

108TH CONGRESS  
1ST SESSION

# H. R. 2049

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 9, 2003

Mr. ACKERMAN (for himself, Mr. WELDON of Florida, Mr. HINCHEY, Mr. McNULTY, Mr. WYNN, Mr. RANGEL, Mr. TERRY, Mr. FROST, Mr. TAYLOR of Mississippi, and Mr. THOMPSON of Mississippi) 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 2003”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

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

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

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

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

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

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

24          (7) The Institute of Medicine (“IOM”) has rec-  
25 ommended the adoption of a national policy of uni-

1       versal HIV testing, with patient notification, as a  
2       routine component of prenatal care. However, 15  
3       percent of HIV-infected pregnant women receive no  
4       prenatal care according to the IOM.

5               (8) The CDC has recommended since 1995 that  
6       all pregnant women be counseled and offered vol-  
7       untary HIV testing. Yet nearly half of pregnant  
8       women are still not tested according to the CDC.  
9       The CDC has found that mandatory testing of  
10      newborns and universal HIV testing of pregnant  
11      woman are the best approaches for identifying,  
12      treating, and preventing HIV among pregnant  
13      women and children.

14              (9) The American Medical Association rec-  
15      ommends mandatory HIV testing of all newborns  
16      with appropriate treatment for affected mothers and  
17      children.

18              (10) Testing newborns whose mothers' status is  
19      unknown ensures that every child at risk for HIV is  
20      identified.

21              (11) More than a third of the HIV infections  
22      that occur annually among newborns in the United  
23      States could be prevented with routine HIV testing  
24      of pregnant woman or newborns according to a 2002  
25      report by the Inspector General of the Department

1 of Health and Human Services. This represents over  
2 100 babies born every year that are needlessly in-  
3 fected.

4 (12) The provision of testing of pregnant  
5 women and newborns with appropriate counseling  
6 and treatment can significantly reduce the number  
7 of pediatric HIV infections, including AIDS cases,  
8 can improve access to and medical care for the  
9 woman and children, and can provide opportunities  
10 to further reduce transmission among adults.

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

14 (14) New York State has required mandatory  
15 HIV counseling and voluntary testing for pregnant  
16 women and mandatory HIV testing of all newborns  
17 since February 1997. As a result, the perinatal HIV  
18 transmission rate in the State has dropped from 25  
19 percent to an all time low of 3.5 percent and over  
20 99 percent of HIV-infected women and their chil-  
21 dren have been linked to care.

22 (15) For the foregoing reasons—

23 (A) universal routine HIV testing of preg-  
24 nant women and newborns should be the stand-  
25 ard of care; and

1 (B) the relevant medical organizations, as  
2 well as public health officials, should issue  
3 guidelines making such testing, counseling, and  
4 treatment the standard of care.

5 **SEC. 3. GRANTS REGARDING COUNSELING AND TESTING**  
6 **OF PREGNANT WOMEN AND NEWBORN IN-**  
7 **FANTS.**

8 Subpart II of part B of title XXVI of the Public  
9 Health Service Act (42 U.S.C. 300ff–33 et seq.) is amend-  
10 ed by inserting after section 2625 the following section:

11 **“SEC. 2625A. GRANTS REGARDING COUNSELING AND TEST-**  
12 **ING OF PREGNANT WOMEN AND NEWBORN**  
13 **INFANTS.**

14 “(a) IN GENERAL.—Of the amounts appropriated  
15 under section 2677 for a fiscal year for carrying out this  
16 part, exclusive of amounts available for grants under sec-  
17 tion 2618(a)(2)(I), the Secretary, subject to subsection  
18 (b)(2), shall reserve \$82,875,000 for making grants to  
19 each State that demonstrates that the law or regulations  
20 of the State are in accordance with the following:

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

24 “(2) In the case of prenatal testing for such  
25 disease that is conducted in the State, that the re-

1 sults of such testing be promptly disclosed to the  
2 pregnant woman involved.

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

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

10 “(A) To the biological mother of the infant  
11 (without regard to whether she is the legal  
12 guardian of the infant).

13 “(B) If the State is the legal guardian of  
14 the infant:

15 “(i) To the appropriate official of the  
16 State agency with responsibility for the  
17 care of the infant.

18 “(ii) To the appropriate official of  
19 each authorized agency providing assist-  
20 ance in the placement of the infant.

21 “(iii) If the authorized agency is giv-  
22 ing significant consideration to approving  
23 an individual as a foster parent of the in-  
24 fant, to the prospective foster parent.

1                   “(iv) If the authorized agency is giv-  
2                   ing significant consideration to approving  
3                   an individual as an adoptive parent of the  
4                   infant, to the prospective adoptive parent.

5                   “(C) If neither the biological mother nor  
6                   the State is the legal guardian of the infant, to  
7                   another legal guardian of the infant.

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

9                   “(5) That, in disclosing the test results to an  
10                  individual under paragraph (2) or (4), appropriate  
11                  counseling on HIV disease and appropriate referrals  
12                  for health care be offered to the individual (except  
13                  in the case of a disclosure to an official of a State  
14                  or an authorized agency, or to a health care pro-  
15                  vider).”.

16                  “(b) DATE CERTAIN FOR MAKING GRANTS; LIMITA-  
17                  TION ON RESERVATION OF FUNDS.—

18                  “(1) DATE CERTAIN FOR MAKING GRANTS.—  
19                  Not later than the end of the three-month period be-  
20                  ginning on the date on which appropriations first be-  
21                  come available for a fiscal year for grants under sec-  
22                  tion 2611, the Secretary shall make grants under  
23                  subsection (a) for such fiscal year to all States that  
24                  seek such grants and meet the condition described in  
25                  such subsection for the grants.

1           “(2) LIMITATION ON RESERVATION OF  
2 FUNDS.—Effective upon the expiration of the period  
3 described in paragraph (1) with respect to a fiscal  
4 year, the unobligated portion of the amount reserved  
5 under subsection (a) for the fiscal year is available  
6 for grants under section 2611 for the fiscal year.

7           “(c) AMOUNT OF GRANTS.—Each grant under sub-  
8 section (a) for a fiscal year shall be made in the amount  
9 of \$1,500,000, except that the amount of such a grant  
10 for a territory of the United States shall be \$375,000.

11           “(d) AUTHORIZED EXPENDITURES.—A grant under  
12 subsection (a) may be expended for any purpose for which  
13 a grant under 2611 is authorized to be expended.

14           “(e) DEFINITIONS.—For purposes of this section, the  
15 terms ‘State’ and ‘territory of the United States’ have the  
16 meanings that apply to such terms for purposes of grants  
17 under section 2611 (including the meanings that apply for  
18 purposes of section 2618).”.

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