

# PROGRAM BILL # 30

Legislative Bill Drafting Commission  
12090-01-6

S. -----  
Senate  
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IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

\*PUBHEALA\*  
(Relates to HIV-related testing and  
to screening for certain diseases)

Pub Heal. HIV-related testing

## AN ACT

to amend the public health law, in  
relation to HIV-related testing; and  
to amend the education law, in  
relation to screening for certain  
diseases

The People of the State of New  
York, represented in Senate and  
Assembly, do enact as follows:

## IN SENATE

### Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s15 Addabbo	s31 Espaillat	s27 Hoylman	s25 Montgomery	s56 Robach
s52 Akshar	s49 Farley	s09 Kaminsky	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s63 Kennedy	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s34 Klein	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s28 Krueger	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s24 Lanza	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s39 Larkin	s21 Parker	s26 Squadron
s38 Carlucci	s22 Golden	s37 Latimer	s13 Peralta	s16 Stavisky
s14 Comrie	s47 Griffo	s01 LaValle	s30 Perkins	s35 Stewart- Cousins
s03 Croci	s20 Hamilton	s45 Little	s19 Persaud	s53 Valesky
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s61 Ranzenhofer	s08 Venditto
s32 Diaz	s36 Hassell- Thompson	s43 Marchione	s48 Ritchie	s57 Young
s18 Dilan		s07 Martins	s33 Rivera	

## IN ASSEMBLY

### Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a011 Jean-Pierre	a003 Murray	a076 Seawright
a092 Abinanti	a054 Dilan	a135 Johns	a133 Nojay	a087 Sepulveda
a084 Arroyo	a081 Dinowitz	a077 Joyner	a037 Nolan	a027 Simanowitz
a035 Aubry	a147 DiPietro	a094 Katz	a130 Oaks	a052 Simon
a120 Barclay	a115 Duprey	a074 Kavanagh	a069 O'Donnell	a036 Simotas
a106 Barrett	a004 Englebright	a142 Kearns	a051 Ortiz	a104 Skartados
a060 Barron	a109 Fahy	a040 Kim	a091 Otis	a099 Skoufis
a082 Benedetto	a071 Farrell	a131 Kolb	a132 Palmesano	a022 Solages
a042 Bichotte	a126 Finch	a105 Lalor	a002 Palumbo	a114 Stec
a079 Blake	a008 Fitzpatrick	a013 Lavine	a088 Paulin	a110 Steck
a117 Blankenbush	a124 Friend	a134 Lawrence	a141 Peoples- Stokes	a127 Stirpe
a098 Brabene	a095 Galef	a050 Lentol	a058 Perry	a112 Tedisco
a026 Braunstein	a137 Gantt	a125 Lifton	a086 Pichardo	a101 Tenney
a044 Brennan	a007 Garbarino	a072 Linares	a089 Pretlow	a001 Thiele
a119 Brindisi	a148 Giglio	a102 Lopez	a073 Quart	a061 Titone
a138 Bronson	a080 Gjonaj	a123 Lupardo	a019 Ra	a031 Titus
a093 Buchwald	a066 Glick	a010 Lupinacci	a012 Raia	a055 Walker
a118 Butler	a023 Goldfeder	a121 Magee	a006 Ramos	a146 Walter
a103 Cahill	a150 Goodell	a129 Magnarelli	a043 Richardson	a041 Weinstein
a065 Cancel	a075 Gottfried	a064 Malliotakis	a078 Rivera	a024 Weprin
a062 Castorina	a005 Graf	a030 Markey	a056 Robinson	a059 Williams
a145 Ceretto	a100 Gunther	a090 Mayer	a068 Rodriguez	a113 Woerner
a047 Colton	a046 Harris	a108 McDonald	a067 Rosenthal	a143 Wozniak
a032 Cook	a139 Hawley	a014 McDonough	a025 Rozic	a070 Wright
a144 Corwin	a083 Heastie	a017 McKeivitt	a116 Russell	a096 Zebrowski
a085 Crespo	a028 Hevesi	a107 McLaughlin	a149 Ryan	a020
a122 Crouch	a048 Hikind	a038 Miller	a009 Saladino	a033
a021 Curran	a018 Hooper	a015 Montesano	a111 Santabarbara	
a063 Cusick	a128 Hunter	a136 Morelle	a016 Schimel	
a045 Cymbrowitz	a029 Hyndman	a057 Mosley	a140 Schimminger	
a053 Davila	a097 Jaffee	a039 Moya		

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and 4 copies of memorandum in support (single house);  
or 4 signed copies of bill and 8 copies of memorandum  
in support (uni-bill).

1 Section 1. Subdivisions 1, 2 and 3 of section 2781 of the public  
2 health law, as amended by section 2 of part A of chapter 60 of the laws  
3 of 2014, are amended to read as follows:

4 1. Except as provided in section three thousand one hundred twenty-one  
5 of the civil practice law and rules, or unless otherwise specifically  
6 authorized or required by a state or federal law, no person shall order  
7 the performance of an HIV related test without first [having received  
8 informed consent of the subject of the test who has capacity to consent  
9 or, when the subject lacks capacity to consent, of a person authorized  
10 pursuant to law to consent to health care for such individual. In order  
11 for there to be informed consent, the person ordering the test shall,  
12 prior to obtaining informed consent], at a minimum [advise], orally  
13 advising the protected individual, or, when the protected individual  
14 lacks capacity to consent, a person authorized to consent to health care  
15 for such individual, that an HIV-related test is being performed, or  
16 over the objection of such individual or authorized persons. Such  
17 advisement and objection, when applicable shall be noted in the individ-  
18 ual's record.

