

House Bill 1058 (AS PASSED HOUSE AND SENATE)

By: Representatives Price of the 48th, Hawkins of the 27th, Cooper of the 43rd, Dempsey of the 13th, Clark of the 101st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapters 17 and 22 of Title 31 and Code Section 24-12-21 of the Official Code
2 of Georgia Annotated, relating to control of venereal disease, clinical laboratories, and the
3 disclosure of AIDS confidential information, respectively, so as to revise various statutes
4 relating to prevention and testing for HIV and AIDS; to revise a provision relating to refusal
5 of a pregnant woman to submit to an HIV test; to provide for consent to medical treatment
6 by a minor at risk of HIV; to eliminate the requirement that the Department of Public Health
7 develop AIDS and HIV counseling brochures; to revise a provision relating to exposure of
8 a health care provider to a potentially HIV infected person; to provide that disclosure to a
9 parent or legal guardian of a minor's AIDS confidential information is permissive rather than
10 mandatory; to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

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

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

22 style="text-align:center">**SECTION 2.**

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

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

36 SECTION 3.

37 Chapter 22 of Title 31 of the Official Code of Georgia Annotated, relating to clinical
 38 laboratories, is amended by revising paragraph (6) of subsection (a) of Code Section
 39 31-22-9.1, relating to who may perform HIV tests, as follows:

40 "(6) 'Counseling' means providing the person with information and explanations
 41 medically appropriate for that person which may include all or part of the following:
 42 accurate information regarding AIDS and HIV; an explanation of behaviors that reduce
 43 the risk of transmitting AIDS and HIV; an explanation of the confidentiality of
 44 information relating to AIDS diagnoses and HIV tests; an explanation of information
 45 regarding both social and medical implications of HIV tests; and disclosure of commonly
 46 recognized treatment or treatments for AIDS and HIV. ~~The Department of Public Health
 47 shall develop brochures or other documents which meet the requirements of this
 48 paragraph and, upon delivery of such a brochure or document or of another brochure or
 49 document approved by the Department of Public Health to the person and referral of that
 50 person to the Department of Public Health for further information and explanations,
 51 counseling shall be deemed to have been provided within the meaning of this paragraph.~~"

52 SECTION 4.

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

55 "(g) Notwithstanding the other provisions of this Code section, when exposure of a health
 56 care provider to any body fluids of a patient occurs in such a manner as to create any risk
 57 that such provider might become an HIV infected person if the patient were an HIV
 58 infected person, according to current infectious disease guidelines of the Centers for
 59 Disease Control and Prevention or according to infectious disease standards of the health

60 care facility where the exposure occurred, a health care provider otherwise authorized to
 61 order an HIV test shall be authorized to order any HIV test on such patient and obtain the
 62 results thereof:

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

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

72 **SECTION 5.**

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

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

79 **SECTION 6.**

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