

SENATE, NO. 2342

[Senate, April 1, 2010 - New draft of Senate, Nos. 821, 831, 883 and 886 and House, No. 2101 reported from the committee on Public Health.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT PROMOTING ROUTINE HIV SCREENING IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** . Chapter 111 of the General Laws is hereby amended by striking out
2 Section 70F and inserting in place thereof the following section:-

3 No health care facility, as defined in section 70E, physician, or health care provider shall
4 test any person for the presence of the HIV antibody or antigen without first obtaining his or her
5 verbal consent, which shall be contemporaneously documented in the medical record.

6 No health care facility, as so defined, physician or health care provider shall (1) disclose
7 the results of an HIV test to any person other than the subject thereof without first obtaining the

8 subject's written informed consent; or (2) identify the subject of such test to any person without
9 first obtaining the subject's written informed consent.

10 Inclusion of test results, consent to testing or denial of testing by the patient in the
11 patient's medical record shall not constitute a violation of this section.

12 No employer shall require an HIV test as a condition for employment.

13 Whoever violates the provision of this section shall be deemed to have violated section
14 two of chapter 93A.

15 **SECTION 2.** Chapter 111 of the General Laws is hereby amended by inserting after
16 section 70F, the following section:-

17 Section 70F 1/2. The board of registration in medicine, established pursuant to section 10
18 of Chapter 13, in collaboration with the commissioner of public health, shall promulgate
19 regulations relative to the education and training of health care providers in the administration of
20 HIV testing and post test counseling, including, but not limited to, continuing medical education
21 requirements. For the purpose of this section, continuing medical education credits shall include
22 only those earned through continuing medical education programs approved by the office of
23 HIV/AIDS within the department of public health and accepted by the board. Nothing in this
24 section shall affect the total hours of continuing medical education required by the board.

25 **SECTION 3.** Notwithstanding any general or special law to the contrary, the
26 commissioner of public health shall convene a task force to study the promotion of widespread,
27 routine, integrated HIV testing in medical settings and factors that contribute to the late entrance
28 into care for persons living with HIV. The study shall include, but not be limited to, the
29 identification of current best practices and recommendations for improving testing and treatment

30 access for both at-risk populations and populations that are disproportionately undiagnosed and
31 the identification of best practices for linking people to care.

32 The task force shall be comprised of the following members: the commissioner of public
33 health or a designee, who shall serve as chair; the director of the Bureau of Infectious Disease or
34 a designee; the director of the Office of HIV/AIDS; the director of the HIV/AIDS Surveillance
35 program or a designee; at least one member of the MDPH Statewide Consumer Advisory Board;
36 at least one member of the Massachusetts HIV Prevention Planning Group ; the directors of three
37 HIV and AIDS Community Based Organizations in Massachusetts or their designees; three
38 Massachusetts-licensed physicians with research or clinical expertise in HIV; and at least one
39 representative each from the; the Massachusetts Medical Society; the Massachusetts Nurses
40 Association; the Massachusetts Hospital Association; the Massachusetts Council of Community
41 Hospitals; and the Massachusetts League of Community Health Centers.

42 The commissioner shall convene the task force not later than 30 days after the passage of
43 this act. The commissioner shall submit the findings of the study and legislative
44 recommendations, if any, to the joint committee on public health and the joint committee on
45 health care financing not later than 6 months following their first meeting.