

House Bill 53

By: Representative Waites of the 60<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 22 of Title 31 of the Official Code of Georgia Annotated, relating to  
2 clinical laboratories, so as to provide that a person consenting to the provision of medical or  
3 surgical care by a health care provider operates as consent for such provider to perform an  
4 HIV test; to provide for withdrawal of consent for an HIV test; to provide for related matters;  
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 22 of Title 31 of the Official Code of Georgia Annotated, relating to clinical  
9 laboratories, is amended by revising subsections (b), (c), and (e) of Code Section 31-22-9.2,  
10 relating to HIV tests, as follows:

11 ~~“(b) Reserved~~ The consent of a person, or of his or her parent or guardian if such person  
12 is a minor or incompetent or of his or her next of kin if such person is unconscious,  
13 temporarily incompetent, or comatose, to the provision of medical or surgical care by a  
14 health care provider shall act as consent for such health care provider to perform an HIV  
15 test on such person as a component of routine medical or surgical care.

16 ~~(c) Unless exempted under this Code section, each health care provider who orders an HIV~~  
17 ~~test for any person shall do so only after counseling the person to be tested. Unless~~  
18 ~~exempted under this subsection, the a person, at his or her own election, may withdraw~~  
19 ~~consent and to be tested shall have the opportunity to refuse an HIV test the test; provided,~~  
20 however, that such withdrawal of consent and refusal is made at the time of each instance  
21 where any body fluid that could be used for an HIV test are withdrawn from such person's  
22 body and, provided further, that such health care provider shall render counseling to such  
23 person at the time of such person's withdrawal of consent and refusal. The provisions of  
24 subsection (b) of this Code section and this subsection shall not be required if the person  
25 is required to submit to an HIV test pursuant to Code Section 15-11-603, 17-10-15,  
26 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. ~~The provisions of this subsection shall not~~

27 ~~be required if the person is a minor or incompetent and the parent or guardian thereof~~  
28 ~~permits the test after compliance with this subsection. The provisions of this subsection~~  
29 ~~shall not be required if the person is unconscious, temporarily incompetent, or comatose~~  
30 ~~and the next of kin permits the test after compliance with this subsection. The provisions~~  
31 ~~of this subsection shall not apply to emergency or life-threatening situations. The~~  
32 ~~provisions of this subsection shall not apply if the physician ordering the test is of the~~  
33 ~~opinion that the person to be tested is in such a medical or emotional state that disclosure~~  
34 ~~of the test would be injurious to the person's health. The provisions of this subsection shall~~  
35 ~~only be required prior to drawing the body fluids required for the HIV test and shall not be~~  
36 ~~required for each test performed upon that fluid sample."~~

37 "(e) The criminal penalty provided in Code Section 31-22-13 shall not apply to a violation  
38 of subsection (b), (c), (d), or (g) of this Code section. The statute of limitations for any  
39 action alleging a violation of this Code section shall be two years from the date of the  
40 alleged violation."

41 **SECTION 2.**

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