A BILL

To amend sections 3701.24 and 3701.50 and to enact section 3701.2410 of the Revised Code regarding testing pregnant women for HIV, syphilis, and gonorrhea.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3701.24 and 3701.50 be amended and section 3701.2410 of the Revised Code be enacted to read as follows:

Sec. 3701.24. (A) As used in this section and sections 3701.241 to 3701.249 of the Revised Code:

(1) "AIDS" means the illness designated as acquired immunodeficiency syndrome.

(2) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.

(3) "AIDS-related condition" means symptoms of illness related to HIV infection, including AIDS-related complex, that are confirmed by a positive HIV test.
(4) "HIV test" means any test for the antibody or antigen to HIV that has been approved by the director of health under division (B) of section 3701.241 of the Revised Code.

(5) "Health care facility" has the same meaning as in section 1751.01 of the Revised Code.

(6) "Director" means the director of health or any employee of the department of health acting on the director's behalf.

(7) "Physician" means a person who holds a current, valid license issued under Chapter 4731. of the Revised Code authorizing the practice of medicine or and surgery and or osteopathic medicine and surgery.

(8) "Nurse" means a registered nurse or licensed practical nurse who holds a license or certificate issued under Chapter 4723. of the Revised Code.

(9) "Anonymous test" means an HIV test administered so that the individual to be tested can give informed consent to the test and receive the results by means of a code system that does not link the identity of the individual tested to the request for the test or the test results.

(10) "Confidential test" means an HIV test administered so that the identity of the individual tested is linked to the test but is held in confidence to the extent provided by sections 3701.24 to 3701.248 of the Revised Code.

(11) "Health care provider" means an individual who provides diagnostic, evaluative, or treatment services. Pursuant to Chapter 119. of the Revised Code, the director may adopt rules further defining the scope of the term "health care provider."
(12) "Significant exposure to body fluids" means a percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another individual.

(13) "Emergency medical services worker" means all of the following:

(a) A peace officer;

(b) An employee of an emergency medical service organization as defined in section 4765.01 of the Revised Code;

(c) A firefighter employed by a political subdivision;

(d) A volunteer firefighter, emergency operator, or rescue operator;

(e) An employee of a private organization that renders rescue services, emergency medical services, or emergency medical transportation to accident victims and persons suffering serious illness or injury.

(14) "Peace officer" has the same meaning as in division (A) of section 109.71 of the Revised Code, except that it also includes a sheriff and the superintendent and troopers of the state highway patrol.

(B) Persons designated by rule adopted by the director under section 3701.241 of the Revised Code shall report promptly every case of AIDS, every AIDS-related condition, and every confirmed positive HIV test to the department of health on forms and in a manner prescribed by the director. In each county the director shall designate the health commissioner of a health district in the county to receive the reports.
(C) No person shall fail to comply with the reporting requirements established under division (B) of this section.

(D) Information reported under this section that identifies an individual is confidential and may be released only with the written consent of the individual except as the director determines necessary to ensure the accuracy of the information, as necessary to provide treatment to the individual, as ordered by a court pursuant to section 3701.243 or 3701.247 of the Revised Code, or pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, prosecuting attorney, city director of law or similar chief legal officer of a municipal corporation, or village solicitor, in connection with a criminal investigation or prosecution. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.2410. (A) As used in this section, "licensed health care professional" includes all of the following:

(1) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) Clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners licensed under Chapter 4723. of the Revised Code;

(3) Physician assistants licensed under Chapter 4730. of the Revised Code.

(B) Subject to division (D) of this section, a licensed health care professional who provides prenatal care to a pregnant woman shall comply with both of the following regarding HIV testing:
(1) When the licensed health care professional first examines the woman related to her pregnancy, the professional shall cause an HIV test to be conducted unless the woman refuses the test.

(2) When the licensed health care professional first examines the woman related to her pregnancy during the third trimester of gestation, the professional shall conduct an assessment to determine whether any activities posing a risk of infection with HIV have occurred more recently than would have been detected by the most recent HIV test, if any, that was conducted during the pregnancy. In conducting the assessment, the licensed health care professional shall consider information available from the United States centers for disease control and prevention concerning risk factors for transmission. If the licensed health care professional determines that activities posing a risk of infection with HIV have occurred, or that no HIV test has been conducted during the pregnancy, the professional shall cause an HIV test to be conducted unless the woman refuses the test.

