

SESSION OF 2009

SUPPLEMENTAL NOTE ON SENATE BILL NO. 147

As Amended by House Committee on
Health and Human Services

Brief*

SB 147, as amended, would enact new law concerning Human Immunodeficiency Virus (HIV) screenings for pregnant women and newborn children. The bill would require a physician or other health care professional authorized by law to provide medical treatment for pregnant women to administer, or have administered, a routine opt-out screening for HIV infection during the first trimester of the pregnancy. If a pregnant woman is determined to be at high risk for acquiring HIV infection, a repeat screening would be administered during the third trimester or at the time of labor and delivery. A pregnant woman would have the right to refuse an HIV screening at any time. The bill further provides that before any screening is performed, the pregnant woman must be informed in writing of the screening requirements created by the bill and the purposes and benefits of this screening. If the pregnant woman consents to the screening, she is to sign a form provided by the Kansas Department of Health and Environment (KDHE) to either authorize or opt out of the screening.

If the mother's HIV status is unknown because of refusal to submit to the screening during the pregnancy, or for any other reason, the newborn child would be screened with an HIV test as soon as possible within medical standards. The mother's or guardian's consent would not be required to screen the newborn child. Parents of a newborn child who object to the HIV test because it conflicts with their religious tenets and practices would be exempt from the mandatory screening. Documentation of the mother's HIV status would be recorded

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

in both the mother's and the newborn's medical records. The bill also would require that the mother of the child be informed in writing of the screening requirements created by the bill and of the purposes and benefits of the screening. The mother would then be required to sign a form acknowledging the receipt of this information.

The bill would authorize KDHE to adopt rules and regulations establishing guidelines for routine HIV infection screenings for pregnant women and for each newborn child where the HIV status of the mother is unknown at the time of birth. The rules and regulations would be based on the best practices and recommendations established by the Centers for Disease Control and Prevention and the Public Health Service Task Force. The Department would be required to adopt the rules and regulations within six months of the effective date of the bill.

Background

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of the Kansas Department of Health and Environment. Proponents of the bill included the Director of the HIV/AIDS Program, Bureau of Disease Control and Prevention, Kansas Department of Health and Environment, and two administrative assistants representing a Wichita physician.

There were no opponents to the bill at the Senate Committee hearing.

The Senate Committee on Public Health and Welfare amended the bill to include an exemption from the provisions of the bill for any newborn child whose parents object to the HIV screening because it conflicts with their religious tenets and practices. The Committee further amended the bill by removing the reference to an "obstetric panel" and "all pregnant women in Kansas" and by adding language to clarify that a pregnant woman has the right to refuse the HIV screening at any time.

Additionally, the Committee inserted a date certain for the adoption of rules and regulations by requiring that the rules and regulations be adopted within one year of the effective date of the act.

The House Committee on Health and Human Services amended the bill to include notification requirements associated with the screening provisions in the bill, to direct pregnant women to sign a form to either authorize screening or opt out of screening, to direct mothers of newborn children to acknowledge receipt of screening information, and to reduce the time limitation established for the adoption of rules and regulations by the Secretary of Health and Environment. A technical amendment also is made to clarify the professionals allowed to provide medical treatment to women, including the screening for HIV.

The fiscal note prepared by the Division of the Budget on the original bill states that the Kansas Department of Health and Environment indicated the fiscal effect of SB 147 will be negligible for the agency but could result in increased Medicaid costs for tests not currently being performed. The Department further stated that most of the costs would be borne by private payors or health plans. Information provided to the Public Health and Welfare Committee by the Department in response to questions asked at the bill hearing indicates that the cost of the HIV screening for uninsured pregnant women, who have not been previously tested, will be borne by the HIV-AIDS Prevention grant. The Department estimates that there are 4,400 women who would qualify for the assistance at an annual cost of approximately \$17,000.