



Legislative Affairs  
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## 2019 – 2020 Legislative Memorandum

**Subject: Relates to HIV post-exposure prophylaxis and other health care services for sexual assault victims  
S.2279 (Hoylman) / A.1204 (Peoples-Stokes)**

**Position: SUPPORT WITH RECOMMENDATION**

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Under current New York law, young people who are survivors of sexual assault are unable to access the medical care they need to avoid contracting human immunodeficiency virus (HIV). This puts young people at risk: youth ages 13 to 24 accounted for more than 1 in 5 new diagnoses of HIV in 2016.<sup>1</sup> And, unfortunately, far too many young people experience sexual assault.<sup>2</sup> New York must act swiftly to fix this gap in our law.

By requiring hospitals to provide the full course of HIV prophylaxis treatment, S.2279/A.1204 takes a critical step toward ensuring that sexual assault survivors are able to prevent HIV infection. The NYCLU supports this measure and recommends an amendment to make sure the bill works as intended.

To ensure that young sexual assault survivors can access healthcare services, New York allows mature minors to consent to post-sexual assault care, including HIV prophylaxis, and to receive this care confidentially.<sup>3</sup> Nevertheless, the current legal scheme prevents minors who are seeking post-sexual assault care from accessing the full post-exposure prophylaxis (PEP) 28-day regimen, leaving them vulnerable to contracting HIV.

New York Public Health Law only requires hospitals providing treatment to sexual assault survivors to have a 7-day PEP starter pack available on-site for all survivors of sexual assault, including minors.<sup>4</sup> Although New York state law authorizes the Office of Victim

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<sup>1</sup> Centers for Disease Control and Prevention, “HIV Among Youth,” April 20, 2018, *available at* <http://www.cdc.gov/hiv/group/age/youth/index.html>. (LGBTQ youth, particularly young men of color, are at the greatest risk, with young gay and bisexual males accounting for more than 8 in 10 HIV diagnoses among youth in 2016).

<sup>2</sup> For example, 2010, 28% of heterosexual female sexual assault survivors were 11 to 17 years old when they were first raped. The National Center for Victims of Crime, “Sexual Violence,” 2018, *available at* [https://ovc.ncjrs.gov/ncvrvw2018/info\\_flyers/fact\\_sheets/2018NCVVRW\\_SexualViolence\\_508\\_QC.pdf](https://ovc.ncjrs.gov/ncvrvw2018/info_flyers/fact_sheets/2018NCVVRW_SexualViolence_508_QC.pdf).

<sup>3</sup> See N.Y. Pub. Health Law § 2305(2) (McKinney); N.Y. C.P.L.R. 4510(a)(3) (McKinney 2017); *see also* N.Y. Pub. Health Law § 2504 (McKinney 2017).

<sup>4</sup> N.Y. Pub. Health Law § 2805-i (McKinney).

Services (OVS) to pay for medical expenses for sexual assault survivors,<sup>5</sup> the law puts minors in the untenable position of choosing to involve a parent or guardian to seek reimbursement from OVS, paying out of pocket – at a cost of \$600 to \$1000 for PEP treatment alone – or foregoing the full PEP treatment. Unfortunately, not all teens have healthy, safe family relationships, and some teens are unable or unwilling to involve their families after a sexual assault.<sup>6</sup> Studies show that teens will simply not seek sensitive health care services if their confidentiality is compromised or they are required to involve a parent.<sup>7</sup>

S.2279/A.1204 will enable sexual assault survivors to receive timely HIV preventive care by requiring treating hospitals to keep on site and make available to sexual assault survivors the full 28-day PEP regimen and by ensuring that OVS will automatically pay for the 28-day supply of PEP.

The NYCLU also strongly recommends that the bill be amended to better meet its goal. As currently drafted, S.2279/A.1204 retains the \$800 cap on OVS reimbursements to treating hospitals for post-sexual assault care. This cap threatens to impose a senseless financial burden on medical providers treating sexual assault survivors, given that the costs of PEP alone are \$600 to \$1000, and many sexual assault survivors require other forms of post-trauma care as well. The bill should be amended to remove the cap and permit OVS, in consultation with the Department of Health, to set appropriate reimbursement levels through regulation.

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The NYCLU supports the important aims of S.2279/A.1204, and urges lawmakers to amend and pass it to ensure that young people who experience sexual assault have timely, confidential access to HIV preventive care that could save their lives.

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<sup>5</sup> N.Y. Exec. Law § 626 (McKinney).

<sup>6</sup> See Stanley Henshaw and Kathryn Kost, “Parental Involvement in Minors’ Abortion Decisions,” 24 Fam. Plan. Persp. 196, 207 (1992).

<sup>7</sup> Jonathan Klein et al., “Access to medical care for adolescents: Results from the 1997 Commonwealth Fund Survey of the Health of Adolescent Girls,” 25 J. of Adolescent Health 120 (1999).