

Joint Committee on Public Health

Bill Summary

SENATE 1108:

An Act to increase routine screening for HIV

SPONSORS:

Senators Wolf, Timilty, Spilka, Fargo, Eldridge, DiDomenico, Chandler and Jehlen; Representatives DiNatale, Forry and Fox

SUMMARY:

Section 1 strikes out M.G.L. Chapter 111 § 70F and replaces it with language to increase routine screening for HIV:

- Defines “HIV test” and “HIV-related medical information.”
- No health care facility or provider can order an HIV test without first obtaining verbal consent from patient, guardian, or health care proxy when authorized under Chapter 201D, which shall be obtained after a provider explains the purpose of the test and the meaning of positive and negative test results, offers patient opportunity to ask questions, and determines that patient voluntarily and knowingly consents to test; the patient’s decision to grant or deny consent shall be documented in medical record.
- HIV test shall not be conducted for any purposes related to insurance coverage without written informed consent.
- Through regulation, the Department of Public Health (DPH) shall establish content and develop document containing written information about HIV that shall be offered to subject of HIV test by health care provider who orders test.
- Informed consent is not required for repeated testing to monitor course of HIV infection if health care facility or health care provider previously obtained verbal informed consent.
- Defines “health care provider”, “infectious disease services”, and “primary medical care” and requires that providers meeting such criteria who deliver services to an adolescent or adult patient shall offer an HIV test at the frequency recommended by the CDC unless the provider determines there is evidence of prior testing or that the patient is being treated for a life threatening emergency.
- Through regulation, DPH shall designate patients who are high-risk for HIV and recommend the frequency with which providers shall offer testing to such patients.
- Any person who orders performance of HIV test shall provide a patient testing positive for HIV with a connection to HIV-related medical care and counseling.
- No health care facility or health care provider shall disclose HIV-related medical information to any person other than test subject without first obtaining written informed consent; written informed consent shall state purpose for which HIV-related medical

information is being requested and shall be distinguished from written consent for release of any other medical information.

- Written informed consent is not required for the disclosure of an individual's HIV-related medical information to a treating provider within the same facility or for IRB-approved research.
- No employer shall require an HIV test or disclosure of any HIV-related medical information as part of any medical examination or condition of employment.
- Violators of this section shall be deemed to have violated M.G.L. Chapter 93A § 2; however, any physician, health care provider, health care institution or laboratory that reports to DPH are exempt from such violation and shall not be liable in any civil or criminal action on basis of reporting.
- DPH shall have authority to promulgate regulations implementing provisions of this section.

Section 2, 3, 4, and 5 requires the following to cover costs of HIV testing:

- Any individual policy and every group blanket or general policy of accident and sickness insurance, as well as any employees' health and welfare fund which provides hospital expense and surgical benefits or that provides benefits for outpatient services;
- Any contract between a subscriber and the corporation under an individual or group hospital service plan;
- Any subscription certificate under an individual or group hospital service plan or medical service agreement; and
- Any individual or group health maintenance contract issued, renewed, or delivered within or without the Commonwealth.

CURRENT LAW:

M.G.L. Chapter 111 § 70F requires a health care facility, physician, or health care provider to receive written informed consent before testing a subject for HIV, disclosing test results to any person other than subject, or identifying subject of an HIV test. No employer shall require HIV test as a condition for employment. Pursuant to M.G.L. Chapter 93A § 2, violators are subject to unfair practice consumer protection rules and regulations.

PRIOR HISTORY:

New Bill