19 2. [Informed consent for HIV related testing pursuant to this section  
20 shall be valid for such testing until such consent is revoked. Each time  
21 that an HIV related test is ordered pursuant to informed consent in  
22 accordance with this section, the physician or other person authorized  
23 pursuant to law to order the performance of the HIV related test, or  
24 such person's representative, shall orally notify the subject of the  
25 test or, when the subject lacks capacity to consent, a person authorized  
26 pursuant to law to consent to health care for such individual, that an  
27 HIV related test will be conducted at such time, and shall note the  
28 notification in the patient's record.

1 3.] A person ordering the performance of an HIV related test shall  
2 provide either directly or through a representative to the subject of an  
3 HIV related test or, if the subject lacks capacity to consent, to a  
4 person authorized pursuant to law to consent to health care for the  
5 subject, an explanation that:

6 (a) HIV causes AIDS and can be transmitted through sexual activities  
7 and needle-sharing, by pregnant women to their fetuses, and through  
8 breastfeeding infants;

9 (b) there is treatment for HIV that can help an individual stay heal-  
10 thy;

11 (c) individuals with HIV or AIDS can adopt safe practices to protect  
12 uninfected and infected people in their lives from becoming infected or  
13 multiply infected with HIV;

14 (d) testing is voluntary and can be done anonymously at a public test-  
15 ing center;

16 (e) the law protects the confidentiality of HIV related test results;

17 (f) the law prohibits discrimination based on an individual's HIV  
18 status and services are available to help with such consequences; and

19 (g) the law [allows an individual's informed consent for HIV related  
20 testing to be valid for such testing until such consent is revoked by  
21 the subject of the HIV related test] requires that an individual be  
22 advised before an HIV-related test is performed, and that no test shall  
23 be performed over his or her objection.

24 Protocols shall be in place to ensure compliance with this section.

25 § 2. Subdivision 1 of section 2781-a of the public health law, as  
26 added by chapter 308 of the laws of 2010, is amended to read as follows:

27 1. Every individual [between the ages of] age thirteen and [sixty-four  
28 years] older (or younger [or older] than thirteen if there is evidence

1 or indication of risk activity) who receives health services as an inpa-  
2 tient or in the emergency department of a general hospital defined in  
3 subdivision ten of section twenty-eight hundred one of this chapter or  
4 who receives primary care services in an outpatient department of such  
5 hospital or in a diagnostic and treatment center licensed under article  
6 twenty-eight of this chapter or from a physician, physician assistant,  
7 nurse practitioner, or midwife providing primary care shall in accord-  
8 ance with subdivision one of section two thousand seven hundred eighty-  
9 one of this article be offered an HIV related test unless the health  
10 care practitioner providing such services reasonably believes that (a)  
11 the individual is being treated for a life threatening emergency; or (b)  
12 the individual has previously been offered or has been the subject of an  
13 HIV related test (except that a test shall be offered if otherwise indi-  
14 cated); or (c) the individual lacks capacity to consent to an HIV  
15 related test.

16 § 3. Subdivision 6 of section 6527 of the education law is amended by  
17 adding a new paragraph (g) to read as follows:

18 (g) screening of persons at increased risk of syphilis, gonorrhea and  
19 chlamydia.

20 § 4. Subdivision 4 of section 6909 of the education law is amended by  
21 adding a new paragraph (g) to read as follows:

22 (g) screening of persons at increased risk for syphilis, gonorrhea and  
23 chlamydia.

24 § 5. Section 6527 of the education law is amended by adding a new  
25 subdivision 7-a to read as follows:

26 7-a. A licensed physician may prescribe and order a patient specific  
27 order or non-patient specific order to a licensed pharmacist, pursuant  
28 to regulations promulgated by the commissioner in consultation with the

1 commissioner of health, and consistent with the public health law, for  
2 dispensing up to a seven day starter pack of HIV post-exposure prophy-  
3 laxis for the purpose of preventing human immunodeficiency virus  
4 infection following a potential human immunodeficiency virus exposure.

5 § 6. Section 6909 of the education law is amended by adding a new  
6 subdivision 8 to read as follows:

7 8. A certified nurse practitioner may prescribe and order a patient  
8 specific order or non-patient specific order to a licensed pharmacist,  
9 pursuant to regulations promulgated by the commissioner in consultation  
10 with the commissioner of health, and consistent with the public health  
11 law, for dispensing up to a seven day starter pack of HIV post-exposure  
12 prophylaxis for the purpose of preventing human immunodeficiency virus  
13 infection following a potential human immunodeficiency virus exposure.

14 § 7. Section 6801 of the education law is amended by adding a new  
15 subdivision 5 to read as follows:

16 5. A licensed pharmacist may execute a non-patient specific order, for  
17 dispensing up to a seven day starter pack of HIV post-exposure prophy-  
18 laxis medications for the purpose of preventing human immunodeficiency  
19 virus infection, by a physician licensed in this state or nurse practi-  
20 tioner certified in this state, pursuant to rules and regulations  
21 promulgated by the commissioner in consultation with the commissioner of  
22 health following a potential human immunodeficiency virus exposure.

23 § 8. This act shall take effect immediately; provided, however, the  
24 amendments to section 6801 of the education law made by section seven of  
25 this act shall not affect the expiration of such section and shall be  
26 deemed to expire therewith.