

SENATE No. 1186

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to HIV screening and prevention.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Julian Cyr</i>	<i>Cape and Islands</i>	
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/24/2017</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/31/2017</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/31/2017</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>1/31/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>1/31/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/31/2017</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>1/31/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>2/1/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/1/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/1/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/1/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/1/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/2/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/3/2017</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/3/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/3/2017</i>

SENATE No. 1186

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 1186) of Julian Cyr, Jack Lewis, Sarah K. Peake, Dylan Fernandes and other members of the General Court for legislation relative to HIV screening and prevention. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to HIV screening and prevention.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 117 of Chapter 111 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended, in line 1, by inserting the words “prevention or” after the
3 word “providing”.

4 SECTION 2. Section 117 of chapter 111 of the General Laws, as so appearing, is hereby
5 amended, in line 7, by inserting the words “prevention or” after the word “provide”.

6 SECTION 3. Section 117 of chapter 111 of the General Laws, as so appearing, is hereby
7 amended, in line 11, by inserting the words “prevention or” after the word “providing”.

8 SECTION 4. Section 117 of chapter 111 of the General Laws, as so appearing, is hereby
9 amended, in line 16, by inserting the words “prevention or” after the word “and”.

10 SECTION 5. Section 12F of chapter 112 of the General Laws, as so appearing, is hereby
11 amended, in line 6, by inserting the words “, or for the prevention or treatment of any disease as

12 defined as dangerous to the public health pursuant to section 6 of chapter 111” after the word
13 “patient”.

14 SECTION 6. Section 12F of chapter 112 of the General Laws, as so appearing, is hereby
15 amended, in line 14, by inserting the words “at risk of exposure to,” after the words “to be.”

16 SECTION 7. Section 12F of chapter 112 of the General Laws, as so appearing, is hereby
17 amended, in line 18, by inserting the word “, prevention” after the word “diagnosis.”

18 SECTION 8. Notwithstanding any general or special law to the contrary, the department
19 of public health shall study and make recommendations concerning the feasibility, benefits and
20 costs of requiring insurance companies to provide reimbursement of out their established
21 networks for: (a) providers providing prevention or treatment for persons suffering from venereal
22 diseases; and (b) laboratory services provided by the state laboratory.

23 The department shall submit a report to the governor, the speaker of the house of
24 representatives and the president of the senate, the joint committee on public health, and the joint
25 committee on ways and means no later than 9 months after the passage of this outside section
26 setting forth the department’s conclusions.

27 SECTION 9. Section 70F of chapter 111 of the General Laws is hereby amended by
28 striking out the first paragraph and inserting in place thereof the following paragraphs:-

29 A facility, as defined in section 70E, physician or health care provider shall not test any
30 person for the presence of the HIV antibody or antigen without first notifying the person verbally
31 or in writing that the test will be performed unless the person refuses the test, and providing an
32 explanation of HIV infection and the meaning of positive and negative test results. Said

33 explanation may be delivered in writing, verbally, by video, electronic, or other means as may be
34 designated by the facility, physician or health care provider. The person shall also be offered the
35 opportunity to ask questions and to decline the test.

36 General consent for medical care shall be sufficient as consent for an HIV antibody or
37 antigen test conducted pursuant to this section; a separate consent form for HIV antibody or
38 antigen testing shall not be required.

39 A person's decision to decline the HIV antibody or antigen test may be documented in
40 the medical record.

41 A person shall not (1) disclose the results of an HIV antibody or antigen test to any
42 person other than the subject of the test without first obtaining the subject's written informed
43 consent; or (2) identify the subject of such tests to any person without first obtaining the subject's
44 written informed consent. A written consent form shall state the purpose for which the
45 information is being requested and shall be distinguished from written consent for the release of
46 any other medical information. No written or any other specific informed consent shall be
47 required for the inclusion of the results of an HIV antibody or antigen test in an electronic health
48 record as defined in section 1 of chapter 118I.

49 No employer shall require HIV antibody or antigen tests as a condition for employment.

50 Whoever violates this section shall be considered to have violated section 2 of chapter
51 93A.

52 For the purpose of this section "written informed consent" shall mean a written consent
53 form for each requested release of the results of an individual's HIV antibody or antigen test or
54 for the release of medical records containing such information.

55 It shall not be a violation of this section for any physician, health care provider, health
56 care institution or laboratory to report information to the department of public health under
57 chapter 111 or chapter 111D and regulations promulgated thereunder. No physician, health care
58 provider, health care institution or laboratory required to report shall be liable in any civil or
59 criminal action by reason of any such report.

60 This section shall not apply to premortem and postmortem serological testing for
61 purposes of donation under chapter 113A.