

# Public Health Committee JOINT FAVORABLE REPORT

**Bill No.:** HB-5190

**Title:** AN ACT CONCERNING TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS.

**Vote Date:** 3/18/2022

**Vote Action:** Joint Favorable

**PH Date:** 3/9/2022

**File No.:** 196

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## **SPONSORS OF BILL:**

The Public Health Committee

## **REASONS FOR BILL:**

The HIV epidemic continues to affect the lives of thousands of people throughout the country every year. Many who may be infected with the virus don't even know it and would benefit from the opportunity to be tested. This could potentially reduce further transmission. The bill would provide for the following actions:

- Require a physician, Physician Assistant (PA) or Advanced Practice Registered Nurse (APRN), when treating a patient in a hospital emergency department or primary care location, to offer an HIV test annually where possible.
- The patient must be 13 years of age or older.
- This would apply if the patient is not being treated for a life-saving emergency, received this test in the past year, is not able to give consent, or refuses to be tested.
- The physician, PA or APRN providing the test is required to comply with existing law when communicating with the patient regarding test results or providing referrals for counseling.
- Hospitals, primary care physicians, PAs and APRNs are also required to develop, with specific components, protocols that carry out this testing requirement.
- Requires that the Department of Public Health (DPH), in collaboration with stakeholders having expertise in this area, such as community-based organizations, develop appropriate educational material for use by the public, hospitals and primary care providers. These materials must also be posted on the DPH website.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

### **Manisha Juthani, Commissioner, Department of Public Health (DPH):**

DPH supports the intent of this bill. The Commissioner points out that even though the Center for Disease Control (CDC) supports reducing barriers to HIV testing, its current recommendation is that individuals between the ages of 13-65 get tested at least once as part of routine health care with more frequency if a person has a higher risk for HIV. She recommends that our state align with the CDC. DPH supports routine testing and believes this reduces the stigma associated with this test. The Commissioner pointed out that in 2009, DPH supported legislation that removed written consent for HIV testing to remove barriers and expand testing. DPH funds eight healthcare facilities that conduct routine HIV testing and can monitor the results. However, DPH cannot confirm if there has been an increase in volume of testing at sites that are not DPH funded. Without a clear evaluation for this program, DPH is unable to confirm that more tests are offered due to this legislation.

### **Rosemary Lopez, Thomas Nuccio, Hannah Karabatsos and Sarah Meigel, Policy Analysts, The Commission on Women, Children, Seniors, Equity and Opportunity (CWCSEO):**

The CWCSEO supports this legislation as it will provide more testing, reduce potential spread of the disease and remove stigma. CWCSEO shared in its testimony that in 2010, the state of New York mandated HIV testing be provided to all patients 13 and older when receiving care from and outpatient clinic, physician, PA, APRN or midwife. Although moderate, the results have been positive. The increased testing resulted in those diagnosed with HIV receiving care within 90 days and the state saw a reduction in the prevalence of the disease.

### **Derek Slap, Senator CGA:**

Sen. Slap supports this legislation to reduce the spread of HIV and save lives. Routine testing reduces the stigma often association with this condition. He notes that this practice will increase health equity by allowing those who often use emergence rooms as their primary source for health care to have routine access to this test. He shares that similar bills have passed in both New York and Florida.

### **Maritza Bond, Director of Health, City of New Haven:**

Ms. Bond supports this bill. She shares that in Connecticut in 2019, 28% of newly diagnosed HIV cases were people with advanced HIV. This compares to a national average of 21%. Routine testing would provide a mechanism for early detection and allow for treatments to reduce spread in a timely manner. Routine testing also removes the stigma associated with HIV.

### **Additional support was also provided by:**

- Kevin Alvarez, Director of Legislative Affairs, City of New Haven

## **NATURE AND SOURCES OF SUPPORT:**

### **Roberta Stewart, CEO, Apex Community Care:**

Apex aligns with the goals of the National HIV/AIDS Strategy to get to zero regarding new infections of this disease. Apex is the only community health center funded by the DPH to

provide HIV testing in Greater Danbury. This bill would expand testing capabilities to hospitals and private practices increasing the potential to detect and treat new cases sooner. In addition, Fairfield county has a considerable number of uninsured individuals who would benefit from this practice. Every time an uninsured patient visits a community health center, urgent care center or hospital, there would be the opportunity to receive the care they would otherwise be unable to receive. Ms. Stewart notes that Apex receives funding for HIV medical case management, financial assistance, food, housing, behavioral health and medical care. This could allow Apex to step in and assist ensuring the patient receives the appropriate and proper care. Apex strongly supports the bill.

