



Senate

General Assembly

File No. 165

February Session, 2016

Substitute Senate Bill No. 218

Senate, March 23, 2016

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATIONS FOR REVISIONS TO THE STATUTES
REGARDING HUMAN IMMUNODEFICIENCY VIRUS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-124 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) The Department of Public Health shall establish, within available
4 appropriations, needle and syringe exchange programs [in the three
5 cities having the highest total number of human immunodeficiency
6 virus infections among injection drug users] to enhance health
7 outcomes of people who inject drugs in any community impacted by
8 the human immunodeficiency virus or hepatitis C. The department
9 shall establish protocols in accordance with the provisions of
10 subsection (b) of this section. The department may authorize [similar]
11 programs, [in other areas of the state,] as determined by the
12 commissioner, through local health departments or other local
13 organizations.

14 (b) The programs shall: (1) Be incorporated into existing human
15 immunodeficiency virus and hepatitis C prevention programs; [in the
16 selected cities;] (2) provide for free and confidential exchanges of
17 needles and syringes and (A) provide that program participants
18 receive an equal number of needles and syringes for those returned;
19 and (B) provide that first-time applicants to the program receive an
20 initial packet of [thirty] needles and syringes, educational material and
21 a list of drug counseling services; [and] (3) offer education on [the
22 transmission of] the human immunodeficiency virus, [and] hepatitis C
23 and drug overdose prevention measures and assist program
24 participants in obtaining drug treatment services; (4) provide referrals
25 for substance abuse counseling or treatment; and (5) provide referrals
26 for medical or mental health care.

27 (c) The department shall [establish requirements] require programs
28 to include an evaluation component to monitor (1) [return rates of
29 needles and syringes distributed] the number of syringes distributed
30 and collected, (2) program participation rates, [and (3) the number of
31 participants who are motivated to enter treatment as a result of the
32 program and the status of their treatment] (3) the number of
33 participants who are referred to treatment, and (4) the incidence of
34 human immunodeficiency virus from injection drug use.

35 (d) Any organization conducting a needle and syringe exchange
36 program shall submit a report evaluating the effectiveness of the
37 program to the Department of Public Health.

38 Sec. 2. Section 19a-581 of the general statutes is repealed and the
39 following is substituted in lieu thereof (*Effective October 1, 2016*):

40 As used in this chapter except where the context otherwise requires:

41 (1) "Department" means the Department of Public Health;

42 (2) "Commissioner" means the Commissioner of Public Health;

43 (3) "AIDS" means acquired immune deficiency syndrome, as
44 defined by the Centers for Disease Control of the United States Public

45 Health Service;

46 (4) "HIV infection" means infection with the human
47 immunodeficiency virus or any other related virus identified as a
48 probable causative agent of AIDS;

49 (5) "HIV-related illness" means any illness that may result from or
50 may be associated with HIV infection;

51 (6) "HIV-related test" means any laboratory test or series of tests for
52 any virus, antibody, antigen or etiologic agent whatsoever thought to
53 cause or indicate the presence of HIV infection;

54 (7) "Protected individual" means a person who has been counseled
55 regarding HIV infection, is the subject of an HIV-related test or who
56 has been diagnosed as having HIV infection, AIDS or HIV-related
57 illness;

58 (8) "Confidential HIV-related information" means any information
59 pertaining to the protected individual or obtained pursuant to a release
60 of confidential HIV-related information, concerning whether a person
61 has been counseled regarding HIV infection, has been the subject of an
62 HIV-related test, or has HIV infection, HIV-related illness or AIDS, or
63 information which identifies or reasonably could identify a person as
64 having one or more of such conditions, including information
65 pertaining to such individual's partners;

66 (9) "Release of confidential HIV-related information" means a
67 written authorization for disclosure of confidential HIV-related
68 information which is signed by the protected individual or a person
69 authorized to consent to health care for the individual and which is
70 dated and specifies to whom disclosure is authorized, the purpose for
71 such disclosure and the time period during which the release is to be
72 effective. A general authorization for the release of medical or other
73 information is not a release of confidential HIV-related information,
74 unless such authorization specifically indicates its dual purpose as a
75 general authorization and an authorization for the release of

76 confidential HIV-related information and complies with the
77 requirements of this subdivision;

78 (10) "Partner" means an identified spouse or sex partner of the
79 protected individual or a person identified as having shared
80 hypodermic needles or syringes with the protected individual;

