed to such person's parent or legal guardian if that person is a minor."

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SECTION 7.

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All laws and parts of laws in conflict with this Act are repealed.