

26:5C-15

LEGISLATIVE HISTORY CHECKLIST
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(Pregnant women -- AIDS testing)

NJSA: 26:5C-15

LAWS OF: 1995 **CHAPTER:** 174

BILL NO: A1669

SPONSOR(S): Mikulak

DATE INTRODUCED: May 2, 1994

COMMITTEE: **ASSEMBLY:** Health & Human Services
SENATE: Health

AMENDED DURING PASSAGE: No Assembly committee substitute enacted

DATE OF PASSAGE: **ASSEMBLY:** January 10, 1995
SENATE: May 25, 1995

DATE OF APPROVAL: July 7, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached:
"Whitman signs bill to advance HIV testing," 7-8-95, Bergen Record.
"AIDS test law targets new mothers," 7-8-95, Asbury Park Press.

KBG:pp

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1669

STATE OF NEW JERSEY

ADOPTED DECEMBER 12, 1994

Sponsored by Assemblyman MIKULAK

1 AN ACT requiring notification of pregnant women of the benefits
2 of being tested for the presence of antibodies to the human
3 immunodeficiency virus and supplementing Title 26 of the
4 Revised Statutes.

5

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

8 1. As used in this act:

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

12 "Commissioner" means the Commissioner of Health.

13 "Department" means the Department of Health.

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

16 2. a. A physician or other health care practitioner who is the
17 primary caregiver for a pregnant woman or a woman who seeks
18 treatment within four weeks of giving birth, shall, in accordance
19 with guidelines developed by the commissioner, provide the
20 woman with information about HIV and AIDS, and also inform the
21 woman of the benefits of being tested for HIV and present her
22 with the option of being tested. The woman shall, on a form and
23 in a manner prescribed by the commissioner, acknowledge receipt
24 of the information and indicate her preference regarding testing.
25 A woman shall not be denied appropriate prenatal or other
26 medical care because she decides not to be tested for HIV.

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

31 c. Information about a women 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 3. If a test sample taken pursuant to section 2 of this act is
35 analyzed in the department's laboratory, the department may
36 charge a reasonable fee for the test. The amount of the fee and
37 the procedures for collecting the fee shall be established by the
38 commissioner.

39 4. A woman who has or is suspected of having AIDS or HIV
40 infection may pursue an action against a person who makes an
41 unauthorized disclosure of any information concerning the
42 woman's positive test result for the presence of antibodies to
43 HIV which is obtained pursuant to section 2 of this act, in
44 accordance with the provisions of section 10 of P.L.1989, c.303
45 (C.26:5C-14).

1 5. The commissioner is authorized to enter into agreements
2 with the federal government and public health agencies in other
3 states to achieve greater effectiveness or efficiency in carrying
4 out the provisions of this act.

5 6. The commissioner, pursuant to the "Administrative
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
7 rules and regulations to effect this act.

8 7. This act shall take effect on the 60th day after enactment.

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13 Requires notification of pregnant women of benefits of being
14 tested for HIV.

ASSEMBLY, No. 1669

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1994

By Assemblyman MIKULAK

1 AN ACT requiring the testing of pregnant women for the
2 presence of antibodies to the human immunodeficiency virus
3 and supplementing Title 26 of the Revised Statutes.

4

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

7 1. As used in this act:

8 "AIDS" means acquired immune deficiency syndrome as
9 defined by the Centers for Disease Control of the United States
10 Public Health Service.

11 "Commissioner" means the Commissioner of Health.

12 "Department" means the Department of Health.

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

15 2. a. Every pregnant woman shall be tested for the presence
16 of antibodies to HIV in a manner approved by the commissioner,
17 except as provided in section 3 of this act. The department may
18 charge a reasonable fee for the test. The amount of the fee and
19 the procedures for collecting the fee shall be established by the
20 commissioner.

21 b. The commissioner shall establish guidelines regarding
22 notification to a woman whose test result is positive, and to
23 provide, to the maximum extent possible, for counseling about
24 the significance of the test result.

