

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 568

S.P. 180

February 5, 2007

An Act To Conform HIV Testing to the Recommendations of the Federal Centers for Disease Control and Prevention

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARRACHÉ of Kennebec.

Cosponsored by Senator: SHERMAN of Aroostook, Representatives: MILLER of Somerville,
WALKER of Lincolnville.

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

2 **Sec. 1. 5 MRSA §19201, sub-§5-A**, as amended by PL 1987, c. 811, §2, is
3 repealed.

4 **Sec. 2. 5 MRSA §19203-A**, as amended by PL 1999, c. 429, §3, is repealed.

5 **Sec. 3. 5 MRSA §19203-F, sub-§4**, as enacted by PL 1995, c. 319, §4, is
6 amended to read:

7 **4. Reporting and counseling.** The health care facility in which a convicted offender
8 is tested pursuant to this section shall disclose the results of the test to the victim-witness
9 advocate, who shall disclose the result to the petitioner. ~~The test result may not be~~
10 ~~disclosed to the petitioner until the petitioner has received counseling, pursuant to section~~
11 ~~19204-A, regarding the nature, reliability and significance of the convicted offender's~~
12 ~~HIV test and has been offered referrals for health care and support services for the victim.~~
13 The health care facility shall, upon order of the court, disclose the results of the test to the
14 convicted offender.

15 **Sec. 4. 5 MRSA §19203-G** is enacted to read:

16 **§19203-G. Informed consent; declining consent**

17 **1. Consent.** Beginning January 1, 2008, the provisions of this section apply to HIV
18 testing.

19 A. Informed consent is not required for HIV testing of an individual.

20 B. Prior to obtaining the body fluids or samples required for an HIV test, a health
21 care provider shall notify a person that an HIV test will be performed and shall
22 provide the person an opportunity to decline consent for the test.

23 C. Except as otherwise provided under the provisions of sections 19203-C and
24 19203-F, a person may decline an HIV test by signing a written statement declining
25 consent to an HIV test. A statement declining an HIV test under this subsection must
26 be kept in the health care file of the person signing the statement.

27 **2. Counseling.** Counseling is not required with regard to an HIV test. A health care
28 provider who performs an HIV test shall provide oral and written information on HIV
29 testing. Written information must be made available in the languages of commonly
30 encountered populations in the geographic region served by the health care provider.

31 **Sec. 5. 5 MRSA §19204-A**, as amended by PL 2001, c. 647, §§1 to 3, is repealed.

32 **Sec. 6. 5 MRSA §19204-B, sub-§2, ¶A**, as enacted by PL 1987, c. 811, §9, is
33 amended to read:

34 A. If the employee declines to be tested ~~pursuant to section 19203-A~~;

35 **Sec. 7. 22 MRSA §834**, as enacted by PL 1997, c. 368, §1, is repealed.

