SENATE BILL 819

J1 7lr2775

By: **Senator Britt**
Introduced and read first time: February 16, 2007
Assigned to: Rules

A BILL ENTITLED

AN ACT concerning

HIV and AIDS – Consent for Testing and Guidelines

FOR the purpose of requiring a certain form of consent for HIV testing; authorizing substitute consent if an individual is unable to provide a certain form of consent for HIV testing; requiring the AIDS Administration to convene a certain workgroup to review certain Centers for Disease Control and Prevention recommendations relating to HIV and AIDS; requiring the AIDS Administration to report to the Governor and General Assembly on or before a certain date; defining certain terms; and generally relating to HIV and AIDS consent for testing and guidelines.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–336
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

18–336.

(a) (1) In this section the following words have the meanings indicated.

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW**.
[Brackets**]** indicate matter deleted from existing law.

(2) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome.

(3) "Health care provider" means a physician, nurse, or designee of a health care facility.

(b) Except as provided in Title 11, Subtitle 1, Part II of the Criminal Procedure Article or § 18–338.3 of this subtitle, before obtaining a fluid or tissue sample from the body of an individual for the purpose of testing the fluid or tissue for the presence of HIV infection, a health care provider shall:

(1) Obtain **[**written informed**]** consent from the individual **[**on a uniform HIV informed consent form that the Department shall develop consistent with the requirements of the Department as established by regulations adopted by the Department**]**; and

(2) Provide the individual with pretest counseling, including:

(i) Education about HIV infection and methods for preventing transmission;

(ii) Information about a physician's duty to warn; and

(iii) Assistance in accessing health care available to an individual who tests positive for the HIV infection.

(c) Refusal to consent to the HIV antibody test or a positive test result may not be used as the sole basis by an institution or laboratory to deny services or treatment.

(d) If the individual is unable to give **[**informed**]** consent, substitute consent may be given under § 5–605 of this article.

(e) A physician or physician's designee who obtains a positive result from an HIV antibody test conducted in accordance with the provisions of subsection (b) of this section shall:

(1) Notify the individual from whom the fluid or tissue sample was obtained of the positive result;

(2) Provide the individual with a copy of the Department's publication describing available counseling services;

(3) Counsel the individual to inform all sexual and needle–sharing partners of the individual's positive HIV status;

(4) Offer to assist in notifying the individual's sexual and needle–sharing partners; and

(5) If necessary, take action appropriate to comply with § 18–337 of this subtitle.

[(f) The informed consent document shall be distinct and separate from all other consent forms.

(g) A patient identifying number obtained from an anonymous and confidential test site which is approved by the Department of Health and Mental Hygiene may be evidence of a patient's informed consent in lieu of a patient's signature.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The AIDS Administration shall convene a workgroup of stakeholders who serve the HIV and AIDS population to review Centers for Disease Control and Prevention guidelines relating to the HIV and AIDS epidemic.

(2) For the purpose of this section, "stakeholders" include:

(i) Licensed physicians, hospitals, and other health care providers;

(ii) Academic medical institutions; and

(iii) HIV and AIDS advocacy organizations.

(b) The AIDS Administration shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before December 1, 2007, on changes made to HIV and AIDS related laws and regulations.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.