

**Get the Facts: Compare Your State’s HIV Testing Requirements for  
Pregnant Women to Recommendations from the  
American College of Obstetricians and Gynecologists**

	<u>STATE PERINATAL HIV TESTING LAW</u>  <b>KANSAS (S.B. 62, effective 07/01/2010)</b>	<u>CLINICAL RECOMMENDATIONS</u>  <b>THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS (THE COLLEGE)</b>
<b>Does the law follow the recommended opt-out testing approach?</b>	<p>The language in S.B. 62 should be inserted into a general consent, “I test all my pregnant patients for HIV as part of the panel of routine tests to alert me to any conditions that can have a very serious effect on your pregnancy and your baby. You will be tested for HIV unless you tell me not to.” Women will have the option to authorize or opt-out.</p> <p><b>Note: Implementing Regulations</b> On or before January 1, 2011, the law requires the Kansas Dept of Health and Environment (KDHE) to establish guidelines based on CDC and USPSTF recommendations for routine HIV screening of pregnant women and newborns whose mother’s HIV status is unknown.</p>	<p><b>Opt-out testing defined:</b> 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. Committee Opinion No. 418. Sept. 2008)</p>
<b>Prenatal Screening*</b> <i>Universal Screening</i>	<p>Yes. SB 62 requires physicians and other health care professionals authorized to treat pregnant women to test pregnant women for HIV during the first trimester of pregnancy.</p>	<p>The College 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).</p>
<i>Pre-test Counseling</i>	<p>SB 62 requires physicians and other health care professionals to inform pregnant women in writing about the provisions in the law and the purposes and benefits of screening before testing may be done.</p> <p>(Also see <i>Newborn Testing</i>)</p>	<p>The College 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.</p> <p>The College’s patient education materials on HIV and pregnancy are available in English and Spanish. The average readability level is grade 6–8.</p>
<i>Separate Informed Consent</i>	<p>Yes. SB 62 requires pregnant women to sign a KDHE form <b>to authorize or opt-out of HIV screening.</b></p>	<p>The College recommends that prenatal HIV testing be universal, routine, and <b>with no requirement for specific consent.</b> Universal routine testing with patient notification is not mandatory testing; the pregnant patient always retains the right to decline the test (or opt-out).</p>

<b>Refusal of Testing</b>	Yes. A pregnant woman has the right to refuse HIV screening at any time, but SB 62 requires that she sign a form to opt-out. (see above)	The pregnant patient always retains the right to decline the test (or opt-out). See above.
<b>Medical Record Documentation</b>	Yes. SB 62 requires a pregnant woman's HIV status to be documented in her medical record and in the newborn's medical record.	The College 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).
<b>Repeat Testing In Third Trimester*</b>	Yes. SB 62 requires that when a physician or other health care professional determines that a pregnant woman is at high risk for acquiring HIV, a repeat test shall be performed during the third trimester or at labor and delivery.	The College recommends repeating an HIV test in the 3 <sup>rd</sup> trimester for women in areas with high HIV prevalence and women known to be at high risk for HIV infection, and recommending 3 <sup>rd</sup> trimester HIV testing to women who declined testing earlier in their pregnancy.
<b>Labor And Delivery Testing*</b>	Yes. SB 62 requires that when a pregnant woman's HIV status is unknown at labor and delivery for any reason, an HIV test shall be performed as soon as possible.  <i>Note: See Newborn Testing</i>	The College 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. <b>A negative rapid HIV test result is definitive. A positive test is not definitive and must be confirmed with a supplemental test;</b> 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.
<b>Newborn Testing*</b>	Yes. SB 62 requires that if a woman's HIV status is unknown, her newborn shall be tested for HIV as soon as possible. Consent is not required unless the parents object to testing on religious grounds. The mother shall be informed in writing of this provision, of the purpose and benefits of screening, and shall sign a form stating that she has received this information.  <i>Note: See Medical Record Documentation</i>	The College does not have published guidance on mandatory screening of newborns; however, mandatory newborn screening is, <i>de facto</i> , mandatory testing of mothers since heel stick results reflect the mother's infection status, not the baby's.
<b>Referral for Positive Test Results</b>	Not addressed in SB 62.	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).

**\*SB 62 requires that when a rapid test is used for screening, a confirmatory sample shall be submitted for serological testing by an approved lab.**

**Note:** Physicians and other providers should be aware of and follow their states' perinatal HIV screening requirements. For more information on counseling and testing, go to the *Quick Guide to HIV/AIDS Services in Kansas* at [http://www.kdheks.gov/hiv/download/quick\\_guide.pdf](http://www.kdheks.gov/hiv/download/quick_guide.pdf).

Also, the National HIV/AIDS Clinicians' Consultation Center at the University of California–San Francisco maintains an online compendium of state HIV testing laws that can be a useful resource: [www.nccc.ucsf.edu](http://www.nccc.ucsf.edu).