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An Act To Conform HIV Testing to the Recommendations of the Federal Centers for Disease Control and Prevention

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §19201, sub-§5-A, as amended by PL 1987, c. 811, §2, is repealed.

Sec. 2. 5 MRSA §19203-A, as amended by PL 1999, c. 429, §3, is repealed.

Sec. 3. 5 MRSA §19203-F, sub-§4, as enacted by PL 1995, c. 319, §4, is amended to read:

4. Reporting and counseling. The health care facility in which a convicted offender is tested pursuant to this section shall disclose the results of the test to the victim-witness advocate, who shall disclose the result to the petitioner. ~~The test result may not be disclosed to the petitioner until the petitioner has received counseling, pursuant to section 19204-A, regarding the nature, reliability and significance of the convicted offender's HIV test and has been offered referrals for health care and support services for the victim.~~ The health care facility shall, upon order of the court, disclose the results of the test to the convicted offender.

Sec. 4. 5 MRSA §19203-G is enacted to read:

§ 19203-G. Informed consent; declining consent

1. Consent. Beginning January 1, 2008, the provisions of this section apply to HIV testing.

A. Informed consent is not required for HIV testing of an individual.

B. Prior to obtaining the body fluids or samples required for an HIV test, a health care provider shall notify a person that an HIV test will be performed and shall provide the person an opportunity to decline consent for the test.

C. Except as otherwise provided under the provisions of sections 19203-C and 19203-F, a person may decline an HIV test by signing a written statement declining consent to an HIV test. A statement declining an HIV test under this subsection must be kept in the health care file of the person signing the statement.

2. Counseling. Counseling is not required with regard to an HIV test. A health care provider who performs an HIV test shall provide oral and written information on HIV testing. Written information must be made available in the languages of commonly encountered populations in the geographic region served by the health care provider.

Sec. 5. 5 MRSA §19204-A, as amended by PL 2001, c. 647, §§1 to 3, is repealed.

Sec. 6. 5 MRSA §19204-B, sub-§2, ¶A, as enacted by PL 1987, c. 811, §9, is amended to read:

A. If the employee declines to be tested pursuant to section 19203-A;

Sec. 7. 22 MRSA §834, as enacted by PL 1997, c. 368, §1, is repealed.

Sec. 8. Effective date. This Act takes effect January 1, 2008.

SUMMARY

This bill repeals the requirement for informed consent for HIV testing and the requirement for counseling prior to testing and upon disclosure of the test results to the tested person effective January 1, 2008. The bill requires a health care provider to notify a person prior to HIV testing and to provide an opportunity for the person to decline the test by signing a written statement, which must be kept in the person's health care file. The bill requires oral and written information regarding HIV testing. The bill corrects cross-references to informed consent and counseling. The bill provides an effective date of January 1, 2008.