25 c. Information about pregnant women which is obtained
26 pursuant to this section shall be reported to the department in a
27 manner approved by the commissioner, and shall be compiled for
28 statistical purposes by the department in the form of aggregate
29 non-identifying data. The information may be used by the
30 department and by agencies designated by the commissioner, but
31 otherwise the information shall be confidential and shall not be
32 divulged or made public so as to disclose the identity of any
33 person to which it relates, except as required by law.

34 3. A physician shall notify a pregnant woman, in accordance
35 with guidelines developed by the commissioner, of the potential
36 benefits of being tested for HIV and of her right not to be
37 tested. A pregnant woman who does not wish to be tested for
38 HIV shall indicate her decision on a form and in a manner to be
39 prescribed by the commissioner, which form shall be included in
40 her medical file.

41 4. A person who makes an unauthorized disclosure of any
42 information concerning a positive test result for the presence of
43 antibodies to HIV which is obtained pursuant to section 2 of this
44 act is guilty of a crime of the fourth degree.

45 5. The commissioner is authorized to enter into agreements
46 with the federal government and public health agencies in other
47 states to achieve greater effectiveness or efficiency in carrying

1 out the provisions of this act.

2 6. The commissioner, pursuant to the "Administrative
3 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
4 rules and regulations to effect this act.

5 7. This act shall take effect on the 60th day after enactment.
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8 STATEMENT
9

10 This bill requires that all pregnant women in this State be
11 tested for the human immunodeficiency virus (HIV), which is
12 believed to cause acquired immune deficiency syndrome (AIDS),
13 and that the results be reported to the Department of Health.
14 The bill provides that the Commissioner of Health shall establish
15 guidelines regarding notification to a woman whose test result is
16 positive, and to provide, to the maximum extent possible, for
17 counseling about the significance of the test result.

18 The bill also provides that information about a pregnant woman
19 which is obtained pursuant to this bill shall be reported to the
20 Department of Health in a manner approved by the commissioner
21 and shall be compiled for statistical purposes by the department
22 in the form of aggregate non-identifying data. The information
23 may be used by the department and by agencies designated by the
24 commissioner, but otherwise the information shall be confidential
25 and shall not be divulged or made public so as to disclose the
26 identity of any person to which it relates, except as required by
27 law.

28 The bill permits an exemption from the HIV testing
29 requirement for a pregnant woman who does not wish to be tested
30 for HIV and indicates her decision on a form and in a manner to
31 be prescribed by the commissioner. The form shall be included in
32 her medical file.

33 The bill further provides that a person who makes an
34 unauthorized disclosure of any information concerning a positive
35 test result for the presence of antibodies to HIV which is
36 obtained pursuant to this bill is guilty of a crime of the fourth
37 degree (which is punishable by a fine of up to \$7,500 or
38 imprisonment for up to 18 months, or both).

39 This bill is intended to effectuate the potential benefits to
40 pregnant women and their babies from HIV testing associated
41 with the recommendation recently issued by the Medical Society
42 of New Jersey. The Medical Society has announced that it is
43 sending advisory letters to all member obstetricians and family
44 physicians, in response to the Governor's call for widespread HIV
45 testing of pregnant women, to encourage such testing in order to
46 provide the drug AZT to women during pregnancy and thereby
47 reduce the rate of prenatal transmission of HIV to newborn
48 infants. The National Institutes of Health announced test results
49 in February 1994 for a group of pregnant women taking AZT
50 which indicated a substantial reduction in HIV transmission when
51 compared with those not taking the drug. This testing can play a
52 vital role in stemming the growth of the AIDS epidemic in New
53 Jersey, which has one of the highest rates of pediatric AIDS of all
54 the states.

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3 Requires testing pregnant women for HIV.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1669

STATE OF NEW JERSEY

DATED: DECEMBER 12, 1994

The Assembly Health and Human Services Committee favorably reports an Assembly Committee Substitute for Assembly Bill No. 1669.

