

House Bill 429 (AS PASSED HOUSE AND SENATE)

By: Representatives Cooper of the 41st, Hudson of the 124th, Smith of the 70th, and Manning of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 require physicians and health care providers to test pregnant women for HIV unless she
3 specifically declines; to provide a short title; to inform the pregnant woman of the test to be
4 conducted; to provide for documentation; to provide for rules and regulations; to provide for
5 an exemption from counseling requirements; to revise a definition relating to state health
6 planning and development; to revise the functions of the Health Strategies Council and the
7 Department of Community Health; to provide for related matters; to repeal conflicting laws;
8 and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Chapter
11 17, relating to control of venereal diseases, by inserting a new Code section to read as
12 follows:
13

14 "31-17-4.2.

15 (a) This Code section shall be known and may be cited as the 'Georgia HIV Pregnancy
16 Screening Act of 2007.'

17 (b) Every physician and health care provider who assumes responsibility for the prenatal
18 care of pregnant women during gestation and at delivery shall be required to test pregnant
19 women for HIV except in cases where the woman refuses the testing.

20 (c) If at the time of delivery there is no written evidence that an HIV test has been
21 performed, the physician or other health care provider in attendance at the delivery shall
22 order that a sample of the woman's blood be taken or a rapid oral test administered at the
23 time of the delivery except in cases where the woman refuses the testing.

24 (d) The woman shall be informed of the test to be conducted and her right to refuse. A
25 pregnant woman shall submit to an HIV test pursuant to this Code section unless she
26 specifically declines. If the woman tests positive, counseling services provided by the

- 1 Department of Human Resources shall be made available to her and she shall be referred
 2 to appropriate medical care providers for herself and her child.
- 3 (e) If for any reason the pregnant woman is not tested for HIV, that fact shall be recorded
 4 in the patient's records, which, if based upon the refusal of the patient, shall relieve the
 5 physician or other health care provider of any other responsibility under this Code section.
- 6 (f) The Department of Human Resources shall be authorized to promulgate rules and
 7 regulations for the purpose of administering the requirements under this Code section."

8 **SECTION 2.**

9 Said title is further amended by revising subsection (c) of Code Section 31-22-9.2, relating
 10 to report of positive results of an HIV test, as follows:

11 "(c) Unless exempted under this Code section, each health care provider who orders an
 12 HIV test for any person shall do so only after counseling the person to be tested. Unless
 13 exempted under this subsection, the person to be tested shall have the opportunity to refuse
 14 the test. The provisions of this subsection shall not be required if the person is required to
 15 submit to an HIV test pursuant to Code Section 15-11-66.1, 17-10-15, 31-17-4.2,
 16 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not be required
 17 if the person is a minor or incompetent and the parent or guardian thereof permits the test
 18 after compliance with this subsection. The provisions of this subsection shall not be
 19 required if the person is unconscious, temporarily incompetent, or comatose and the next
 20 of kin permits the test after compliance with this subsection. The provisions of this
 21 subsection shall not apply to emergency or life-threatening situations. The provisions of
 22 this subsection shall not apply if the physician ordering the test is of the opinion that the
 23 person to be tested is in such a medical or emotional state that disclosure of the test would
 24 be injurious to the person's health. The provisions of this subsection shall only be required
 25 prior to drawing the body fluids required for the HIV test and shall not be required for each
 26 test performed upon that fluid sample."

27 **SECTION 2A.**

28 Said title is further amended in Code Section 31-6-2, relating to definitions, as follows:

- 29 (1) By striking "and adopt the state health plan" from paragraph (10).
 30 (2) By replacing "adopted" with "based on recommendations" and by adding "and the
 31 board" after "Council" in paragraph (23).

32 **SECTION 2B.**

33 Said title is further amended by striking paragraphs (1) and (2) of subsection (g) of Code
 34 Section 31-6-20, relating to the Health Strategies Council generally, and inserting:

