

SENATE No. 1236

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 routine screening and care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Julian Cyr</i>	<i>Cape and Islands</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/29/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2019</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/1/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/1/2019</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/1/2019</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>12/18/2019</i>

SENATE No. 1236

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 1236) of Julian Cyr, Jason M. Lewis, Kay Khan, Christina A. Minicucci and other members of the General Court for legislation relative to HIV routine screening and care. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to HIV routine screening and care.

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

1 Chapter 111 of the General Laws is hereby amended by striking out section 70F and
2 inserting in place thereof the following section:-

3 Section 70F. (a) A facility, as defined in section 70E, physician or health care provider
4 shall not test any person for the presence of the HIV antibody or antigen without first notifying
5 the person verbally or in writing that the test will be performed unless the person refuses the test,
6 and providing an explanation of HIV infection and the meaning of positive and negative test
7 results. Said explanation may be delivered in writing, verbally, by video, electronic, or other
8 means as may be designated by the facility, physician or health care provider. The person shall
9 also be offered the opportunity to ask questions and to decline the test.

10 (b) General consent for medical care, if such consent complies with subsection (a), shall
11 be sufficient as consent for HIV antibody or antigen tests conducted pursuant to this section.

12 (c) A person's decision to decline the HIV antibody or antigen test may be documented in
13 the medical record.

14 (d) A person shall not (1) disclose the results of an HIV antibody or antigen test to any
15 person other than the subject of the test without first obtaining the subject's written informed
16 consent; or (2) identify the subject of such tests to any person without first obtaining the subject's
17 written informed consent. A written consent form shall state the purpose for which the
18 information is being requested and shall be distinguished from written consent for the release of
19 any other medical information.

20 (e) Notwithstanding subsection (d) above, no written or any other specific informed
21 consent shall be required for the inclusion of the results of an HIV antibody or antigen test in an
22 electronic health record as defined in section 1 of chapter 118I, nor for the sharing of such
23 electronic health records for legitimate purposes in compliance with state or federal laws.

24 (f) No employer shall require HIV antibody or antigen tests as a condition for
25 employment.

26 (g) Whoever violates this section shall be considered to have violated section 2 of chapter
27 93A.

28 (h) For the purpose of this section "written informed consent" shall mean a written
29 consent form for each requested release of the results of an individual's HIV antibody or antigen
30 test or for the release of medical records containing such information.

31 (i) It shall not be a violation of this section for any physician, health care provider, health
32 care institution or laboratory to report information to the department of public health under

33 chapter 111 or chapter 111D and regulations promulgated thereunder. No physician, health care
34 provider, health care institution or laboratory required to report shall be liable in any civil or
35 criminal action by reason of any such report.

36 (j) This section shall not apply to premortem and postmortem serological testing for
37 purposes of donation under chapter 113A.