



# House of Representatives

General Assembly

**File No. 196**

February Session, 2022

House Bill No. 5190

*House of Representatives, March 30, 2022*

The Committee on Public Health reported through REP. STEINBERG of the 136th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT CONCERNING TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS.***

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

1 Section 1. (NEW) (*Effective October 1, 2022*) (a) Any physician licensed  
2 under chapter 370 of the general statutes, physician assistant licensed  
3 under chapter 370 of the general statutes or advanced practice registered  
4 nurse licensed under chapter 378 of the general statutes who is treating  
5 a patient thirteen years of age or older in the emergency department of  
6 a hospital licensed under chapter 386v of the general statutes or as the  
7 patient's primary care provider in any location where the physician,  
8 physician assistant or advanced practice registered nurse practices as a  
9 primary care provider shall offer the patient an HIV-related test, as  
10 defined in section 19a-581 of the general statutes, at least once annually,  
11 where practicable, unless the physician, physician assistant or advanced  
12 practice registered nurse documents that any of the following  
13 conditions have been met: (1) The patient is being treated for a life-  
14 threatening emergency; (2) the patient received an HIV-related test in  
15 the preceding year; (3) the patient lacks the capacity to provide general  
16 consent to the HIV-related test as required under subsection (a) of  
17 section 19a-582 of the general statutes; or (4) the patient declines the

18 HIV-related test. Any physician, physician assistant or advanced  
19 practice registered nurse offering an HIV-related test under this  
20 subsection shall comply with all requirements prescribed in section 19a-  
21 582 of the general statutes.

22 (b) Each hospital and each physician, physician assistant or advanced  
23 practice registered nurse who is the primary care provider of a patient  
24 thirteen years of age or older shall develop protocols, in accordance with  
25 the provisions of section 19a-582 of the general statutes, for  
26 implementing the HIV-related testing required under subsection (a) of  
27 this section, including, but not limited to, the following: (1) Offering and  
28 providing such testing to a patient and notifying the patient of the  
29 results of such testing; (2) tracking and documenting the number of  
30 HIV-related tests that were performed, the number of HIV-related tests  
31 that were declined, and the results of the HIV-related tests; (3) reporting  
32 of positive HIV-related test results to the Department of Public Health  
33 pursuant to section 19a-215 of the general statutes; and (4) referring  
34 patients who test positive for the human immunodeficiency virus to an  
35 appropriate health care provider for treatment of such virus.

36 (c) On or before January 1, 2023, the Department of Public Health  
37 shall, in consultation with community-based organizations with  
38 demonstrated expertise in the care and treatment of or provision of  
39 support services to persons with human immunodeficiency virus,  
40 develop educational materials for the general public, hospitals and  
41 primary care providers regarding the HIV-related testing required  
42 under subsection (a) of this section and post such educational materials  
43 on its Internet web site.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	New section

**PH**            *Joint Favorable*

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*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.*

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

This bill, under certain conditions, requires physicians, physician assistants, and advanced practice registered nurses, when treating a patient age 13 or older in a hospital emergency department or primary care setting, to offer the patient an HIV test at least annually where practicable.

The bill also requires the Department of Public Health to develop and post on its website educational materials for the public, hospitals, and primary care providers about the bill's requirement for offering HIV testing. This has no fiscal impact.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****HB 5190****AN ACT CONCERNING TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS.****SUMMARY**

This bill generally requires physicians, physician assistants (PAs), and advanced practice registered nurses (APRNs), when treating a patient age 13 or older in a hospital emergency department or primary care setting, to offer the patient an HIV test at least annually where practicable. The requirement does not apply if the provider documents that the patient (1) is being treated for a life-threatening emergency, (2) received an HIV test in the prior year, (3) lacks the capacity to provide general consent to the test, or (4) declines the test.

When offering HIV tests under the bill, these providers must comply with specified requirements under existing law, such as generally providing the test subject, when communicating the test result, with counseling or referrals as needed on certain matters (see BACKGROUND).

The bill requires these hospitals and providers to develop protocols, with specified components, for implementing the bill's HIV testing provisions.

It also requires the Department of Public Health (DPH), by January 1, 2023, to develop and post on its website educational materials for the public, hospitals, and primary care providers about the bill's requirement for offering HIV testing. DPH must develop these materials in consultation with community-based organizations with demonstrated expertise in caring for, treating, and providing support services to people with HIV.

EFFECTIVE DATE: October 1, 2022

**REQUIRED PROTOCOLS**

The bill requires hospitals and primary care physicians, PAs, and APRNs treating patients age 13 or older, to develop protocols for implementing the bill's HIV testing provisions. These protocols must comply with existing law's provisions on general consent requirements for HIV testing, counseling and referral as needed, and related exceptions (see BACKGROUND).

The protocols must at least include:

1. offering and providing this testing to patients and notifying them of the results;
2. tracking and documenting the number of tests performed and declined and the test results;
3. reporting positive test results to DPH, as required under existing law; and
4. referring patients who test positive to an appropriate health care provider for treatment.

**BACKGROUND*****HIV Testing Consent, Counseling, and Exceptions***

By law, a person who gives general consent for medical procedures and tests is generally not required to also sign or be given a specific informed consent form on HIV testing. General consent includes instruction to the patient that (1) the patient may be tested for HIV as part of the medical procedures or tests and (2) this testing is voluntary. Among other things, the law provides that a parent's or guardian's consent is not required for a minor to get tested.

By law, the person ordering an HIV test, when communicating its result, must give the test subject or his or her authorized representative counseling information or referrals as needed, addressing certain matters. These include, among other things, (1) information about available treatments and support services and (2) the need to notify

partners.

The law establishes exceptions to these consent and counseling provisions in 10 situations, such as those involving significant occupational exposure (CGS § 19a-582).

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 22 Nay 9 (03/18/2022)