This substitute requires a physician or other health care practitioner who is the primary caregiver for a pregnant woman or a woman who seeks treatment within four weeks of giving birth, to provide the woman with information about HIV and AIDS, and also inform the woman of the benefits of being tested for HIV and present her with the option of being tested, in accordance with guidelines developed by the Commissioner of Health. The substitute provides that the woman shall, on a form and in a manner prescribed by the commissioner, acknowledge receipt of the information and indicate her preference regarding testing. A woman shall not be denied appropriate prenatal or other medical care because she decides not to be tested for HIV.

The substitute directs the commissioner to establish guidelines regarding notification to a woman whose test result is positive, and to provide, to the maximum extent possible, for counseling about the significance of the test result.

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

In addition, the substitute provides that if an HIV test sample is analyzed in the Department of Health's laboratory, the department may charge a reasonable fee for the test. The amount of the fee and the procedures for collecting the fee are to be established by the commissioner.

The substitute further provides that a woman who has or is suspected of having AIDS or HIV infection may pursue an action against a person who makes an unauthorized disclosure of any information concerning the woman's positive test result, in accordance with the provisions of section 10 of P.L.1989, c.303 (C.26:5C-14).

Finally, the Commissioner of Health is authorized to enter into agreements with the federal government and public health agencies in other states to achieve greater effectiveness or efficiency in carrying out the provisions of the substitute.

The substitute takes effect on the 60th day after enactment.

SENATE HEALTH COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1669

STATE OF NEW JERSEY

DATED: JANUARY 23, 1995

The Senate Health Committee favorably reports the Assembly Committee Substitute for Assembly Bill No. 1669.

This substitute requires a physician or other health care practitioner who is the primary caregiver for a pregnant woman or a woman who seeks treatment within four weeks of giving birth, to provide the woman with information about HIV and AIDS, and also inform the woman of the benefits of being tested for HIV and present her with the option of being tested, in accordance with guidelines developed by the Commissioner of Health. The substitute provides that the woman shall, on a form and in a manner prescribed by the commissioner, acknowledge receipt of the information and indicate her preference regarding testing. A woman shall not be denied appropriate prenatal or other medical care because she decides not to be tested for HIV.

The substitute directs the commissioner to establish guidelines regarding notification to a woman whose test result is positive, and to provide, to the maximum extent possible, for counseling about the significance of the test result.

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

In addition, the substitute provides that if an HIV test sample is analyzed in the Department of Health's laboratory, the department may charge a reasonable fee for the test. The amount of the fee and the procedures for collecting the fee are to be established by the commissioner.

The substitute further provides that a woman who has or is suspected of having AIDS or HIV infection may pursue an action against a person who makes an unauthorized disclosure of any information concerning the woman's positive test result, in accordance with the provisions of section 10 of P.L.1989, c.303 (C.26:5C-14).

Finally, the Commissioner of Health is authorized to enter into agreements with the federal government and public health agencies in other states to achieve greater effectiveness or efficiency in carrying out the provisions of the substitute.

The substitute takes effect on the 60th day after enactment.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

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TRENTON, N.J. 08625

Release: FRIDAY,
JULY 7, 1995

Gov. Christie Whitman signed legislation today requiring doctors to inform pregnant women of the benefits of HIV testing and give them the opportunity to be tested.

"For many babies born in New Jersey this year, this legislation will literally mean the difference between life and death," said Gov. Whitman. "A woman should know that testing may save her child and maintain her own health and that she and her baby can be evaluated and appropriately treated."

The Commissioner of Health is required by the new law to establish guidelines for notifying and providing counseling for women who test positive for HIV. This information is protected by state confidentiality laws. The law authorizes civil actions against individuals who disclose information about positive test results without the permission of the women who were tested.

The legislation provides that no woman shall be denied medical care because she refuses to be tested for HIV.

The sponsors of the bill, A-1669, are Assemblyman Stephen Mikulak (R-Middlesex) and Assemblyman Nicholas Felice (R-Bergen).