

SENATE No. 02158

The Commonwealth of Massachusetts

SENATE, February 27, 2012

Senate, February 27, 2012 – Recommended new draft reported from the Senate Committee Ethics and Rules to increase routine screening for HIV (Senate, No. 1997)

For the committee,

FREDERICK E. BERRY.

SENATE No. 2158

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act to increase routine screening for HIV .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 111 of the General Laws is hereby amended by striking out section 70F, as
2 appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

3 Section 70F. A facility, as defined in section 70E, physician or health care provider shall
4 not (1) test any person for the presence of the HTLV-III antibody or antigen without first
5 obtaining that person’s verbal informed consent; (2) disclose the results of such test to any
6 person other than the subject of the test without first obtaining the subject’s written informed
7 consent; or (3) identify the subject of such tests to any person without first obtaining the
8 subject’s written informed consent. A written consent form shall state the purpose for which the
9 information is being requested and shall be distinguished from written consent for the release of
10 any other medical information.

11 No employer shall require HTLV-III antibody or antigen tests as a condition for
12 employment.

13 Whoever violates this section shall be considered to have violated section 2 of chapter
14 93A.

15 For the purpose of this section “written informed consent” shall mean a written consent
16 form for each requested release of the results of an individual’s HTLV-III antibody or antigen
17 test or for the release of medical records containing such information; and “HTLV-III antibody
18 or antigen test” shall mean a licensed screening antibody test for the human T-cell lymphotropic
19 virus type III.

20 It shall not be a violation of this section for any physician, health care provider, health
21 care institution or laboratory to report information to the department of public health under
22 chapter 111 or chapter 111D and regulations promulgated thereunder. No physician, health care
23 provider, health care institution or laboratory required to report shall be liable in any civil or
24 criminal action by reason of any such report.