

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 613

Representatives West, Galonski

Cosponsors: Representatives Leland, Seitz, Ashford

A BILL

To amend sections 3701.24 and 3701.50 and to enact
section 3701.2410 of the Revised Code regarding
testing pregnant women for HIV, syphilis, and
gonorrhea. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3701.24 and 3701.50 be amended
and section 3701.2410 of the Revised Code be enacted to read as
follows: 5
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Sec. 3701.24. (A) As used in this section and sections
3701.241 to ~~3701.249~~3701.2410 of the Revised Code: 8
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(1) "AIDS" means the illness designated as acquired
immunodeficiency syndrome. 10
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(2) "HIV" means the human immunodeficiency virus
identified as the causative agent of AIDS. 12
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(3) "AIDS-related condition" means symptoms of illness
related to HIV infection, including AIDS-related complex, that
are confirmed by a positive HIV test. 14
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(4) "HIV test" means any test for the antibody or antigen 17

to HIV that has been approved by the director of health under 18
division (B) of section 3701.241 of the Revised Code. 19

(5) "Health care facility" has the same meaning as in 20
section 1751.01 of the Revised Code. 21

(6) "Director" means the director of health or any 22
employee of the department of health acting on the director's 23
behalf. 24

(7) "Physician" means a person who holds a current, valid 25
certificate issued under Chapter 4731. of the Revised Code 26
authorizing the practice of medicine or surgery and osteopathic 27
medicine and surgery. 28

(8) "Nurse" means a registered nurse or licensed practical 29
nurse who holds a license or certificate issued under Chapter 30
4723. of the Revised Code. 31

(9) "Anonymous test" means an HIV test administered so 32
that the individual to be tested can give informed consent to 33
the test and receive the results by means of a code system that 34
does not link the identity of the individual tested to the 35
request for the test or the test results. 36

(10) "Confidential test" means an HIV test administered so 37
that the identity of the individual tested is linked to the test 38
but is held in confidence to the extent provided by sections 39
3701.24 to 3701.248 of the Revised Code. 40

(11) "Health care provider" means an individual who 41
provides diagnostic, evaluative, or treatment services. Pursuant 42
to Chapter 119. of the Revised Code, the director may adopt 43
rules further defining the scope of the term "health care 44
provider." 45

(12) "Significant exposure to body fluids" means a percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another individual.

(13) "Emergency medical services worker" means all of the following:

(a) A peace officer;

(b) An employee of an emergency medical service organization as defined in section 4765.01 of the Revised Code;

(c) A firefighter employed by a political subdivision;

(d) A volunteer firefighter, emergency operator, or rescue operator;

(e) An employee of a private organization that renders rescue services, emergency medical services, or emergency medical transportation to accident victims and persons suffering serious illness or injury.

(14) "Peace officer" has the same meaning as in division (A) of section 109.71 of the Revised Code, except that it also includes a sheriff and the superintendent and troopers of the state highway patrol.

(B) Persons designated by rule adopted by the director under section 3701.241 of the Revised Code shall report promptly every case of AIDS, every AIDS-related condition, and every confirmed positive HIV test to the department of health on forms and in a manner prescribed by the director. In each county the director shall designate the health commissioner of a health district in the county to receive the reports.

(C) No person shall fail to comply with the reporting 74
requirements established under division (B) of this section. 75

(D) Information reported under this section that 76
identifies an individual is confidential and may be released 77
only with the written consent of the individual except as the 78
director determines necessary to ensure the accuracy of the 79
information, as necessary to provide treatment to the 80
individual, as ordered by a court pursuant to section 3701.243 81
or 3701.247 of the Revised Code, or pursuant to a search warrant 82
or a subpoena issued by or at the request of a grand jury, 83
prosecuting attorney, city director of law or similar chief 84
legal officer of a municipal corporation, or village solicitor, 85
in connection with a criminal investigation or prosecution. 86
Information that does not identify an individual may be released 87
in summary, statistical, or aggregate form. 88

Sec. 3701.2410. (A) As used in this section, "licensed 89
health care professional" includes all of the following: 90

(1) Physicians authorized under Chapter 4731. of the 91
Revised Code to practice medicine and surgery or osteopathic 92
medicine and surgery; 93

(2) Clinical nurse specialists, certified nurse-midwives, 94
and certified nurse practitioners licensed under Chapter 4723. 95
of the Revised Code; 96

(3) Physician assistants licensed under Chapter 4730. of 97
the Revised Code. 98

(B) Subject to division (D) of this section, a licensed 99
health care professional who provides prenatal care to a 100
pregnant woman shall comply with both of the following regarding 101
HIV testing: 102

(1) The licensed health care professional shall cause an HIV test to be conducted when the professional first examines the woman related to her pregnancy unless the woman refuses the test. 103
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(2) A licensed health care professional who provides care to a pregnant woman during the third trimester of gestation shall conduct an assessment at the time the professional first examines the woman related to her pregnancy during that trimester to determine whether any activities posing a risk of infection with HIV have occurred more recently than would have been detected by the most recent test during the pregnancy, if any. In conducting the assessment, the licensed health care professional shall consider information available from the United States centers for disease control and prevention concerning risk factors for transmission. If the licensed health care professional determines that activities posing a risk of infection with HIV have occurred, or that no test has been conducted during the pregnancy, the professional shall cause an HIV test to be conducted unless the woman refuses the test. 107
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(C) Subject to division (D) of this section, a licensed health care professional who provides care to a pregnant woman at delivery shall determine whether the woman's medical records indicate that an HIV test was conducted during her third trimester. If so, the licensed health professional shall consider information available from the United States centers for disease control and prevention concerning risk factors for transmission of HIV and shall ask the woman whether any activities posing such a risk have occurred more recently than would have been detected by that test. If the licensed health care professional determines that no HIV test was conducted during her third trimester, or that activities posing a risk of 122
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HIV infection have occurred more recently than would have been 134
detected by the most recent test, the professional shall cause 135
an HIV test to be conducted at the time of delivery unless the 136
woman refuses the test. 137