81 (11) "Health facility" means an institution, as defined in section 19a-
82 490, blood bank, blood center, sperm bank, organ or tissue bank,
83 clinical laboratory or facility providing care or treatment to persons
84 with psychiatric disabilities or persons with intellectual disability or a
85 facility for the treatment of substance abuse;

86 (12) "Health care provider" means any physician, dentist, nurse,
87 provider of services for persons with psychiatric disabilities or persons
88 with intellectual disability or other person involved in providing
89 medical, nursing, counseling, or other health care, substance abuse or
90 mental health service, including such services associated with, or
91 under contract to, a health maintenance organization or medical
92 services plan;

93 (13) "Significant risk of transmission" means [sexual activity that
94 involves] the transfer of one person's blood, semen, vaginal or cervical
95 secretions to another person through sexual activity or sharing of
96 needles during [intravenous] injection drug use. The department may
97 further define significant risk of transmission in regulations adopted
98 pursuant to section 19a-589;

99 (14) "Significant exposure" means a parenteral exposure such as a
100 needlestick or cut, or mucous membrane exposure such as a splash to
101 the eye or mouth, to blood or a cutaneous exposure involving large
102 amounts of blood or prolonged contact with blood, especially when
103 the exposed skin is chapped, abraded, or afflicted with dermatitis. The
104 department may further define significant exposure in regulations
105 adopted pursuant to section 19a-589;

106 (15) "Exposure evaluation group" means at least three impartial

107 health care providers, at least one of whom shall be a physician,
108 designated by the chief administrator of a health facility, correctional
109 facility or other institution to determine if a health care or other worker
110 has been involved in a significant exposure. No member of the group
111 shall be directly involved in the exposure. The department may further
112 define exposure evaluation group in regulations adopted pursuant to
113 section 19a-589; and

114 (16) "Community-based human immunodeficiency virus testing
115 provider" means any individual or organization that provides human
116 immunodeficiency virus testing services in a nonclinical or outreach
117 setting for persons identified as being at risk of HIV infection.

118 Sec. 3. Subsection (d) of section 19a-582 of the general statutes is
119 repealed and the following is substituted in lieu thereof (*Effective*
120 *October 1, 2016*):

121 (d) The provisions of this section shall not apply to the performance
122 of an HIV-related test:

123 (1) By licensed medical personnel when the subject is unable to
124 grant or withhold consent and no other person is available who is
125 authorized to consent to health care for the individual and the test
126 results are needed for diagnostic purposes to provide appropriate
127 urgent care, except that in such cases the counseling, referrals and
128 notification of test results described in subsection (c) of this section
129 shall be provided as soon as practical;

130 (2) By a health care provider or health facility in relation to the
131 procuring, processing, distributing or use of a human body or a human
132 body part, including organs, tissues, eyes, bones, arteries, blood,
133 semen, or other body fluids, for use in medical research or therapy, or
134 for transplantation to individuals, provided if the test results are
135 communicated to the subject, the counseling, referrals and notification
136 of test results described in subsection (c) of this section shall be
137 provided;

138 (3) For the purpose of research if the testing is performed in a
139 manner by which the identity of the test subject is not known and is
140 unable to be retrieved by the researcher;

141 (4) On a deceased person when such test is conducted to determine
142 the cause or circumstances of death or for epidemiological purposes;

143 (5) In cases where a health care provider or other person, including
144 volunteer emergency medical services, fire and public safety
145 personnel, in the course of his occupational duties has had a significant
146 exposure, provided the following criteria are met: (A) The worker is
147 able to document significant exposure during performance of his
148 occupation, (B) the worker completes an incident report within forty-
149 eight hours of exposure identifying the parties to the exposure,
150 witnesses, time, place and nature of the event, (C) the worker submits
151 to a baseline HIV test within seventy-two hours of the exposure and is
152 negative on that test, (D) the patient's or person's physician or, if the
153 patient or person does not have a personal physician or if the patient's
154 or person's physician is unavailable, another physician or health care
155 provider has approached the patient or person and sought voluntary
156 consent and the patient or person has refused to consent to testing,
157 except in an exposure where the patient or person is deceased, (E) an
158 exposure evaluation group determines that the criteria specified in
159 subparagraphs (A), (B), (C), (D) and (F) of this subdivision are met and
160 that the worker has a significant exposure to the blood of a patient or
161 person and the patient or person, or the patient's or person's legal
162 guardian, refuses to grant informed consent for an HIV test. If the
163 patient or person is under the care or custody of the health facility,
164 correctional facility or other institution and a sample of the patient's
165 blood is available, said blood shall be tested. If no sample of blood is
166 available, and the patient is under the care or custody of a health
167 facility, correctional facility or other institution, the patient shall have a
168 blood sample drawn at the health facility, correctional facility or other
169 institution and tested. No member of the exposure evaluation group
170 who determines that a worker has sustained a significant exposure and
171 authorized the HIV testing of a patient or other person, nor the health

172 facility, correctional facility or other institution, nor any person in a
173 health facility or other institution who relies in good faith on the
174 group's determination and performs that test shall have any liability as
175 a result of his action carried out pursuant to this section, unless such
176 person acted in bad faith. If the patient or person is not under the care
177 or custody of a health facility, correctional facility or other institution
178 and a physician not directly involved in the exposure certifies in
179 writing that the criteria specified in subparagraphs (A), (B), (C), (D)
180 and (F) of this subdivision are met and that a significant exposure has
181 occurred, the worker may seek a court order for testing pursuant to
182 subdivision (8) of this subsection, (F) the worker would be able to take
183 meaningful immediate action, if results are known, which could not
184 otherwise be taken, as defined in regulations adopted pursuant to
185 section 19a-589, (G) the fact that an HIV test was given as a result of an
186 accidental exposure and the results of that test shall not appear in a
187 patient's or person's medical record unless such test result is relevant
188 to the medical care the person is receiving at that time in a health
189 facility or correctional facility or other institution, (H) the counseling
190 described in subsection (c) of this section shall be provided but the
191 patient or person may choose not to be informed about the result of the
192 test, and (I) the cost of the HIV test shall be borne by the employer of
193 the potentially exposed worker;

194 (6) In facilities operated by the Department of Correction if the
195 facility physician determines that testing is needed for diagnostic
196 purposes, to determine the need for treatment or medical care specific
197 to an HIV-related illness, including prophylactic treatment of HIV
198 infection to prevent further progression of disease, provided no
199 reasonable alternative exists that will achieve the same goal;

200 (7) In facilities operated by the Department of Correction if the
201 facility physician and chief administrator of the facility determine that
202 the behavior of the inmate poses a significant risk of transmission to
203 another inmate or has resulted in a significant exposure of another
204 inmate of the facility and no reasonable alternative exists that will
205 achieve the same goal. No involuntary testing shall take place

206 pursuant to subdivisions (6) and (7) of this subsection until reasonable
207 effort has been made to secure informed consent. When testing
208 without consent takes place pursuant to subdivisions (6) and (7) of this
209 subsection, the counseling referrals and notification of test results
210 described in subsection (c) of this section shall, nonetheless be
211 provided;

212 (8) Under a court order which is issued in compliance with the
213 following provisions: (A) No court of this state shall issue such order
214 unless the court finds a clear and imminent danger to the public health
215 or the health of a person and that the person has demonstrated a
216 compelling need for the HIV-related test result which cannot be
217 accommodated by other means. In assessing compelling need, the
218 court shall weigh the need for a test result against the privacy interests
219 of the test subject and the public interest which may be disserved by
220 involuntary testing, (B) pleadings pertaining to the request for an
221 involuntary test shall substitute a pseudonym for the true name of the
222 subject to be tested. The disclosure to the parties of the subject's true
223 name shall be communicated confidentially, in documents not filed
224 with the court, (C) before granting any such order, the court shall
225 provide the individual on whom a test result is being sought with
226 notice and a reasonable opportunity to participate in the proceeding if
227 he is not already a party, (D) court proceedings as to involuntary
228 testing shall be conducted in camera unless the subject of the test
229 agrees to a hearing in open court or unless the court determines that a
230 public hearing is necessary to the public interest and the proper
231 administration of justice;

232 (9) When the test is conducted by any life or health insurer or health
233 care center for purposes of assessing a person's fitness for insurance
234 coverage offered by such insurer or health care center; [or]

235 (10) When the test is subsequent to a prior confirmed test and the
236 subsequent test is part of a series of repeated testing for the purposes
237 of medical monitoring and treatment, provided (A) the patient has
238 previously given general consent that includes HIV-related tests, (B)

239 the patient, after consultation with the health care provider, has
240 declined reiteration of the general consent, counseling and education
241 requirements of this section, and (C) a notation to that effect has been
242 entered into the patient's medical record; or

243 (11) By a community-based human immunodeficiency virus testing
244 provider when such provider has received and documented verbal
245 consent to perform the test from the subject of the test or the person
246 authorized to consent for health care for the subject of the test.

247 Sec. 4. Subdivision (7) of subsection (a) of section 19a-583 of the
248 general statutes is repealed and the following is substituted in lieu
249 thereof (*Effective October 1, 2016*):

250 (7) A health care provider or other person in cases where such
251 provider or person in the course of his occupational duties has had a
252 significant exposure to HIV infection, provided the following criteria
253 are met: (A) The worker is able to document significant exposure
254 during performance of his occupation, (B) the worker completes an
255 incident report within forty-eight hours of exposure, identifying the
256 parties to the exposure, witnesses, time, place and nature of the event,
257 (C) the worker submits to a baseline HIV test within seventy-two
258 hours of the exposure and is negative on that test for the presence of
259 the [AIDS] human immunodeficiency virus, (D) the patient's or
260 person's physician or, if the patient or person does not have a personal
261 physician or if the patient's or person's physician is unavailable,
262 another physician or health care provider has approached the patient
263 or person and sought voluntary consent to disclosure and the patient
264 or person refuses to consent to disclosure, except in an exposure where
265 the patient or person is deceased, (E) the worker would be able to take
266 meaningful immediate action as defined in regulations adopted
267 pursuant to section 19a-589 which could not otherwise be taken, (F) an
268 exposure evaluation group determines that the criteria specified in
269 subparagraphs (A), (B), (C), (D) and (E) of this subdivision are met and
270 that a worker has a significant exposure to the blood of a patient or
271 person and the patient or person or the patient's or person's legal

272 guardian refuses to consent to release of the information. No member
273 of the exposure evaluation group who determines that a worker has
274 sustained a significant exposure and authorizes the disclosure of
275 confidential HIV-related information nor the health facility,
276 correctional facility or other institution nor any person in a health
277 facility, correctional facility or other institution who relies in good faith
278 on the group's determination and discloses the result shall have any
279 liability as a result of his action carried out under this section, unless
280 such persons acted in bad faith. If the information is not held by a
281 health facility, correctional facility or other institution, a physician not
282 directly involved in the exposure has certified in writing that the
283 criteria specified in subparagraphs (A), (B), (C), (D) and (E) of this
284 subdivision are met and that a significant exposure has occurred;

285 Sec. 5. Section 19a-593 of the general statutes is repealed and the
286 following is substituted in lieu thereof (*Effective October 1, 2016*):

287 (a) Each health care provider giving prenatal care to pregnant
288 women in this state shall inform her, or ascertain from the woman's
289 medical record that such information has already been provided to
290 her, that HIV testing is a part of routine prenatal care and shall inform
291 her of the health benefits to herself and her newborn of being tested for
292 HIV infection. Such information shall be conveyed along with the
293 counseling required by section 19a-582, as amended by this act. The
294 health care provider shall inform the patient that HIV-related
295 information is confidential pursuant to section 19a-583, as amended by
296 this act. If the patient provides informed consent to an HIV-related test
297 consistent with section 19a-582, as amended by this act, the health care
298 provider responsible for HIV counseling under this section shall
299 perform or arrange to have performed an HIV-related test and
300 document the test result in the medical record.

301 (b) If, during the current pregnancy, an HIV-related test has not
302 been documented in the patient's medical record at admission for
303 delivery of the baby, then the health care provider responsible for the
304 patient's care shall inform the pregnant woman as required under

305 subsection (a) of this section and shall also inform her of the health
 306 benefits to herself and her newborn of being tested for HIV infection
 307 either before delivery or within twenty-four hours after delivery and,
 308 in the absence of specific written objection, shall cause such test to be
 309 administered.

310 (c) Any health care provider who administers an HIV-related test to
 311 a newborn under the provisions of this section, section 19a-55 or
 312 section 19a-90, shall report the results of such test to the mother of such
 313 newborn before the mother leaves the hospital or not later than forty-
 314 eight hours after the birth of such newborn, whichever is sooner. Such
 315 provider shall (1) refer any woman whose newborn tests positive for
 316 HIV infection to an human immunodeficiency virus case manager and
 317 an appropriate health care provider, and (2) provide such woman with
 318 a list of support services for persons with HIV infection and AIDS.

319 Sec. 6. Sections 19a-54a, 19a-121, 19a-124a and 19a-594 of the general
 320 statutes are repealed. (*Effective October 1, 2016*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	19a-124
Sec. 2	<i>October 1, 2016</i>	19a-581
Sec. 3	<i>October 1, 2016</i>	19a-582(d)
Sec. 4	<i>October 1, 2016</i>	19a-583(a)(7)
Sec. 5	<i>October 1, 2016</i>	19a-593
Sec. 6	<i>October 1, 2016</i>	Repealer section

PH *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill does not result in a fiscal impact to the state, or municipalities. The elimination of the cap on the initial pack of needles (30) is not anticipated to result in an additional cost, as program expenditures are limited to available appropriations. Similarly, provisions on: (1) establishment of programs in areas outside of the three cities with the highest number of human immunodeficiency virus (HIV) cases, (2) provider-required program evaluation, and (3) the expansion of programs to include hepatitis C and drug overdose prevention, as well as other changes, do not result in a fiscal impact.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 218*****AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS FOR REVISIONS TO THE STATUTES REGARDING HUMAN IMMUNODEFICIENCY VIRUS.*****SUMMARY:**

This bill makes changes to statutes related to HIV to conform to current practice and national guidelines, including several minor and technical changes. Among other things, the bill:

1. requires the Department of Public Health (DPH) to establish needle and syringe exchange programs in any community impacted by HIV or hepatitis C, not just the three cities with the most HIV cases among injection drug users, but requires the programs only within available appropriations;
2. expands such programs' service components;
3. allows a community-based HIV testing provider to obtain verbal, instead of written, consent before performing HIV-related testing on an individual; and
4. deletes certain obsolete statutory provisions.

EFFECTIVE DATE: October 1, 2016

NEEDLE AND SYRINGE EXCHANGE PROGRAMS***Program Requirements***

Within available appropriations, the bill requires DPH to establish needle and syringe exchange programs to improve the health of people who inject drugs in any community impacted by HIV or hepatitis C. Current law (1) requires such exchange programs in the three cities with the highest number of HIV cases among injection drug users and

(2) allows DPH to authorize similar programs in other parts of the state, through local departments or organizations.

The bill requires the programs to be incorporated into existing HIV and hepatitis C prevention programs, not just existing HIV programs as under current law. It eliminates the requirement that first-time program applicants receive an initial packet of 30 needles and syringes, instead requiring that they receive an unspecified number.

The bill requires the programs to offer education on hepatitis C and drug overdose prevention measures, in addition to the HIV prevention education already required. It also requires the programs to provide referrals for substance abuse counseling or treatment and medical or mental health care. The programs are already required to help participants obtain drug treatment services.

Existing law requires monitoring of certain program data. The bill specifies that this monitoring is for evaluation purposes. It also:

1. adds the requirement that programs monitor for incidence of HIV infection from injection drug use and
2. eliminates the requirement that programs monitor the treatment status of program participants entering treatment. (Programs must continue to monitor the number of participants referred to treatment.)

CONSENT FOR HIV TESTING

By law, a person who gives general consent for medical procedures and tests is not required to also sign or be presented with a specific informed consent form for HIV testing, if the general consent instructs the patient that (1) as part of the medical procedures or tests, he or she may be tested for HIV and (2) such testing is voluntary. A person ordering an HIV test must provide the test subject or his or her authorized representative with counseling information when giving the test results, as needed.

Current law provides certain exemptions to these and related provisions. The bill adds an exemption for community-based HIV testing providers who receive and document verbal consent to perform the test, from the test subject or the person authorized to consent to health care for the test subject. The bill defines “community-based HIV testing provider” as any individual or organization that provides HIV testing services in a nonclinical or outreach setting for people identified as being at risk of HIV infection.

REPEALER

The bill repeals laws:

1. requiring DPH to establish a grant program for HIV education, counseling, and prevention (CGS § 19a-121);
2. requiring the administrative services commissioner to donate up to five vans to municipalities or organizations operating needle exchange programs and relieving the state of related liability (CGS § 19a-124a);
3. allowing DPH to develop (a) a comprehensive training program for providers required to provide HIV testing for pregnant women or newborns or related counseling and (b) educational material for such providers to distribute to pregnant women or mothers of newborns (CGS § 19a-594); and
4. allowing DPH to establish a registry of data on infants who have been exposed to HIV or AIDS medication. (The registry was never established) (CGS § 19a-54a.)

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 19 Nay 7 (03/07/2016)