The Senate Committee on Health and Human Services offers the following substitute to HB 436:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 17 of Title 31 of the Official Code of Georgia Annotated, relating to control of venereal disease, so as to require that physicians and health care providers offer HIV and syphilis testing of pregnant women in their third trimester of pregnancy; to provide for refusal of testing by a pregnant woman; to amend Chapter 22 of Title 31 of the Official Code of Georgia Annotated, relating to clinical laboratories, so as to eliminate the requirement for counseling by a health care provider prior to ordering an HIV test; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 17 of Title 31 of the Official Code of Georgia Annotated, relating to control of venereal disease, is amended by revising Code Section 31-17-4.2, relating to HIV Pregnancy Screening, as follows:

"31-17-4.2.
(a) This Code section shall be known and may be cited as the 'Georgia HIV/Syphilis Pregnancy Screening Act of 2007.'
(b) Every physician and health care provider who assumes responsibility for the prenatal care of a pregnant woman during gestation and at delivery shall be required to test such pregnant woman for HIV and syphilis except in cases where the woman refuses the testing. Additionally, every physician and health care provider who provides prenatal care of a pregnant woman during the third trimester of gestation shall offer to test such pregnant woman for HIV and syphilis at the time of first examination during that trimester or as soon as possible thereafter, regardless of whether such testing was performed during the first two trimesters of her pregnancy.
(c) If at the time of delivery there is no written evidence that an HIV test or a syphilis test has been performed, the physician or other health care provider in attendance at the delivery shall order that a sample of the woman's blood be taken or a rapid oral test be performed for
HIV, syphilis, or both be administered at the time of the delivery except in cases where the woman refuses the testing; provided, however, that if available documentation indicates that a test for HIV and syphilis was already performed during the third trimester of her pregnancy in accordance with subsection (b) of this Code section, and the woman does not disclose when questioned any activities posing a risk for infection with HIV or syphilis occurring more recently than would have been detected by such test, the physician or health care provider in attendance at the delivery is not required to order such additional test.

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

e) If for any reason the pregnant woman is not tested for HIV and syphilis, that fact shall be recorded in the patient's records, which, if based upon the refusal of the patient, shall relieve the physician or other health care provider of any other responsibility under this Code section.

f) The Department of Public Health shall be authorized to promulgate rules and regulations for the purpose of administering the requirements under this Code section.

SECTION 2.

Chapter 22 of Title 31 of the Official Code of Georgia Annotated, relating to clinical laboratories, is amended by revising subsection (c) and paragraph (1) of subsection (g) of Code Section 31-22-9.2, relating to HIV tests, as follows:

"(c) Unless exempted under this Code section, each health care provider who orders an HIV test for any person shall do so only after counseling notifying the person to be tested. Unless exempted under this subsection, the person to be tested shall have the opportunity to refuse the test. The provisions of this subsection shall not be required if the person is required to submit to an HIV test pursuant to Code Section 15-11-603, 17-10-15, 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not be required if the person is a minor or incompetent and the parent or guardian thereof permits the test after compliance with this subsection. The provisions of this subsection shall not be required if the person is unconscious, temporarily incompetent, or comatose and the next of kin permits the test after compliance with this subsection. The provisions of this subsection shall not apply to emergency or life-threatening situations. The provisions of this subsection shall not apply if the physician ordering the test is of the opinion that the person to be tested is in such a medical or emotional state that disclosure
of the test would be injurious to the person's health. The provisions of this subsection shall
only be required prior to drawing the body fluids required for the HIV test and shall not be
required for each test performed upon that fluid sample."

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

SECTION 3.

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