

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 275

**Senator Antani
Cosponsor: Senator Antonio**

A BILL

To amend section 3701.242 of the Revised Code
regarding HIV testing.

1
2

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

Section 1. That section 3701.242 of the Revised Code be
amended to read as follows:

3
4

Sec. 3701.242. (A) An HIV test may be performed on an
individual by or on the order of a health care provider ~~who, in~~
~~the exercise of the provider's professional judgment, determines~~
~~the test to be necessary for providing diagnosis and treatment~~
~~to the individual to be tested,~~ if the individual or the
individual's parent or guardian has given general consent to the
provider for medical or other health care treatment. ~~The~~ and if
the health care provider shall inform or an authorized
representative of the health care provider has notified the
individual ~~of~~ that the HIV test is planned and of the
individual's right ~~under division (D) of this section to an~~
~~anonymous to refuse the~~ test. The notification may be verbal or
written, in person or electronic, or any combination thereof.

5
6
7
8
9
10
11
12
13
14
15
16
17

If the individual or a parent or guardian has given

18

general consent for care, no additional consent is required for 19
HIV testing so long as notice of the test and the right to 20
refuse was provided in accordance with this section. 21

If an individual refuses the test, it shall be noted in 22
the individual's medical record. 23

(B) A minor may consent to be given an HIV test. The 24
consent is not subject to disaffirmance because of minority. The 25
parents or guardian of a minor giving consent under this 26
division are not liable for payment and shall not be charged for 27
an HIV test given to the minor without the consent of a parent 28
or the guardian. 29

(C) The health care provider ordering an HIV test shall 30
provide post-test counseling for an individual who receives an 31
HIV-positive test result. The director of health may adopt rules 32
in accordance with Chapter 119. of the Revised Code specifying 33
the information to be provided in post-test counseling. 34

(D) An individual shall have the right to an anonymous 35
test. A health care facility or health care provider that does 36
not provide anonymous testing shall refer an individual 37
requesting an anonymous test to a site where it is available. 38

(E) Divisions (B) to (D) of this section do not apply to 39
the performance of an HIV test in any of the following 40
circumstances: 41

(1) When the test is performed in a medical emergency by a 42
nurse or physician and the test results are medically necessary 43
to avoid or minimize an immediate danger to the health or safety 44
of the individual to be tested or another individual, except 45
that post-test counseling shall be given to the individual if 46
the individual receives an HIV-positive test result; 47

(2) When the test is performed for the purpose of research 48
if the researcher does not know and cannot determine the 49
identity of the individual tested; 50

(3) When the test is performed by a person who procures, 51
processes, distributes, or uses a human body part from a 52
deceased person donated for a purpose specified in Chapter 2108. 53
of the Revised Code, if the test is medically necessary to 54
ensure that the body part is acceptable for its intended 55
purpose; 56

(4) When the test is performed on a person incarcerated in 57
a correctional institution under the control of the department 58
of rehabilitation and correction if the head of the institution 59
has determined, based on good cause, that a test is necessary; 60

(5) When the test is performed in accordance with section 61
2907.27 of the Revised Code; 62

(6) When the test is performed on an individual after the 63
infection control committee of a health care facility, or other 64
body of a health care facility performing a similar function 65
determines that a health care provider, emergency medical 66
services worker, or peace officer, while rendering health or 67
emergency care to an individual, has sustained a significant 68
exposure to the body fluids of that individual, and the 69
individual has refused to give consent for testing. 70

Section 2. That existing section 3701.242 of the Revised 71
Code is hereby repealed. 72