

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1591

H.P. 1132

House of Representatives, March 2, 1999

An Act to Amend the Laws Concerning HIV Testing.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SHIELDS of Auburn.
Cosponsored by Senator MITCHELL of Penobscot and
Representatives: MAYO of Bath, NUTTING of Oakland, Senators: BERUBE of
Androscoggin, DAVIS of Piscataquis.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 5 MRSA §19203, sub-§6, as repealed and replaced by PL 1987, c. 811, §3, is amended to read:

6. Confidential testing sites. To an---anonymous a confidential testing site established pursuant to section 19203-B;

Sec. 2. 5 MRSA §19203-A, sub-§1, as amended by PL 1995, c. 404, §5, is further amended to read:

1. Individual tested. Except as provided in this section and section 19203, subsections 4 and 5, no person may perform an HIV test without first obtaining the ~~written~~ informed consent of the person to be tested. Informed consent is not required for repeated HIV testing by health care providers to monitor the course of established infection. ~~Anonymous~~ Confidential test sites under section 19203-B are exempt from the requirement that the informed consent be in writing.

Sec. 3. 5 MRSA §19203-A, sub-§2, as amended by PL 1987, c. 811, §4, is further amended to read:

2. Insurers. Persons required to take an HIV test by an insurer, nonprofit hospital or medical service organization or nonprofit health care plan must provide their ~~written~~ informed consent ~~on forms approved by the Superintendent of Insurance.~~ Pretest and post-test counseling must be provided by the person or organization requesting the test. ~~The Superintendent of Insurance may promulgate rules to define language requirements of the form.~~

Sec. 4. 5 MRSA §19203-A, sub-§3, as enacted by PL 1987, c. 811, §5, is amended to read:

3. Access to medical care. No A health care provider may not deny any person medical treatment or care solely for refusal to give consent for an HIV test. No A health care provider may not request a person's ~~written~~ consent to an HIV test as a precondition to the provision of health care. All ~~written~~ consent to testing shall must be in accordance with section 19201, subsection 5-A. Nothing in this section may prohibit a health care provider from recommending an HIV test for diagnostic or treatment purposes. No A physician or other health care provider may not be civilly liable for failing to have an HIV test performed for diagnostic or treatment purposes if the test was recommended and refused ~~in-writing~~ by the patient.

Sec. 5. 5 MRSA §19203-B, as enacted by PL 1987, c. 539, is amended to read:

2 **§19203-B. Confidential testing sites**

4 The Department of Human Services may designate or establish
6 certification and approval standards for and support ~~anonymus~~
 confidential testing sites where an individual may request an HIV
8 test under conditions which that ensure anonymity.

10 **Sec. 6. 5 MRSA §19203-C, sub-§1, ¶¶B and C**, as amended by PL
1995, c. 404, §7, are further amended to read:

12 B. The authorized representative of the employer of the
14 person exposed has informed the person whose blood or body
16 fluid is the source of the occupational exposure and has
 sought to obtain ~~written~~ informed consent from the person
 whose blood or body fluid is the source of the exposure; and

18 C. ~~Written-informed~~ Informed consent was not given by the
20 person whose blood or body fluid is the source of the
 exposure and that person has refused to be tested.

22 **Sec. 7. 5 MRSA §19203-C, sub-§4, ¶¶B and C**, as amended by PL
1995, c. 404, §10, are further amended to read:

24 B. An authorized representative of the employer of the
26 person exposed has informed the patient of the occupational
28 exposure and has sought to obtain ~~written~~ informed consent
 from the person whose blood or body fluid is the source of
 the exposure; and

30 C. ~~Written-informed~~ Informed consent was not given by the
32 person whose blood or body fluid is the source of the
 exposure and that person has refused to be tested.

34 **Sec. 8. 5 MRSA §19204-A, first ¶**, as repealed and replaced by
36 PL 1995, c. 625, Pt. A, §15, is amended to read:

38 ~~Except as otherwise provided by this chapter, persons who~~
40 ~~are the subjects of HIV tests must be offered pretest and~~
 ~~post-test counseling.~~ Persons who are authorized by section
42 19203-C or 19203-F to receive test results after exposure must be
44 offered counseling regarding the nature, reliability and
 significance of the HIV test and the confidential nature of the
46 test. Persons offered counseling under this section may decline
 the offer by signing a waiver stating that counseling has been
 offered and is being declined.

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SUMMARY

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This bill removes the requirement that HIV testing sites be anonymous sites and makes them confidential sites. The bill also removes the requirement that an informed consent must be in writing.

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