

Stat. 1371, related to testing of pregnant women and newborn infants for HIV disease.

Section 300ff-36, act July 1, 1944, ch. 373, title XXVI, §2628, as added Pub. L. 104-146, §7(b)(3), May 20, 1996, 110 Stat. 1372, related to report to Congress by Institute of Medicine.

**§ 300ff-37. State HIV testing programs established prior to or after May 20, 1996**

Nothing in this subpart shall be construed to disqualify a State from receiving grants under this subchapter if such State has established at any time prior to or after May 20, 1996, a program of mandatory HIV testing.

(July 1, 1944, ch. 373, title XXVI, §2627, formerly §2629, as added Pub. L. 104-146, §7(b)(3), May 20, 1996, 110 Stat. 1372; renumbered §2627, Pub. L. 106-345, title II, §211(3), Oct. 20, 2000, 114 Stat. 1339; amended Pub. L. 109-415, title VII, §703, Dec. 19, 2006, 120 Stat. 2820; Pub. L. 111-87, §2(a)(1), (3)(A), Oct. 30, 2009, 123 Stat. 2885.)

PRIOR PROVISIONS

A prior section 2627 of act July 1, 1944, was classified to section 300ff-35 of this title prior to repeal by Pub. L. 106-345.

AMENDMENTS

2009—Pub. L. 111-87 repealed Pub. L. 109-415, §703, and revived the provisions of this section as in effect on Sept. 30, 2009. See 2006 Amendment note and Effective Date of 2009 Amendment; Revival of Section note below.

2006—Pub. L. 109-415, §703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub. L. 111-87, §2(a)(1), effective Sept. 30, 2009.

EFFECTIVE DATE OF 2009 AMENDMENT; REVIVAL OF SECTION

For provisions that repeal by section 2(a)(1) of Pub. L. 111-87 of section 703 of Pub. L. 109-415 be effective Sept. 30, 2009, and that the provisions of this section as in effect on Sept. 30, 2009, be revived, see section 2(a)(2), (3)(A) of Pub. L. 111-87, set out as a note under section 300ff-11 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 13 of Pub. L. 104-146, set out as an Effective Date of 1996 Amendment note under section 300ff-11 of this title.

**§ 300ff-37a. Recommendations for reducing incidence of perinatal transmission**

**(a) Study by Institute of Medicine**

**(1) In general**

The Secretary shall request the Institute of Medicine to enter into an agreement with the Secretary under which such Institute conducts a study to provide the following:

(A) For the most recent fiscal year for which the information is available, a determination of the number of newborn infants with HIV born in the United States with respect to whom the attending obstetrician for the birth did not know the HIV status of the mother.

(B) A determination for each State of any barriers, including legal barriers, that prevent or discourage an obstetrician from making it a routine practice to offer pregnant women an HIV test and a routine practice to test newborn infants for HIV/AIDS in

circumstances in which the obstetrician does not know the HIV status of the mother of the infant.

(C) Recommendations for each State for reducing the incidence of cases of the perinatal transmission of HIV, including recommendations on removing the barriers identified under subparagraph (B).

If such Institute declines to conduct the study, the Secretary shall enter into an agreement with another appropriate public or nonprofit private entity to conduct the study.

**(2) Report**

The Secretary shall ensure that, not later than 18 months after the effective date of this section, the study required in paragraph (1) is completed and a report describing the findings made in the study is submitted to the appropriate committees of the Congress, the Secretary, and the chief public health official of each of the States.

**(b) Progress toward recommendations**

In fiscal year 2004, the Secretary shall collect information from the States describing the actions taken by the States toward meeting the recommendations specified for the States under subsection (a)(1)(C) of this section.

**(c) Submission of reports to Congress**

The Secretary shall submit to the appropriate committees of the Congress reports describing the information collected under subsection (b) of this section.

(July 1, 1944, ch. 373, title XXVI, §2628, as added Pub. L. 106-345, title II, §213, Oct. 20, 2000, 114 Stat. 1342; amended Pub. L. 109-415, title VII, §§702(3), 703, Dec. 19, 2006, 120 Stat. 2820; Pub. L. 111-87, §2(a)(1), (3)(A), Oct. 30, 2009, 123 Stat. 2885.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a)(2), is Oct. 20, 2000. See section 601 of Pub. L. 106-345, set out as an Effective Date of 2000 Amendment note under section 300ff-12 of this title.

PRIOR PROVISIONS

A prior section 2628 of act July 1, 1944, was classified to section 300ff-36 of this title prior to repeal by Pub. L. 106-345.

AMENDMENTS

2009—Pub. L. 111-87 repealed Pub. L. 109-415, §703, and revived the provisions of this section as in effect on Sept. 30, 2009. See 2006 Amendment note and Effective Date of 2009 Amendment; Revival of Section note below.

2006—Pub. L. 109-415, §703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub. L. 111-87, §2(a)(1), effective Sept. 30, 2009.

Subsec. (a)(1)(B), Pub. L. 109-415, §702(3), substituted “HIV/AIDS” for “HIV disease”.

