S T A T E O F N E W Y O R K

10183

I N A S S E M B L Y

May 16, 2016

Introduced by M. of A. GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to HIV testing; and to repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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

1. Except as provided in section three thousand one hundred twenty-one of the civil practice law and rules, or unless otherwise specifically authorized or required by a state or federal law, no person shall order the performance of an HIV related test without first having [received informed consent of] ADVISED the subject of the test who has capacity to consent or, when the subject lacks capacity to consent, [of] a person authorized pursuant to law to consent to health care for such individual, THAT AN HIV RELATED TEST IS BEING ORDERED OR PERFORMED, AND SHALL NOT ORDER OR PERFORM THE TEST IF CONSENT TO THE TEST IS REFUSED. [In order for there to be informed consent, the person ordering the test shall, prior to obtaining informed consent, at a minimum advise the protected individual that an HIV-related test is being performed.]

S 2. Subdivision 2 of section 2781 of the public health law is REPEALED.

S 3. Subdivision 1 of section 2781-a of the public health law, as added by chapter 308 of the laws of 2010, is amended to read as follows:

1. Every individual [between the ages] OVER THE AGE of thirteen [and sixty-four years] (or younger [or older] if there is evidence or indication of risk activity) who receives health services as an inpatient or in the emergency department of a general hospital defined in subdivision ten of section twenty-eight hundred one of this chapter or who receives primary care services in an outpatient department of such hospital or in a diagnostic and treatment center licensed under article twenty-eight of this chapter or from a physician, physician assistant, nurse practitioner, or midwife providing primary care shall be offered an HIV related

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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test unless the health care practitioner providing such services reasonably believes that (a) the individual is being treated for a life threatening emergency; or (b) the individual has previously been offered or has been the subject of an HIV related test (except that a test shall be offered if otherwise indicated); or (c) the individual lacks capacity to consent to an HIV related test.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law.