

[Second Reprint]

**ASSEMBLY, No. 4218**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED MAY 14, 2007

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman CHARLES T. EPPS, JR.**

**District 31 (Hudson)**

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**District 20 (Union)**

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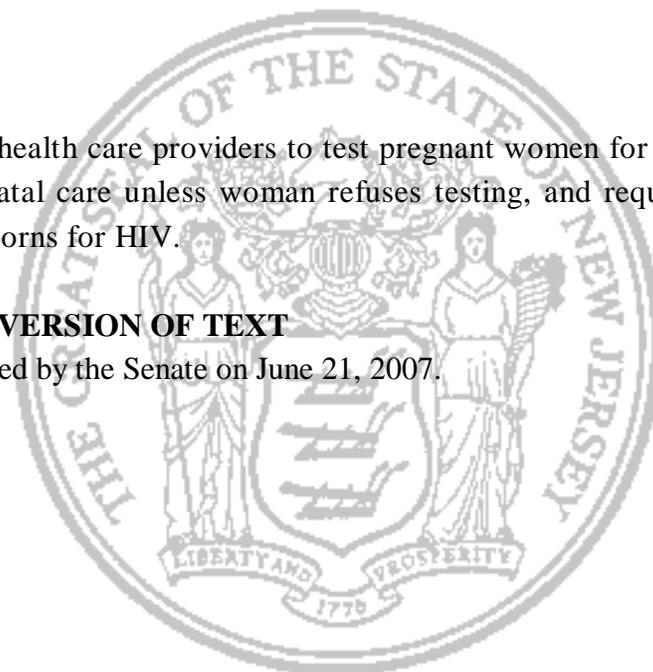
**Senators Codey, Weinberg, Karcher, Allen, Turner, Sarlo,**  
**Assemblywomen Jasey and Watson Coleman**

**SYNOPSIS**

Requires health care providers to test pregnant women for HIV as part of routine prenatal care unless woman refuses testing, and requires testing of certain newborns for HIV.

**CURRENT VERSION OF TEXT**

As amended by the Senate on June 21, 2007.



**(Sponsorship Updated As Of: 12/14/2007)**

1 AN ACT concerning testing of pregnant women and newborns for  
 2 HIV, amending P.L.1995, c.174 and supplementing Title 26 of  
 3 the Revised Statutes.

4  
 5 **BE IT ENACTED** by the Senate and General Assembly of the State  
 6 of New Jersey:

7  
 8 1. Section 1 of P.L.1995, c.174 (C.26:5C-15) is amended to  
 9 read as follows:

10 1. As used in this act:

11 "AIDS" means acquired immune deficiency syndrome as defined  
 12 by the Centers for Disease Control and Prevention of the United  
 13 States Public Health Service.

14 "Commissioner" means the Commissioner of Health and Senior  
 15 Services.

16 "Department" means the Department of Health and Senior  
 17 Services.

18 "HIV" means the human immunodeficiency virus or any other  
 19 related virus identified as a probable causative agent of AIDS.

20 (cf: P.L.1995, c.174, s.1)

21

22 2. Section 2 of P.L.1995, c.174 (C.26:5C-16) is amended to read  
 23 as follows:

24 2. It is the policy of this State that<sup>2,2</sup> testing of all pregnant  
 25 women for HIV shall be part of routine prenatal care; and, in the  
 26 absence of a specific <sup>1</sup>[written]<sup>1</sup>objection to the testing by the  
 27 pregnant woman, all pregnant women shall be tested for HIV as  
 28 early as possible in their pregnancy, and again during the third  
 29 trimester of their pregnancy<sup>2</sup>; testing of all pregnant women for  
 30 HIV shall be voluntary and free of coercion; and a pregnant woman  
 31 shall not be denied testing for HIV on the basis of her economic  
 32 status<sup>2</sup>.

33 a. (1) A physician or other health care practitioner who is the  
 34 primary caregiver for a pregnant woman **[or a woman who seeks**  
 35 **treatment within four weeks of giving birth,]** shall, in accordance  
 36 with guidelines developed by the commissioner, provide the woman  
 37 with information about HIV and AIDS <sup>2</sup>, including an explanation  
 38 of HIV infection and the meanings of positive and negative test  
 39 results<sup>2</sup>, and also inform the woman of the benefits of being tested  
 40 for HIV **[and present her with the option of being tested]** as early  
 41 as possible in the course of her pregnancy and a second time during  
 42 the third trimester, the medical treatment available to treat HIV  
 43 infection if diagnosed early. <sup>2</sup>**[and]**<sup>2</sup> the reduced rate of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHE committee amendments adopted June 14, 2007.

