

107TH CONGRESS  
2D SESSION

# H. R. 4644

To amend the Public Health Service Act with respect to testing pregnant women and newborn infants for infection with the human immunodeficiency virus.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2002

Mr. ACKERMAN (for himself and Mr. WELDON of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Public Health Service Act with respect to testing pregnant women and newborn infants for infection with the human immunodeficiency virus.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Women and Children’s  
5       HIV Protection Act of 2002”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds as follows:

8               (1) Perinatal transmission is the leading cause  
9       of pediatric HIV infections, including AIDS cases.

1           (2) The Centers for Disease Control and Pre-  
2           vention (“CDC”) estimates that nearly 7,000 HIV-  
3           infected women give birth in the United States each  
4           year and as many as 400 babies continue to be born  
5           with HIV infection each year.

6           (3) Medical advances have made it possible to  
7           nearly eliminate perinatal HIV transmission.

8           (4) Research studies have demonstrated that  
9           the administration of antiviral medication during  
10          pregnancy, during labor, and immediately following  
11          birth can significantly reduce the transmission of  
12          HIV from an infected mother to her baby. Cae-  
13          sarean section further reduces the risk of trans-  
14          mission.

15          (5) Even if treatment begins shortly after birth,  
16          antiretroviral therapy can substantially reduce the  
17          chance that an HIV-exposed infant will become in-  
18          fected.

19          (6) Breastfeeding by HIV-infected mothers  
20          poses additional significant risk of infection to ba-  
21          bies.

22          (7) The Institute of Medicine (“IOM”) has rec-  
23          ommended the adoption of a national policy of uni-  
24          versal HIV testing, with patient notification, as a  
25          routine component of prenatal care. However, 15

1       percent of HIV-infected pregnant women receive no  
2       prenatal care according to the IOM.

3           (8) The CDC has recommended since 1995 that  
4       all pregnant women be counseled and offered vol-  
5       untary HIV testing. Yet nearly half of pregnant  
6       women are still not tested according to the CDC.

7           (9) The American Medical Association rec-  
8       ommends mandatory HIV testing of all newborns  
9       with appropriate treatment for affected mothers and  
10      children.

11          (10) Testing newborns whose mothers' status is  
12      unknown ensures that every child at risk for HIV is  
13      identified.

14          (11) The provision of testing of pregnant  
15      women and newborns with appropriate counseling  
16      and treatment can significantly reduce the number  
17      of pediatric HIV infections, including AIDS cases,  
18      can improve access to and medical care for the  
19      woman and children, and can provide opportunities  
20      to further reduce transmission among adults.

21          (12) The provision of such testing, counseling,  
22      and treatment can reduce the overall cost of pedi-  
23      atric HIV infections, including AIDS cases.

24          (13) New York State has required mandatory  
25      HIV counseling and voluntary testing for pregnant

1 women and mandatory HIV testing of all newborns  
 2 since February 1997. As a result, the perinatal HIV  
 3 transmission rate in the State has dropped from 25  
 4 percent to an all time low of 3.5 percent and over  
 5 99 percent of HIV-infected women and their chil-  
 6 dren have been linked to care.

7 (14) For the reasons specified in paragraphs  
 8 (1) through (12)—

9 (A) universal routine HIV testing of preg-  
 10 nant women and newborns should be the stand-  
 11 ard of care; and

12 (B) the relevant medical organizations, as  
 13 well as public health officials, should issue  
 14 guidelines making such testing, counseling, and  
 15 treatment the standard of care.

16 **SEC. 3. ADDITIONAL REQUIREMENT FOR CERTAIN GRANTS.**

17 Subpart I of part B of title XXVI of the Public  
 18 Health Service Act (42 U.S.C. 300ff–21 et seq.) is amend-  
 19 ed by inserting after section 2616 the following section:

20 **“SEC. 2616A. ADDITIONAL REQUIREMENT FOR CERTAIN**  
 21 **GRANTS.**

22 “For fiscal year 2004 and subsequent fiscal years,  
 23 the Secretary shall not make a grant to a State under  
 24 this part unless the State demonstrates that the law or

1 regulations of the State are in accordance with the fol-  
2 lowing:

3           “(1) That all pregnant women receiving pre-  
4           natal care in the State be offered counseling and  
5           testing regarding HIV disease.

6           “(2) In the case of prenatal testing for such  
7           disease that is conducted in the State, that the re-  
8           sults of such testing be promptly disclosed to the  
9           pregnant woman involved.

10           “(3) In the case of newborn infants who are  
11           born in the State and whose biological mothers have  
12           not undergone prenatal testing for HIV disease, that  
13           each such infant undergo testing for such disease.

14           “(4) That the results of such testing of a new-  
15           born infant be promptly disclosed in accordance with  
16           the following, as applicable to the infant involved:

17                   “(A) To the biological mother of the infant  
18                   (without regard to whether she is the legal  
19                   guardian of the infant).

20                   “(B) If the State is the legal guardian of  
21                   the infant:

22                           “(i) To the appropriate official of the  
23                           State agency with responsibility for the  
24                           care of the infant.

1                   “(ii) To the appropriate official of  
2                   each authorized agency providing assist-  
3                   ance in the placement of the infant.

4                   “(iii) If the authorized agency is giv-  
5                   ing significant consideration to approving  
6                   an individual as a foster parent of the in-  
7                   fant, to the prospective foster parent.

8                   “(iv) If the authorized agency is giv-  
9                   ing significant consideration to approving  
10                  an individual as an adoptive parent of the  
11                  infant, to the prospective adoptive parent.

12                  “(C) If neither the biological mother nor  
13                  the State is the legal guardian of the infant, to  
14                  another legal guardian of the infant.

15                  “(D) To the child’s health care provider.

16                  “(5) That, in disclosing the test results to an  
17                  individual under paragraph (2) or (4), appropriate  
18                  counseling on HIV disease and appropriate referrals  
19                  for health care be offered to the individual (except  
20                  in the case of a disclosure to an official of a State  
21                  or an authorized agency, or to a health care pro-  
22                  vider).”.

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