(C) Subject to division (D) of this section, a licensed health care professional who provides care to a pregnant woman at delivery shall determine whether the woman’s medical records indicate that an HIV test was conducted during the third trimester of gestation. If it is determined that an HIV test was conducted during the third trimester, the licensed health care professional shall consider information available from the United States centers for disease control and prevention concerning risk factors for transmission of HIV and shall ask the woman whether any activities posing such a risk have occurred more recently than would have been detected by that test. If it is determined that no HIV test was conducted during
the third trimester, or that activities posing a risk of HIV infection have occurred more recently than would have been detected by the most recent HIV test, the licensed health care professional shall cause an HIV test to be conducted at the time of delivery unless the woman refuses the test.

(D)(1) Before an HIV test is conducted pursuant to division (B) or (C) of this section, the licensed health care professional shall inform the woman that the test will be conducted and of her right to refuse.

(2) If a woman’s medical records indicate that another licensed health care professional has complied with the requirements of divisions (B) and (C) of this section for the pregnancy, the treating licensed health care professional is not required to comply with the requirements of those divisions.

(E) If the results of an HIV test conducted pursuant to this section are positive, the licensed health care professional shall provide post-test counseling to the woman in accordance with any rules adopted pursuant to section 3701.242 of the Revised Code.

(F) A licensed health care professional who causes an HIV test or assessment to be conducted pursuant to this section shall record that information in the woman’s medical records. If a woman refuses an HIV test offered pursuant to this section, the professional shall record her refusal in her medical records.

(G) The director of health may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers appropriate to implement this section.

Sec. 3701.50. Every (A) As used in this section, "licensed
health care professional" includes all of the following:

(1) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) Clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners licensed under Chapter 4723. of the Revised Code;

(3) Physician assistants licensed under Chapter 4730. of the Revised Code.

(B)(1) Except as provided in divisions (B)(2) and (3) of this section, every physician who attends any pregnant woman for conditions relating to pregnancy during the period of gestation shall take specimens of such woman at the time of first examination or within ten days thereof, and shall submit such specimens to an approved laboratory for standard syphilis and gonorrhea tests.

(2) If, in the opinion of the physician attending such woman, her condition does not permit the taking of specimens for submission to an approved laboratory, then no specimens shall be taken prior to delivery. If no specimens are taken prior to delivery because of the woman's condition, then such specimens shall be taken as soon after delivery as the physician deems it advisable.

(3) The health commissioner of the city or general health district, wherein any person required to be tested for syphilis and gonorrhea under division (B)(1) of this section or section 3701.49 of the Revised Code resides, may waive those requirements of such sections if the commissioner is satisfied by written affidavit or other written proof that the tests...
required are contrary to the tenets or practices of the religious creed of which the person is an adherent, and that the public health and welfare would not be injuriously affected by such waiver.

(C)(1) A licensed health care professional who provides prenatal care to a pregnant woman during the third trimester of gestation shall conduct an assessment when the professional first examines the woman related to her pregnancy during that trimester to determine whether any activities posing a risk of infection with syphilis or gonorrhea have occurred more recently than would have been detected by the most recent syphilis and gonorrhea tests, if any, that were conducted during the pregnancy. In conducting the assessment, the licensed health care professional shall consider information available from the United States centers for disease control and prevention concerning risk factors for transmission of syphilis or gonorrhea.

If the licensed health care professional determines that activities posing a risk of syphilis or gonorrhea infection have occurred more recently than would have been detected by the most recent syphilis or gonorrhea tests, or that no syphilis and gonorrhea tests have been conducted during the pregnancy, the professional shall cause tests for syphilis and gonorrhea to be conducted unless the professional determines that the pregnant woman's condition does not permit the tests to be conducted or the woman refuses the tests.

If the third trimester assessment is not conducted because a licensed health care professional has determined that the woman's condition does not permit the tests to be conducted, the tests shall be conducted after delivery in accordance with
division (B)(2) of this section.

(2) Before syphilis and gonorrhea tests are conducted pursuant to division (C)(1) of this section, the licensed health care professional shall inform the woman of the tests to be conducted and her right to refuse.

(3) If a woman's medical records indicate that another licensed health care professional has complied with the requirements of division (C)(1) of this section for the pregnancy, the treating licensed health care professional is not required to comply with the requirements of that division.

(4) A licensed health care professional who causes tests or an assessment to be conducted pursuant to division (C)(1) of this section shall record that information in the woman's medical records. If a woman refuses the tests, the refusal shall be recorded in her medical records.

Section 2. That existing sections 3701.24 and 3701.50 of the Revised Code are hereby repealed.