

# HOUSE BILL REPORT

## SSB 5728

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**As Passed House - Amended:**  
March 2, 2016

**Title:** An act relating to permitting opt-out screening for HIV infection.

**Brief Description:** Concerning screening for HIV infection.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Darneille, Rivers, Rolfes, Ranker, Keiser, Parlette, Hasegawa, Chase and Jayapal).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/23/16, 2/26/16 [DPA].

**Floor Activity:**

Passed House - Amended: 3/2/16, 63-34.

**Brief Summary of Substitute Bill  
(As Amended by House)**

- Requires clinicians to screen for HIV infection for all patients ages 15 through 65 years and for all pregnant women.
- Requires clinicians to tell patients that HIV screening is planned and that HIV screening will be performed unless the patient declines.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass as amended. Signed by 11 members: Representatives Cody, Chair; Riccelli, Vice Chair; Harris, Assistant Ranking Minority Member; Caldier, Clibborn, Jinkins, Moeller, Robinson, Rodne, Tharinger and Van De Wege.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Schmick, Ranking Minority Member; DeBolt, Johnson and Short.

**Staff:** Ariele Landstrom (786-7190).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Federal law and regulations require group and individual health plans to provide coverage without a cost-sharing requirement for certain recommended preventive services, including evidence-based items or services that have in effect a rating of A or B in the current recommendations of the United States Preventive Services Task Force (USPSTF).

The USPSTF recommends that adolescents and adults ages 15 to 65 and all pregnant women should be screened for HIV infection. The Centers for Disease Control and Prevention (CDC) recommends HIV screening for patients ages 13 to 64, after the patient is notified that testing will be performed unless the patient declines, and for all pregnant women unless the patient declines.

No person may undergo HIV testing without the person's consent except in certain circumstances involving persons who are not competent to make health care decisions, persons involved in seroprevalence studies, persons receiving worker's compensation benefits, or persons convicted of certain crimes or incarcerated persons.

**Summary of Amended Bill:**

Clinicians shall screen for HIV infection for all patients ages 15 through 65 years and for all pregnant women, consistent with the recommendations by the United States Preventive Services Task Force. The screening is voluntary and may be undertaken only after the patient or the patient's authorized representative has been told that HIV screening is planned and that HIV screening will be performed unless the patient declines.

If a health care provider notifies a patient that an HIV screening will be performed unless the patient declines, and the patient or patient's authorized representative declines the HIV screening, the health care provider may not use the fact that the person has declined the HIV screening as a basis for denying services or treatment, other than an HIV screening, to the person.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 24, 2016.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Unless it touches their family, the general public does not give HIV much thought. The world has changed a lot since it first heard about HIV. Advances in medical interventions have been remarkable and lifesaving. Washington needs to go even further in its approach to meeting the need and this bill will do that. Bundled together with the standard tests all pregnant women receive, the HIV test will become more accepted and become standard practice as in other states. This bill will result in fewer babies born with HIV.

Testing equals prevention. An individual who is in treatment is 96 percent less likely to transfer the disease on to another person. Washington has done opt-in testing. When the Centers for Disease Control and Prevention came out with the opt-out recommendations, there was a period of sitting back and watching to see if the results were going to be as promised. In states like Washington with opt-in testing, there's a range between 20 percent and 70 percent of people getting tested; in opt-out states, 75 percent to 88 percent of people are getting tested. A woman who is pregnant and HIV positive can start her medication immediately and her baby will have less than 1 percent chance of getting HIV.

There are 14,000 infected individuals in Washington; HIV and AIDS is indiscriminate with whom it infects and affects. HIV continues to disproportionately impact those communities in which health disparities have often existed; however, HIV is no longer confined to men who have sex with men, transgender persons, and people who inject drugs. Accessing treatment, prevention, risk reduction, counseling, and testing remains held up by the diagnoses of stigma, disclosure, and fear; especially in rural areas.

This bill works to reduce transmissibility and acquisition among those most at risk for HIV by expanding testing even further, but it evens the linkage to retention and care playing field for those communities that address their basic health care needs through access points like urgent care, emergency departments, and community clinics. Despite current prevention care efforts, many people in the state still remain infected and undiagnosed. Voluntary opt-in testing is no longer solely sufficient to see an end to AIDS. A more universal opt-out testing approach to HIV screening and health care settings as a routine part of anyone's bloodwork, regardless of self-reported or perceived risk, acts as a measured counterbalance to those high impact prevention programs currently in the state's portfolio of prevention services. The sooner a newly diagnosed person is engaged in care, the better their health outcome. The bill eliminates self-reported or presumed patient or provider risk assessment, biases, and diagnostic guesswork. It removes barriers to testing by the eliminating those dreaded and difficult sexual conversations with providers; sex and sexual proclivity remains private. This is a long-term investment in destigmatizing sexual health. This bill will help to end AIDS by 2020.

(Opposed) None.

**Persons Testifying:** Mary Jones; Carey Morris, Equal Rights Washington; and Scott Bertani, Lifelong AIDS Alliance.

**Persons Signed In To Testify But Not Testifying:** None.