(D) (1) Before an HIV test is conducted pursuant to 138
division (B) or (C) of this section, the licensed health care 139
professional shall inform the woman that the test will be 140
conducted and of her right to refuse. 141

(2) If a woman's medical record indicates that another 142
licensed health care professional has complied with the 143
requirements of divisions (B) and (C) of this section for the 144
pregnancy, the treating licensed health care professional is not 145
required to comply with the requirements of those divisions. 146

(E) If the results of an HIV test conducted pursuant to 147
this section are positive, the licensed health care professional 148
shall provide post-test counseling to the woman in accordance 149
with any rules adopted pursuant to section 3701.242 of the 150
Revised Code. 151

(F) A licensed health care professional who causes an HIV 152
test or assessment to be conducted pursuant to this section 153
shall record that information in the woman's medical records. If 154
a woman refuses an HIV test offered pursuant to this section, 155
the professional shall record her refusal in her medical 156
records. 157

(G) The director of health may adopt rules in accordance 158
with Chapter 119. of the Revised Code as the director considers 159
appropriate to implement this section. 160

Sec. 3701.50. ~~Every~~ (A) As used in this section, "licensed 161
health care professional" includes all of the following: 162

(1) Physicians authorized under Chapter 4731. of the 163
Revised Code to practice medicine and surgery or osteopathic 164
medicine and surgery; 165

(2) Clinical nurse specialists, certified nurse-midwives, 166
and certified nurse practitioners licensed under Chapter 4723. 167
of the Revised Code; 168

(3) Physician assistants licensed under Chapter 4730. of 169
the Revised Code. 170

(B) (1) Except as provided in divisions (B) (2) and (3) of 171
this section, every physician who attends any pregnant woman for 172
conditions relating to pregnancy during the period of gestation 173
shall take specimens of such woman at the time of first 174
examination or within ten days thereof, and shall submit such 175
specimens to an approved laboratory for standard syphilis and 176
gonorrhoea tests. 177

(2) If, in the opinion of the physician attending such 178
woman, her condition does not permit the taking of specimens for 179
submission to an approved laboratory, then no specimens shall be 180
taken prior to delivery. If no specimens are taken prior to 181
delivery because of the woman's condition, then such specimens 182
shall be taken as soon after delivery as the physician deems it 183
advisable. 184

(3) The health commissioner of the city or general health 185
district, wherein any person required to be tested for syphilis 186
and gonorrhoea under division (B) (1) of this section or section 187
3701.49 of the Revised Code resides, may waive ~~the those~~ 188
requirements ~~of such sections~~ if the commissioner is satisfied 189
by written affidavit or other written proof that the tests 190
required are contrary to the tenets or practices of the 191

religious creed of which the person is an adherent, and that the 192
public health and welfare would not be injuriously affected by 193
such waiver. 194

(C) (1) A licensed health care professional who provides 195
prenatal care to a pregnant woman during the third trimester of 196
gestation shall conduct an assessment when the professional 197
first examines the woman during that trimester to determine 198
whether any activities posing a risk of infection with syphilis 199
or gonorrhea have occurred more recently than would have been 200
detected by the most recent test during the pregnancy, if any. 201
In conducting the assessment, the licensed health care 202
professional shall consider information available from the 203
United States centers for disease control and prevention 204
concerning risk factors for transmission. 205

Unless the licensed health care professional has 206
determined that the pregnant woman's condition does not permit 207
the test to be conducted, if the licensed health care 208
professional determines that activities posing a risk of 209
syphilis or gonorrhea infection have occurred more recently than 210
would have been detected by the most recent test, or that no 211
test has been conducted during the pregnancy, the professional 212
shall cause tests for syphilis and gonorrhea to be conducted 213
unless the woman refuses the test. 214

If the third trimester assessment is not conducted because 215
a licensed health care professional has determined that the 216
woman's condition does not permit the test to be conducted, the 217
test shall be conducted after delivery in accordance with 218
division (B) (2) of this section. 219

(2) Before syphilis and gonorrhea tests are conducted 220
pursuant to division (C) (1) of this section, the licensed health 221

<u>care professional shall inform the woman of the tests to be</u>	222
<u>conducted and her right to refuse.</u>	223
<u>(3) If a woman's medical record indicates that another</u>	224
<u>licensed health care professional has complied with the</u>	225
<u>requirements of division (C) (1) of this section for the</u>	226
<u>pregnancy, the treating licensed health care professional is not</u>	227
<u>required to comply with the requirements of that division.</u>	228
<u>(4) A licensed health care professional who causes tests</u>	229
<u>or an assessment to be conducted pursuant to division (C) (1) of</u>	230
<u>this section shall record that information in the woman's</u>	231
<u>medical records. If a woman refuses the tests, the refusal shall</u>	232
<u>be recorded in her medical records.</u>	233
Section 2. That existing sections 3701.24 and 3701.50 of	234
the Revised Code are hereby repealed.	235