

CHAMBER ACTION

1 The Committee on Health Care recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to human immunodeficiency virus (HIV)
7 infection testing of newborn infants; amending s. 384.31,
8 F.S.; requiring certain newborn infants to be tested at
9 the time of delivery in accordance with applicable rules;
10 requiring that such rules provide methods of testing,
11 requirements for reporting of test results, a requirement
12 that test results be confidential, and right of refusal;
13 requiring notification of positive test results to include
14 certain information on available services and on
15 prevention of HIV transmission; providing an effective
16 date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Section 384.31, Florida Statutes, is amended to
21 read:

22 384.31 Serological testing of pregnant women and newborn
23 infants; duty of the attendant.--

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24 (1) Every person, including every physician licensed under
25 chapter 458 or chapter 459 or midwife licensed under part I of
26 chapter 464 or chapter 467, attending a pregnant woman for
27 conditions relating to pregnancy during the period of gestation
28 and delivery shall take or cause to be taken a sample of venous
29 blood at a time or times specified by the department. Each
30 sample of blood shall be tested by a laboratory approved for
31 such purposes under part I of chapter 483 for sexually
32 transmissible diseases as required by rule of the department.

33 (2) At the time the venous blood sample is taken, testing
34 for human immunodeficiency virus (HIV) infection shall be
35 offered to each pregnant woman. The prevailing professional
36 standard of care in this state requires each health care
37 provider and midwife who attends a pregnant woman to counsel the
38 woman to be tested for human immunodeficiency virus (HIV).
39 Counseling shall include a discussion of the availability of
40 treatment if the pregnant woman tests HIV positive. If a
41 pregnant woman objects to HIV testing, reasonable steps shall be
42 taken to obtain a written statement of such objection, signed by
43 the patient, which shall be placed in the patient's medical
44 record. Every person, including every physician licensed under
45 chapter 458 or chapter 459 or midwife licensed under part I of
46 chapter 464 or chapter 467, who attends a pregnant woman who has
47 been offered and objects to HIV testing shall be immune from
48 liability arising out of or related to the contracting of HIV
49 infection or acquired immune deficiency syndrome (AIDS) by the
50 child from the mother.

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51 (3) Notwithstanding s. 381.004(3)(a) and (b), every
52 newborn infant whose mother's HIV status is not documented in
53 the medical record shall be tested for HIV at the time of
54 delivery as required by rule of the department. Such rule shall
55 set forth acceptable methods of testing, requirements for the
56 reporting of test results to the mother and the department, a
57 requirement that the test results otherwise be confidential, and
58 the right of the mother to refuse testing of the infant.
59 Notification to the mother of an infant's positive test result
60 must include information on the availability of appropriate
61 medical and support services for the infant and on preventing
62 the transmission of HIV.

63 Section 2. This act shall take effect July 1, 2004.