EFFECTIVE DATE OF 2009 AMENDMENT; REVIVAL OF SECTION

For provisions that repeal by section 2(a)(1) of Pub. L. 111-87 of section 703 of Pub. L. 109-415 be effective Sept. 30, 2009, and that the provisions of this section as in effect on Sept. 30, 2009, be revived, see section 2(a)(2), (3)(A) of Pub. L. 111-87, set out as a note under section 300ff-11 of this title.

SUBPART III—CERTAIN PARTNER NOTIFICATION PROGRAMS

**§ 300ff-38. Grants for partner notification programs**

**(a) In general**

In the case of States whose laws or regulations are in accordance with subsection (b) of this section, the Secretary, subject to subsection (c)(2) of this section, may make grants to the States for carrying out programs to provide partner counseling and referral services.

**(b) Description of compliant State programs**

For purposes of subsection (a) of this section, the laws or regulations of a State are in accordance with this subsection if under such laws or regulations (including programs carried out pursuant to the discretion of State officials) the following policies are in effect:

(1) The State requires that the public health officer of the State carry out a program of partner notification to inform partners of individuals with HIV/AIDS that the partners may have been exposed to the disease.

(2)(A) In the case of a health entity that provides for the performance on an individual of a test for HIV/AIDS, or that treats the individual for the disease, the State requires, subject to subparagraph (B), that the entity confidentially report the positive test results to the State public health officer in a manner recommended and approved by the Director of the Centers for Disease Control and Prevention, together with such additional information as may be necessary for carrying out such program.

(B) The State may provide that the requirement of subparagraph (A) does not apply to the testing of an individual for HIV/AIDS if the individual underwent the testing through a program designed to perform the test and provide the results to the individual without the individual disclosing his or her identity to the program. This subparagraph may not be construed as affecting the requirement of subparagraph (A) with respect to a health entity that treats an individual for HIV/AIDS.

(3) The program under paragraph (1) is carried out in accordance with the following:

(A) Partners are provided with an appropriate opportunity to learn that the partners have been exposed to HIV/AIDS, subject to subparagraph (B).

(B) The State does not inform partners of the identity of the infected individuals involved.

(C) Counseling and testing for HIV/AIDS are made available to the partners and to infected individuals, and such counseling includes information on modes of transmission for the disease, including information on prenatal and perinatal transmission and preventing transmission.

(D) Counseling of infected individuals and their partners includes the provision of information regarding therapeutic measures for preventing and treating the deterioration of the immune system and conditions arising from the disease, and the provision of other prevention-related information.

(E) Referrals for appropriate services are provided to partners and infected individuals, including referrals for support services and legal aid.

(F) Notifications under subparagraph (A) are provided in person, unless doing so is an unreasonable burden on the State.

(G) There is no criminal or civil penalty on, or civil liability for, an infected individual if the individual chooses not to identify the partners of the individual, or the individual does not otherwise cooperate with such program.

(H) The failure of the State to notify partners is not a basis for the civil liability of any health entity who under the program reported to the State the identity of the infected individual involved.

(I) The State provides that the provisions of the program may not be construed as prohibiting the State from providing a notification under subparagraph (A) without the consent of the infected individual involved.

(4) The State annually reports to the Director of the Centers for Disease Control and Prevention the number of individuals from whom the names of partners have been sought under the program under paragraph (1), the number of such individuals who provided the names of partners, and the number of partners so named who were notified under the program.

(5) The State cooperates with such Director in carrying out a national program of partner notification, including the sharing of information between the public health officers of the States.

**(c) Reporting system for cases of HIV/AIDS; preference in making grants**

In making grants under subsection (a) of this section, the Secretary shall give preference to States whose reporting systems for cases of HIV/AIDS produce data on such cases that is sufficiently accurate and reliable for use for purposes of section 300ff-28(a)(2)(D)(i) of this title.

**(d) Authorization of appropriations**

For the purpose of carrying out this section, there is authorized to be appropriated \$10,000,000 for each of the fiscal years 2007 through 2009.

(July 1, 1944, ch. 373, title XXVI, § 2631, as added Pub. L. 106-345, title II, § 221, Oct. 20, 2000, 114 Stat. 1343; amended Pub. L. 109-415, title II, § 210, title VII, §§ 702(3), 703, Dec. 19, 2006, 120 Stat. 2803, 2820; Pub. L. 111-87, § 2(a)(1), (3)(A), Oct. 30, 2009, 123 Stat. 2885.)

AMENDMENTS

2009—Pub. L. 111-87 repealed Pub. L. 109-415, § 703, and revived the provisions of this section as in effect on Sept. 30, 2009. See 2006 Amendment note and Effective Date of 2009 Amendment; Revival of Section note below.

2006—Pub. L. 109-415, § 703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub. L. 111-87, § 2(a)(1), effective Sept. 30, 2009.

Subsecs. (b), (c). Pub. L. 109-415, § 702(3), substituted “HIV/AIDS” for “HIV disease” wherever appearing.

Subsec. (d). Pub. L. 109-415, § 210, substituted “there is authorized to be appropriated \$10,000,000 for each of the fiscal years 2007 through 2009.” for “there are authorized to be appropriated \$30,000,000 for fiscal year 2001,