<sup>2</sup>Senate floor amendments adopted June 21, 2007.

1 transmission of HIV to a fetus if an HIV-infected pregnant woman  
2 receives treatment for HIV <sup>2</sup>, and the interventions that are  
3 available to reduce the risk of transmission of HIV to the fetus and  
4 newborn. The information shall be provided orally or in writing,  
5 and the woman shall be offered an opportunity to ask questions<sup>2</sup>.

6 The physician or other health care practitioner shall also advise  
7 the woman that HIV testing is recommended for all pregnant  
8 women both early in their pregnancy and during the third trimester,  
9 and that she will receive HIV tests as part of the routine panel of  
10 prenatal tests unless she specifically <sup>2</sup>refuses declines<sup>2</sup> to be  
11 tested for HIV.

12 <sup>1</sup>The woman shall, on a form and in a manner prescribed by the  
13 commissioner, acknowledge receipt of the information and  
14 indicate her preference regarding testing], when applicable,  
15 indicate her refusal to be tested.] If a woman <sup>2</sup>refuses declines<sup>2</sup>  
16 to be tested for HIV, the <sup>2</sup>refusal declination<sup>2</sup> shall be  
17 documented in her medical record.<sup>1</sup> A woman shall not be denied  
18 appropriate prenatal or other medical care because she decides  
19 not <sup>2</sup>refuses declines<sup>2</sup> to be tested for HIV.

20 (2) A pregnant woman, who presents herself for delivery and  
21 has not been tested for HIV during the course of her pregnancy,  
22 shall be given the information <sup>1</sup>and counseling<sup>1</sup> specified in  
23 paragraph (1) of this subsection as soon as may be medically  
24 appropriate and, unless she <sup>2</sup>refuses declines<sup>2</sup> <sup>1</sup>in writing<sup>1</sup> to be  
25 tested for HIV<sup>1</sup> after receiving that information <sup>1</sup>and counseling<sup>1</sup>,  
26 shall be tested for HIV as soon as may be medically appropriate.

27 b. The commissioner shall establish guidelines regarding  
28 notification to a woman whose test result is positive, and to provide,  
29 to the maximum extent possible, for counseling about the  
30 significance of the test result.

31 c. Information about a woman which is obtained pursuant to  
32 this section shall be held confidential in accordance with the  
33 provisions of P.L.1989, c.303 (C.26:5C-5 et seq.).

34 (cf: P. L.1995, c.174, s.2)

35

36 3. Section 6 of P.L.1995, c.174 (C.26:5C-20) is amended to  
37 read as follows:

38 6. The commissioner, pursuant to the "Administrative  
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt  
40 rules and regulations to effect this act. The regulations shall be  
41 consistent with the latest recommendations for HIV testing of  
42 pregnant women prepared by the United States Centers for Disease  
43 Control and Prevention.

44 (cf: P.L.1995, c.174, s.6)

45

46 4. (New section) a. The Commissioner of Health and Senior  
47 Services shall require each birthing facility in the State to

1 administer to ~~‘[every] a’~~ newborn in its care a test for human  
2 immunodeficiency virus (HIV) ‘if the HIV status of the mother of  
3 the newborn is unknown’<sup>1</sup>.

4 <sup>2</sup>A newborn shall not be denied testing for HIV on the basis of  
5 the newborn’s economic status.<sup>2</sup>

6 b. The commissioner shall establish a comprehensive program  
7 for the ‘follow-up’ testing of newborns ~~‘[for the presence of HIV]~~  
8 who test positive for HIV pursuant to subsection a. of this section or  
9 whose mother is HIV-positive’<sup>1</sup>, which shall include, but not be  
10 limited to, procedures for the administration of HIV testing,  
11 counseling of the newborn’s mother, tracking the newborn,  
12 disclosure of HIV test results to the mother, facility compliance  
13 reviews, and educational activities related to the HIV testing.

14 c. The provisions of this section shall not apply to a newborn  
15 whose parents object to the test as being in conflict with their  
16 religious tenets and practices. The parents shall provide the health  
17 care facility with a written statement of the objection, and the  
18 statement shall be included in the newborn’s medical record.

19 d. As used in this section, “birthing facility” means an inpatient  
20 or ambulatory health care facility licensed by the Department of  
21 Health and Senior Services that provides birthing and newborn care  
22 services.

23 e. The Commissioner of Health and Senior Services shall adopt  
24 rules and regulations, pursuant to the “Administrative Procedure  
25 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out  
26 the purposes of this section.

27  
28 5. This act shall take effect on the 180th day after enactment  
29 but the commissioner may take such anticipatory administrative  
30 action in advance thereof as shall be necessary for the  
31 implementation of this act.