**Matt Blinstrubas, Acting Director, Equality Connecticut:**

Equality Connecticut is a statewide community organization advancing the rights and lives of LGBTQ people in the state. Over the past 40 years, the response to HIV has advanced greatly but there is still a long way to go to eradicate this disease. Through decades of activism, and scientific achievement, people with HIV who know their status can live a normal life managing this disease like a chronic health condition i.e., diabetes or hypertension. People who know their status and have access to treatment can achieve what is known as an "undetectable viral load". These individuals will not transmit the disease. We also know that people who are HIV negative and take HIV medication are protected from contracting the disease. Equality Connecticut supports this bill as an important step toward making sure everyone living with, or at risk of HIV, knows their status and receives the treatment they need.

**Jacqueline Cantor, Psychiatric Mental Health APRN:**

Ms. Cantor works with patients ranging in age from 15 -90 years of age in her community-based private practice. Although she encourages her patients to do so, some never see a primary care physician and she ends up doing their routine blood work. In her experience, rarely to never has HIV testing been included unless the patient requests it. Ms. Cantor supports this bill that encourages health care providers to add this test to routine screening. This will help to reach more effected people, reduce stigma and potentially reduce the cost of health care for those infected.

**Additional Sources of Support Include:**

- Nilda Fernandez, Youth HIV Prevention Superior Connecticut Children's
- Angel Ruiz, Community Health Worker
- Kimberly Clear-Sandor, Executive Director, CT Nurse Association

**NATURE AND SOURCES OF OPPOSITION:**

**Connecticut State Medical Society (CSMS):**

CSMS has concerns about this bill. Although well-intentioned, CSMS believes it is an example of legislating medical practice. The best medical care is between the doctor and the patient. Based on the time an insurer allows a physician to conduct a physical exam, there is not enough time to assign another element to the exam, especially since it will not impact many of a physician's patients. It is also unclear how this would work in an emergency room setting. There is no requirement in the bill that health insurers cover the cost of the test and patients with high deductible plans (many who do not understand how these plans work) will be faced with an additional out-of-pocket cost. CSMS is also concerned with the potential

that a patient will be offered multiple tests if one engages with various health care providers during the year. CSMS recommends instead that during the intake process for a visit that a patient be presented a form explaining the law and presenting the patient a "Check-the -box" option and to display posters advertising the availability of the HIV test.

**Connecticut Hospital Association (CHA):**

Although CHA supports the goal of the bill, they are concerned about the provisions of the bill that apply to emergency rooms (ERs). CHA does not support an ER as an appropriate setting to conduct a routine HIV test when one considers the type of conditions that occur in an ER. In addition, CHA has concerns that the bill requires a physician, APRN or PA to develop their own protocols and offer every patient they treat the test. This could potentially result in a patient being offered the test multiple times and may discourage the testing.

**Daniel Freess, Past President, CT College of Emergency Physicians:**

HIV is an important public health concern, but it is rarely an emergency condition. Dr. Freess would not be opposed to increase testing for HIV, but the emergency department is not the appropriate location for this non-emergency test. This testing is more appropriately conducted as part a of a continuity of care such as being admitted to the hospital or if being followed up with a specific health care provider. Requiring emergency room physicians to provide this testing raises many problems and concerns. Emergency rooms are typically crowded with space being at a premium. If such a s test is provided, it will extend the length of stay for a patient as they await the results. There is a greater problem should patients be discharged before the results of the test, since there is no effective way to communicate the results. In addition, the diagnosis of HIV presents significant issues i.e., personal, social, medical and consequences to the community that cannot properly be addressed from an emergency room. There is also the issue of cost not only to the patient, but to the health system as well, since such a test is unlikely to be covered when conducted through an emergency room.

**Ada Fenick, MD Primary Care Pediatrician:**

Dr. Fendick is opposed to this bill for the following reasons. Since not every person over age 13 attends primary care, it will not reach as many people as intended. If this test is to be offered annually, it is likely to be quite cursory in many locations, thus, many may decline the test including those who would benefit the most. Also, the requirements of the bill exceed the recommendations of the CDC. Finally, primary care offices are already overburdened and this requirement, if done properly, will result in longer appointments and access to fewer patients.

**Reported by: Kathleen Panazza**

**Date: 4/1/2022**