

# Massachusetts: Minors Can Now Consent to PrEP for HIV Prevention

## What You Need to Know

Massachusetts has a new law that allows sexually active minors (those under 18) to access HIV-prevention medication (PrEP) from a healthcare provider or health clinic without needing the consent of a parent or legal guardian.

LGBTQ youth and LGBTQ youth of color are at disproportionately increased risk for HIV. This law can be a game-changer in helping young people obtain a critical HIV prevention tool.

### The law:

- Allows sexually active minors to provide full, legal consent for HIV pre-exposure prophylaxis (PrEP) without the consent of a parent or legal guardian.
- Prohibits the disclosure of records related to the provision of PrEP to any person without the minor's written consent; and
- Shields healthcare providers from liability for prescribing PrEP to sexually active minors.

This law will support the health and well-being of young people in Massachusetts by ensuring they have access to our most potent tool to prevent HIV transmission. It assists both young people and healthcare providers by spelling out the authority to prescribe PrEP to sexually active minors in clear and unequivocal terms. This new law will move Massachusetts closer to the goal of zero new HIV cases

### Here are the basics you need to know:

## CONSENT

In order to permit minors to consent to PrEP, the legislature amended a long-standing law, Massachusetts General Law Chapter 112, Section 12F, that allows minors to consent to medical or dental *treatment* under certain circumstances without the consent or involvement of a parent or legal guardian. One of the circumstances in which a minor can consent to *treatment* is when they reasonably believe that they have come into contact

with a disease that the Department of Public Health has defined as “dangerous to the public health,” which includes HIV. Under this provision, minors have been able to consent to HIV testing and treatment without parental consent. The language of this statute long pre-dates the advent of PrEP and it was not broad enough to include preventative therapies.

The legislature simply added the phrase “prevention of HIV for sexually active minors” as a new basis for consent to care without the involvement of the parent or legal guardian. This language covers *any* HIV prevention therapy, including daily PrEP medication, long-acting injectable PrEP, or therapies to be developed in the future.

## **CONFIDENTIALITY FROM PARENTS AND OTHERS**

The same law that authorizes minors to consent to treatment and now HIV prevention therapy contains a strong and long-standing privacy provision. That provision means that information about receiving PrEP cannot be shared with anyone, including the minor’s parents, without the minor’s written consent.

The law states: “All information and records kept in connection with the medical or dental care of a minor who consents thereto in accordance with this section shall be confidential” and “shall not be released except upon the written consent of the minor or a proper judicial order.” The only exception to this provision is when the healthcare provider believes the “condition of said minor to be so serious that his life or limb is endangered,” which clearly does not apply to the provision of PrEP.

## **PROTECTION FROM LIABILITY FOR HEALTHCARE PROVIDERS**

Massachusetts General Law Chapter 112, Section 12F also has unequivocal language shielding providers from civil and criminal liability for not obtaining the consent of the parent or legal guardian if the healthcare provider relied in good faith upon the representations of the minor that they meet the criteria for consent in this statute. For purposes of the provision of PrEP, this simply means that a healthcare provider relied in good faith on a young person’s statement that they are sexually active.

Massachusetts General Law Chapter 112, Section 12F, prior to amendment [is on the state website](#). The legislative provision showing the amendments [is also available](#).

## **QUESTIONS**

If you have questions about the new law, please contact GLAD’s legal information line GLAD Answers at [www.GLADAnswers.org](http://www.GLADAnswers.org) or 800-455-GLAD.