

TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

Public Law 12-75

THIRD REGULAR SESSION, 2001

H. B. NO. 12-395

AN ACT

To require the Commonwealth Health Center to provide free counseling and screening of pregnant woman in order to prevent the prenatal transmission of Human Immunodeficiency Virus (HIV) and to provide for clear authority for medical care providers to provide medical care related to the testing and counseling of sexually transmitted diseases, who request such care without parental consent; and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

Section 1. Findings. The Legislature finds that, according to Department of Public Health statistics, HIV reached epidemic proportions in 1998. Since 1983, the first year that HIV was reported in the CNMI, there have been 0 to 1 new cases of HIV reported annually. In 1998, the Department of Public Health has seen a dramatic increase in the number of HIV cases reported. To date, there have been 38 new cases of HIV reported to the Department of Public Health. In addition to the sudden increase, the epidemiology is shifting to involve the entire community. From 1983 to 1995, HIV was reported mostly among gay and bisexual men who acquired the infection off-island. In 1996, the Department of Public Health saw a shift in the transmission patterns to a predominantly heterosexual transmission, involving people from a variety of ethnic backgrounds including the CNMI indigenous population. There are reported cases among married men and women, teenagers, and infants. In 1998, the CNMI experienced the first case of HIV transmitted from a mother to her newborn infant.

The Legislature acknowledges that segments of the CNMI population, including our young adults and teenagers, are engaging in high-risk behavior that increases the likelihood of HIV transmission. The Legislature also acknowledges that although prostitution became illegal

in 1994, the commercial sex industry still exists in the CNMI. The Legislature also recognizes that in other countries where prostitution and high-risk behavior exist, these countries have experienced devastating epidemics of HIV.

The Legislature acknowledges that scientific evidence has shown that HIV transmission between a mother and her unborn child can be prevented with medication that is given during pregnancy, delivery, and for a period time to the newborn. The medication, when given at the optimal time, will decrease the risk of transmission by nearly three-fourths.

The Legislature finds that current recommended treatment for HIV infected individuals cost between \$20,000 and \$30,000 dollars annually. Once the infected person progresses to be classified as having Acquired Immune Deficiency Syndrome (AIDS), the cost of treatment increases further to \$150,000 or more annually. In contrast, the cost of treating a pregnant woman to reduce the prenatal transmission of HIV is less than \$3000. This cost includes approximately \$10 per day during pregnancy, \$650 during delivery and 6 weeks of therapy for the infant after birth. Not only is the cost/benefit ratio extremely favorable, but more importantly is the benefit of preventing the pain and suffering of our islands' children.

The Legislature acknowledges that the Department of Public Health, since 1996 through a federal public health grant, offers voluntary HIV testing and counseling to all pregnant mothers seeking prenatal care at the Commonwealth Health Center. The Legislature recognizes that distressingly, only 10-15% of pregnant women avail themselves of this federally funded service. The woman who transmitted HIV to her infant was one such woman who declined testing.

The Legislature further notes that the Department of Public Health is concerned about its scope of authority to provide medical care to minors for sexually transmitted diseases, without parental consent. The Department of Public Health recognizes the need of strict confidentiality in view of the fact that many minors would not submit to testing and counseling if parental

permission were required. As such, it seeks clear legislative authority to provide such testing to minors who come in seeking assistance and testing.

Section 2. Mandatory Prenatal HIV Education. All pregnant women in the CNMI who receive prenatal care from a physician, nurse practitioner, physician assistant, or certified nurse midwife, registered nurses, allied health worker (counselor's, social workers, etc..) at the Commonwealth Health Center, shall be provided free education regarding HIV prevention, transmission and offered free testing for HIV. The HIV education provided to pregnant women shall include information about reducing the risk of transmission of the disease between the mother and her infant. A collaborative effort between the MCH Program and the HIV Program shall be undertaken to provide the necessary training for the health care staff who provide prenatal care at the Commonwealth Health Center so that appropriate education and counseling is offered to all pregnant women in the CNMI.

Section 3. Prenatal HIV Testing. Following the provision of mandatory HIV education, all pregnant mothers who present themselves for medical attention at the Commonwealth Health Center shall be offered free HIV testing. Prior to such testing all pregnant women will be given pre-test counseling in accordance to guidelines set forth by the Department of Public Health's HIV Program. All women who test positive for HIV will be referred to the Department of Public Health's HIV Program for post-test counseling and further evaluation and treatment, if necessary. Such testing will be incorporated into the routine prenatal laboratory testing/screening protocols currently provided to pregnant women. If a pregnant woman presents herself in labor and upon evaluation, was determined that she did not receive prenatal care, then HIV counseling and testing will be offered post-partum before she is released from the hospital. Women who decline such testing shall be requested to sign a form acknowledging that they have received the mandatory HIV education, they acknowledge the

availability of free HIV testing, but nevertheless refuse to undergo testing. Such refusal does not preclude denial of treatment for remaining testing/screening protocols for prenatal care. In order to preserve patient confidentiality, all tests will be conducted in accordance to a coded system developed by the Department of Public Health.

Section 4. Fees for HIV Testing Waived. The fee or fees associated with prenatal HIV testing at Commonwealth Health Center facilities will be waived. The Department of Public Health, through the federally funded HIV grant, will continue to pay for the prenatal HIV testing. At the end of each CNMI government fiscal year, the Department of Public Health will provide a financial impact report to the Legislature regarding the prenatal HIV testing.

Section 5. Consent of Minors to HIV Testing. This provision shall only apply to consents given by minors to the provision of medical care and service which involves the diagnostic examination, prescription and administration of medication and other items in the treatment of sexually transmitted diseases, the HIV virus, or AIDS. It shall not apply to surgery or any other kind of medical procedure. The consent to the provision of medical care and service by any public provider in the Commonwealth, when executed by a female minor who is or professes to be pregnant, or by a minor who is or professes to be afflicted with or is concerned with being afflicted with a sexually transmitted disease, the HIV virus, or AIDS, shall be valid and binding as if the minor had achieved the age of majority and such minor requesting medical attention shall be deemed to have and shall have the same legal capacity to consent and the same legal obligations as a person of full legal age and capacity. The infancy of the minor and any contrary provision of law notwithstanding, such consent shall not be subject to later disaffirmance by reason of such minority and the consent of no other person or persons (including, but not limited to a spouse or parent) shall be necessary in order to authorize the provision of medical care or services by such health care provider to the minor.

Section 6. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 7. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 8. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____

BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

/s/ _____

EVELYN C. FLEMING
HOUSE CLERK

Approved this 19th day of November, 2001

/s/ _____

PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS