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

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

Section 1. Section 19a-90 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2017):

(a) [Each physician] A health care provider giving prenatal care to a pregnant woman in this state during gestation shall [take or cause to be taken] order a blood sample of [each] such woman [within] for each of the following serological tests: (1) Not later than thirty days [from] after the date of the first prenatal examination, [and during the final trimester between the twenty-sixth and twenty-eighth week of gestation or shortly thereafter subject to the provisions of this section, and shall submit such sample to an approved laboratory for a standard serological test for syphilis and an] a serological test for HIV and syphilis; (2) not later than twenty-eight to thirty-two weeks of gestation, a serological test for syphilis; (3) not later than thirty-two to thirty-six weeks of gestation, a serological test for HIV; and (4) at the
time of delivery, a serological test for HIV and syphilis, provided the
woman presents to labor and delivery without documentation of the
required serological testing prescribed under subdivisions (2) and (3)
of this subsection. No pregnant woman shall be subject to serological
testing more than once during each of the time frames outlined in
subdivisions (1) to (4), inclusive. The HIV-related test, as defined in
section 19a-581, [provided] shall be consistent with the consent [is]
given for the HIV-related test [consistent with] prescribed under
section 19a-582. [Each other person permitted by law to attend upon
pregnant women in the state, but not permitted by law to take blood
tests, shall cause a blood sample of each pregnant woman so attended
to be taken by a licensed physician in accordance with the time
schedule and requirements of this section and such sample shall be
submitted to an approved laboratory for a standard serological test for
syphilis and an HIV-related test, provided consent is given for the
HIV-related test consistent with section 19a-582. A blood sample taken
at the time of delivery shall not meet the requirement for a blood
sample during the final trimester. The term "approved laboratory"
means a laboratory approved for this purpose by the Department of
Public Health. A standard serological test for syphilis is a test
recognized as such by the Department of Public Health.] The
laboratory tests required by this section shall be made on request
without charge by the Department of Public Health. For purposes of
this subsection, "health care provider" means a physician licensed
pursuant to chapter 370, advanced practice registered nurse licensed
pursuant to chapter 378, physician assistant licensed pursuant to
chapter 370 or nurse midwife licensed pursuant to chapter 372.

(b) The provisions of this section shall not apply to any woman who
objects to a blood test as being in conflict with her religious tenets and
practices.

Sec. 2. Section 19a-124 of the general statutes is repealed and the
following is substituted in lieu thereof (Effective July 1, 2017):
(a) The Department of Public Health shall establish, within available appropriations, [needle and] syringe [exchange] services programs to enhance health outcomes of people who inject drugs in any community impacted by the human immunodeficiency virus or hepatitis C. The department shall establish protocols in accordance with the provisions of subsection (b) of this section. The department may authorize programs, as determined by the commissioner, through local health departments or other local organizations.

(b) The programs shall: (1) Be incorporated into existing human immunodeficiency virus and hepatitis C outreach and prevention programs in the selected communities; (2) provide [for] access to free and confidential exchanges of [needles and] syringes; [and (A) provide that program participants receive an equal number of needles and syringes for those returned; and (B)] (3) provide for safe disposal or exchange of syringes; (4) provide that first-time applicants to the program receive an initial packet of [needles and] syringes, educational material and a list of drug counseling services; [(3) (5) offer education on the human immunodeficiency virus, hepatitis C, reduction in harm caused by such viruses, and drug overdose prevention measures and assist program participants in obtaining drug treatment services; [(4)] (6) provide referrals for substance abuse counseling or treatment; and [(5)] (7) provide referrals for medical or mental health care.

(c) The department shall require programs to include an annual evaluation component to monitor (1) the number of syringes distributed and collected, (2) program participation rates, (3) the number of participants who are referred to treatment, and (4) the incidence of human immunodeficiency virus from injection drug use to determine if there is a reduction in the result of the syringe services program.

(d) [Any organization conducting a needle and] The local health department or community-based organization of each community
conducting a syringe [exchange] services program shall submit a report evaluating the effectiveness of the program to the Department of Public Health.

Sec. 3. Section 19a-582 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2017):

(a) Except as required pursuant to section 19a-586, a person who has provided general consent as described in this section for the performance of medical procedures and tests is not required to also sign or be presented with a specific informed consent form relating to medical procedures or tests to determine human immunodeficiency virus infection or antibodies to human immunodeficiency virus. General consent shall include instruction to the patient that: (1) As part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus, and (2) such testing is voluntary and that the patient can choose not to be tested for human immunodeficiency virus or antibodies to human immunodeficiency virus. General consent that includes HIV-related testing shall be obtained without undue inducement or any element of compulsion, fraud, deceit, duress or other form of constraint or coercion. If a patient declines an HIV-related test, such decision by the patient shall be documented in the medical record. The consent of a parent or guardian shall not be a prerequisite to testing of a minor. The laboratory shall report the test result to the person who orders the performance of the test.

(b) A person ordering the performance of an HIV-related test shall not be held liable for ordering a test without specific informed consent if a good faith effort is made to convey the instruction required pursuant to subsection (a) of this section.

(c) At the time of communicating the test result to the subject of the test, a person ordering the performance of an HIV-related test shall provide the subject of the test or the person authorized to consent to health care for the subject with counseling or referrals for counseling,
as needed: (1) [For coping with the emotional consequences of learning
the result; (2) regarding the discrimination problems that disclosure of
the result could cause; (3) for behavior change to prevent transmission
or contraction of HIV infection; (4) to] To inform such person of
available medical treatments and medical services; [(5) (2) regarding
local or community-based HIV/AIDS support services agencies; [(6)]
(3) to work towards the goal of involving a minor's parents or legal
guardian in the decision to seek and in the ongoing provision of
medical treatment; and [(7)] (4) regarding the need of the test subject to
notify his partners and, as appropriate, provide assistance or referrals
for assistance in notifying partners; except that if the subject of the test
is a minor who was tested without the consent of his parents or
guardian, such counseling shall be provided to such minor at the time
of communicating such test result to such minor. A health care
provider or health facility shall not withhold test results from the
protected individual. [The protected individual may refuse to receive
his test result but the person ordering the performance of the test shall
encourage him to receive the result and to adopt behavior changes that
will allow him to protect himself and others from infection.]

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

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

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

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

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

(5) In cases where a health care provider or other person, including volunteer emergency medical services, fire and public safety personnel, in the course of his or her occupational duties has had a significant exposure, provided the following criteria are met: (A) The worker is able to document significant exposure during performance of his or her occupation, (B) the worker completes an incident report within forty-eight hours of exposure identifying the parties to the exposure, witnesses, time, place and nature of the event, (C) the worker submits to a baseline HIV test within seventy-two hours of the exposure and is negative on that test, (D) the patient's or person's physician or advanced practice registered nurse or, if the patient or person does not have a personal physician or advanced practice registered nurse or if the patient's or person's physician or advanced practice registered nurse is unavailable, another physician, advanced practice registered nurse or health care provider has approached the patient or person and sought voluntary consent and the patient or person has refused to consent to testing, except in an exposure where the patient or person is deceased, (E) an exposure evaluation group determines that the criteria specified in subparagraphs (A), (B), (C), (D) and (F) of this subdivision are met and that the worker has a significant exposure to the blood of a patient or person and the patient or person, or the patient's or person's legal guardian, refuses to grant informed consent for an HIV test. If the patient or person is under the
care or custody of the health facility, correctional facility or other
institution and a sample of the patient's blood is available, said blood
shall be tested. If no sample of blood is available, and the patient is
under the care or custody of a health facility, correctional facility or
other institution, the patient shall have a blood sample drawn at the
health facility, correctional facility or other institution and tested. No
member of the exposure evaluation group who determines that a
worker has sustained a significant exposure and authorized the HIV
testing of a patient or other person, nor the health facility, correctional
facility or other institution, nor any person in a health facility or other
institution who relies in good faith on the group's determination and
performs that test shall have any liability as a result of his or her action
carried out pursuant to this section, unless such person acted in bad
faith. If the patient or person is not under the care or custody of a
health facility, correctional facility or other institution and a physician
or an advanced practice registered nurse not directly involved in the
exposure certifies in writing that the criteria specified in
subparagraphs (A), (B), (C), (D) and (F) of this subdivision are met and
that a significant exposure has occurred, the worker may seek a court
order for testing pursuant to subdivision (8) of this subsection, (F) the
worker would be able to take meaningful immediate action, if results
are known that could not otherwise be taken, as defined in regulations
adopted pursuant to section 19a-589, (G) the fact that an HIV test was
given as a result of an accidental exposure and the results of that test
shall not appear in a patient's or person's medical record unless such
test result is relevant to the medical care the person is receiving at that
time in a health facility or correctional facility or other institution, (H)
the counseling described in subsection (c) of this section shall be
provided but the patient or person may choose not to be informed
about the result of the test, and (I) the cost of the HIV test shall be
borne by the employer of the potentially exposed worker;

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

(7) In facilities operated by the Department of Correction if the
facility physician or advanced practice registered nurse and chief
administrator of the facility determine that the behavior of the inmate
poses a significant risk of transmission to another inmate or has
resulted in a significant exposure of another inmate of the facility and
no reasonable alternative exists that will achieve the same goal. No
involuntary testing shall take place pursuant to subdivisions (6) and
(7) of this subsection until reasonable effort has been made to secure
informed consent. When testing without consent takes place pursuant
to subdivisions (6) and (7) of this subsection, the counseling referrals
and notification of test results described in subsection (c) of this section
shall, nonetheless be provided;

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

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

(10) When the test is subsequent to a prior confirmed test and the
subsequent test is part of a series of repeated testing for the purposes
of medical monitoring and treatment, provided (A) the patient has
previously given general consent that includes HIV-related tests, (B)
the patient, after consultation with the health care provider, has
deprecated reiteration of the general consent, counseling and education
requirements of this section, and (C) a notation to that effect has been
entered into the patient's medical record; [.] or

(11) When the test is conducted by a community-based HIV testing
provider in a nonclinical or outreach setting, the community-based
HIV testing provider shall receive and document verbal consent on the
CDC HIV test form. For purposes of this subdivision, "CDC HIV test
form" means a collection tool created by the National Centers for
Disease Control and Prevention to collect demographic and risk
information associated with individuals being tested for HIV.

Sec. 4. Subsections (a) and (b) of section 21a-65 of the general
statutes are repealed and the following is substituted in lieu thereof
(Effective October 1, 2017):

(a) A licensed manufacturer or licensed wholesaler may sell
hypodermic needles and syringes only to the following: (1) To a
licensed manufacturer, licensed wholesaler or licensed pharmacy; (2)
to a physician, dentist, veterinarian, embalmer, podiatrist or scientific
investigator licensed to practice in this state; (3) to a person in charge
of a care-giving institution, as defined in subdivision (2) of section
271 20-571, incorporated college or scientific institution, but only for use by
272 or in such care-giving institution, college or institution for medical or
273 scientific purposes; (4) to a person in charge of a licensed or registered
274 laboratory, but only for use in that laboratory for scientific and medical
275 purposes; (5) to a farmer but only for use on the farmer’s own animals
276 or poultry; (6) to a business authorized in accordance with the
277 regulations adopted under section 21a-66 to purchase hypodermic
278 needles and syringes but only for legitimate industrial or medical use
279 within that business; and (7) to a [needle and] syringe [exchange]
280 services program established pursuant to section 19a-124, as amended
281 by this act.

282 (b) Except as provided in subsection (a) of this section, no licensed
283 manufacturer, licensed wholesaler or licensed pharmacist shall sell and
284 no person shall buy a hypodermic needle or syringe except upon a
285 prescription of a prescribing practitioner, as defined in subdivision (22)
286 of section 20-571, in a quantity greater than ten. Any such prescription
287 shall be retained on file by the seller for a period of not less than three
288 years and shall be accessible to any public officer engaged in the
289 enforcement of this section. Such a prescription shall be valid for one
290 year from the date thereof and purchases and sales may be made
291 thereunder during such period, provided the seller shall confirm the
292 continued need for such sales with such practitioner at least every six
293 months if sales continue to be made thereunder. Hypodermic needles
294 and syringes in a quantity of ten or less without a prescription may be
295 provided or sold at retail only by the following: (1) By a pharmacy
296 licensed in accordance with section 20-594 and in such pharmacy only
297 by a licensed pharmacist or under his direct supervision; (2) by a
298 [needle exchange] syringe services program established pursuant to
299 section 19a-124, as amended by this act; and (3) by a health care facility
300 or a licensed health care practitioner for use by their own patients.
Statement of Purpose:
To implement the recommendations of the Department of Public Health regarding revisions to the statutes concerning the human immunodeficiency virus.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]