Get the Facts: Compare Your State’s HIV Testing Requirements for Pregnant Women to ACOG’s Recommendations

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<th><strong>STATE PERINATAL HIV TESTING LAW</strong></th>
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### Does the law follow the recommended opt-out testing approach?

- **Yes.** This new law, Senate Bill 179, authorizes opt-out HIV testing for pregnant women in Colorado.

- **Opt-out testing defined:** A pregnant woman is notified that she will be tested for HIV as part of the routine battery of prenatal blood tests unless she declines. ([Prenatal and Perinatal Human Immunodeficiency Virus Testing: Expanded Recommendations. ACOG Committee Opinion No. 418. Sept. 2008](https://www.acog.org/ Clinical Recommendations)

### Prenatal Screening

**Universal Screening**

- **Yes.** SB 179 requires licensed health care practitioners authorized to provide care for pregnant women (prenatal, labor & delivery) to test for HIV.

- **ACOG recommends that all pregnant women be screened for HIV as early as possible during each pregnancy after they are notified that HIV screening is recommended for all pregnant patients and that they will receive an HIV test as part of the routine panel of prenatal tests unless they decline (opt-out screening).**

### Pre-test Counseling

- **Not addressed in SB 179.** (See ACOG recommendation)

- **ACOG recommends that ob-gyns include counseling as a routine part of care, but not as a prerequisite to testing. The use of patient notification gives pregnant women the opportunity to decline to be tested but eliminates the obligation to provide extensive pre-test counseling. Care providers have the responsibility for the details of how the notification would occur.**

### Separate Informed Consent

- **No.** With opt-out testing under SB 179, a pregnant woman is informed of the need for an HIV test and given the opportunity to decline the test; there is no requirement for separate informed consent.

- **ACOG recommends that prenatal HIV testing be universal, routine, and with no requirement for specific consent. Universal routine testing with patient notification is not mandatory testing; the pregnant patient always retains the right to decline the test (or opt-out).**

### Refusal of Testing

- **Yes.** With opt-out testing under SB 179, a pregnant woman may decline testing for HIV.

- **The pregnant patient always retains the right to decline the test (or opt-out). See above.**

### Medical Record Documentation

- **Yes.** SB 179 requires patient refusal to be documented in the medical record. (See also Labor and Delivery Testing and Reporting Testing on the Birth Certificate)

- **ACOG recommends that if a pregnant woman declines HIV testing, this should be noted in the medical record (but does not require that the refusal be in writing or signed by the patient).**

### Repeat Testing In Third Trimester

- **Not addressed in SB 179.** (See ACOG recommendation)

- **ACOG recommends repeating an HIV test in the 3rd trimester for women in areas with high HIV prevalence and women known to be at high risk for HIV infection, and recommending 3rd trimester HIV testing to women who declined**
| Labor And Delivery Testing | Yes. SB 179 requires hospitals to notify pregnant women who arrive at labor & delivery with undocumented HIV status that they will be tested for HIV unless they decline. If a woman declines to be tested, the hospital is required to document the refusal in the medical record. | ACOG recommends rapid testing at labor and delivery for pregnant women with unknown or undocumented HIV status. A rapid test is an HIV screening test with results available within hours. A negative rapid HIV test result is definitive. A positive test is not definitive and must be confirmed with a supplemental test; however, antiretroviral treatment should be initiated, with the mother’s consent, without waiting for the results of the confirmatory test in order to further reduce possible transmission to the infant. |
| Newborn Testing | Not addressed in SB 179. | ACOG does not have published guidance on mandatory screening of newborns; however, mandatory newborn screening is, de facto, mandatory testing of mothers since heel stick results reflect the mother’s infection status, not the baby’s. |
| Referral for Positive Test Results | Not addressed in SB 179. The Colorado Children’s Hospital Immunodeficiency Program (CHIP) hosts a 24-hour perinatal HIV testing and treatment consultation line for clinicians at 303-281-9695. | Consultation with a provider well versed in HIV infection is recommended. See National Perinatal HIV Consultation and Referral Service Perinatal Hotline 1-888-448-8765 (24 hours a day – 7 days a week) (clinicians only). See enclosed flyer. |
| Reporting Testing on the Birth Certificate | Yes. SB 179 requires physicians (and others required to report) to document HIV testing on the birth (or stillbirth) certificate. HIV test results must not be documented on the certificate. | ACOG does not have published guidance on reporting HIV testing on the birth certificate. |

Note: Physicians should be aware of and follow their states’ perinatal HIV screening requirements. Specific requirements may be verified by contacting state or local health departments. Also, the National HIV/AIDS Clinicians’ Consultation Center (NCCC) at the University of California–San Francisco maintains an online compendium of state HIV testing laws that can be a useful resource: www.nccc.uesf.edu. In Colorado, go to the Colorado General Assembly Home Page at www.leg.state.co.us. Click on Colorado Revised Statutes and search C.R.S. § 25-4-201.

Colorado law requires that new cases of HIV infection, including preliminary, unconfirmed positive rapid test results, be reported to the Colorado Department of Public Health and Environment (CDPHE) within seven days. You may report a positive HIV test at 303-692-2700. To receive assistance with communicating positive test results to patients, health providers may contact the CDPHE STI/HIV Section at 303-891-6215.