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H.B. No. 2235

A BILL TO BE ENTITLED

AN ACT

relating to HIV and AIDS tests.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter D, Chapter 85, Health and Safety Code, is amended to read as follows:

SUBCHAPTER D. HIV TESTING, TESTING PROGRAMS, AND COUNSELING

SECTION 2. Subchapter D, Chapter 85, Health and Safety Code, is amended by adding Section 85.0815 to read as follows:

Sec. 85.0815. OPT-OUT HIV TESTING IN CERTAIN ROUTINE MEDICAL SCREENINGS. (a) A health care provider who takes a sample of an individual's blood as part of a medical screening may submit the sample for an HIV diagnostic test, regardless of whether an HIV test is part of a primary diagnosis, unless the individual opts out of the HIV test.

(b) Before taking a sample of an individual's blood as part of a medical screening, a health care provider must obtain the individual's consent for an HIV diagnostic test or inform the individual that an HIV diagnostic test will be performed unless the individual opts out of the HIV test.

(c) A health care provider who submits an individual's blood for an HIV diagnostic test shall provide to each individual who receives a positive test result information on available HIV health services and referrals to community support programs.

(d) The executive commissioner shall adopt rules to

1 implement this section. In adopting rules, the executive
2 commissioner must consider the most recent recommendations of the
3 Centers for Disease Control and Prevention for HIV testing of
4 adults and adolescents.

5 SECTION 3. Section 32.024, Human Resources Code, is amended
6 by adding Subsection (ee) to read as follows:

7 (ee) The executive commissioner shall adopt rules to
8 require the commission to provide an HIV test in accordance with
9 Section 85.0815, Health and Safety Code, to an individual who
10 receives medical assistance.

11 SECTION 4. If before implementing the change in law made by
12 Section 32.024(ee), Human Resources Code, as added by this Act, a
13 state agency determines that a waiver or authorization from a
14 federal agency is necessary for implementation of that change in
15 law, the agency affected by the change in law shall request the
16 waiver or authorization and may delay implementing that change in
17 law until the waiver or authorization is granted.

18 SECTION 5. (a) The executive commissioner of the Health
19 and Human Services Commission shall adopt the rules required by
20 Section 85.0815, Health and Safety Code, as added by this Act, and
21 Section 32.024(ee), Human Resources Code, as added by this Act, not
22 later than January 1, 2024.

23 (b) Notwithstanding Section 85.0815, Health and Safety
24 Code, as added by this Act, a health care provider is not required
25 to comply with that section until January 1, 2024.

26 SECTION 6. (a) Notwithstanding any other section of this
27 Act, in a state fiscal year, the Health and Human Services

1 Commission is not required to implement a mandatory provision in
2 another section of this Act imposing a duty on the commission to
3 take an action unless money is specifically appropriated to the
4 commission for that fiscal year to carry out that duty. The
5 commission may implement the provision in that fiscal year to the
6 extent other funding is available to the commission for the
7 implementation.

8 (b) If, as authorized by Subsection (a) of this section, the
9 Health and Human Services Commission does not implement the
10 mandatory provision in a state fiscal year, the commission, in the
11 commission's legislative budget request for the next state fiscal
12 biennium, shall certify that fact to the Legislative Budget Board
13 and include a written estimate of the costs of implementing the
14 provision in each year of that next state fiscal biennium.

15 (c) This section expires and any duty suspended by
16 Subsection (a) of this section becomes mandatory on September 1,
17 2027.

18 SECTION 7. This Act takes effect September 1, 2023.