
By: Chairman, Economic and Environmental Affairs Committee (Departmental - Health and Mental Hygiene)

Introduced and read first time: January 27, 1997

Rule 32(e) suspended

Assigned to: Economic and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: March 5, 1997

CHAPTER ____

1 AN ACT concerning

2 **AIDS - Pregnant Women - Counseling and Testing**

3 FOR the purpose of requiring certain health care providers to counsel pregnant women
4 concerning testing for the presence of the human immunodeficiency virus (HIV);
5 requiring the counseling to include certain information; establishing the
6 confidentiality of certain test records; authorizing the introduction into evidence of
7 certain test results under certain circumstances; establishing a certain immunity for
8 health care providers and health care facilities under certain circumstances; and
9 generally relating to the provision of HIV counseling to pregnant women.

10 BY adding to

11 Article - Health - General

12 Section 18-338.2

13 Annotated Code of Maryland

14 (1994 Replacement Volume and 1996 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Health - General**

18 18-338.2.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

2

1 (2) "HEALTH CARE FACILITY" MEANS A FACILITY OR OFFICE WHERE
2 HEALTH OR MEDICAL CARE IS PROVIDED TO PATIENTS BY A HEALTH CARE
3 PROVIDER, INCLUDING:

4 (I) A HOSPITAL AS DEFINED IN § 19-301 OF THIS ARTICLE;

5 (II) A FACILITY OPERATED BY THE DEPARTMENT OR A HEALTH
6 OFFICER; AND

7 (III) THE OFFICE OF A HEALTH CARE PROVIDER.

8 (3) "HEALTH CARE PROVIDER" MEANS A PHYSICIAN, NURSE, OR
9 DESIGNEE OF A HEALTH CARE FACILITY.

10 (4) "HIV" MEANS THE HUMAN IMMUNODEFICIENCY VIRUS THAT
11 CAUSES ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS).

12 (5) "PRENATAL CARE" MEANS OBSTETRIC AND GYNECOLOGIC SERVICE
13 PERFORMED AS PART OF A PRENATAL CARE PROGRAM, INCLUDING:

14 (I) SCREENING;

15 (II) PHYSICAL EXAMINATION;

16 (III) LABORATORY AND DIAGNOSTIC TESTING PROCEDURES AND
17 INTERPRETATION; AND

18 (IV) COUNSELING.

19 (B) (1) AS PART OF A HEALTH CARE PROVIDER'S PATIENT ACCEPTANCE
20 PROCEDURES OR PROTOCOL, A HEALTH CARE PROVIDER SHALL PROVIDE A
21 PREGNANT WOMAN WITH COUNSELING CONCERNING BEING TESTED FOR THE
22 PRESENCE OF HIV AS PART OF THE WOMAN'S PRENATAL CARE PROGRAM.

23 (2) THE COUNSELING SHALL INCLUDE:

24 (I) INFORMATION THAT:

25 1. THE PREGNANT WOMAN IS NOT REQUIRED TO CONSENT
26 TO A TEST FOR THE PRESENCE OF HIV; AND

27 2. THE PREGNANT WOMAN WILL NOT BE DENIED PRENATAL
28 CARE BY THE HEALTH CARE PROVIDER OR AT THE HEALTH CARE FACILITY
29 BECAUSE THE WOMAN REFUSES TO HAVE A TEST PERFORMED; AND

30 (II) EDUCATION ON:

31 1. THE EFFECT OF A POSITIVE HIV TEST RESULT ON THE
32 PREGNANT WOMAN AND THE FETUS CONCERNING THE RISK OF TRANSMISSION OF
33 HIV TO THE FETUS; AND

34 2. RECOGNIZED METHODS OF REDUCING THAT RISK,
35 INCLUDING THE USE OF PHARMACEUTICALS DURING PREGNANCY KNOWN TO
36 REDUCE THE RISK OF TRANSMISSION OF HIV TO THE FETUS.

1 (C) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS
2 SUBSECTION, THE RECORD OF AN HIV TEST PERFORMED UNDER THIS SECTION IS
3 CONFIDENTIAL AND NOT DISCOVERABLE OR ADMISSIBLE IN EVIDENCE IN ANY
4 CRIMINAL, CIVIL, OR ADMINISTRATIVE ACTION.

5 (2) PROVIDED THAT THE IDENTITY OR ANY OTHER INFORMATION
6 THAT COULD READILY BE ASSOCIATED WITH THE IDENTITY OF THE PREGNANT
7 WOMAN IS NOT DISCLOSED, THE RESULTS OF AN HIV TEST PERFORMED UNDER THIS
8 SECTION MAY BE INTRODUCED INTO EVIDENCE IN ANY CRIMINAL, CIVIL, OR
9 ADMINISTRATIVE ACTION, INCLUDING THE ADJUDICATION OF A WORKERS'
10 COMPENSATION CLAIM.

11 (D) A HEALTH CARE PROVIDER, INCLUDING A HEALTH CARE FACILITY,
12 ACTING IN GOOD FAITH TO PROVIDE THE COUNSELING REQUIRED UNDER
13 SUBSECTION (B) OF THIS SECTION MAY NOT BE HELD LIABLE IN ANY CAUSE OF
14 ACTION RELATED TO A WOMAN'S DECISION TO CONSENT OR NOT TO CONSENT TO
15 HAVE AN HIV TEST.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1997.