

SFA

BILL ANALYSIS

RECEIVED

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

AUG 21 1988

Senate Bill 827 (Substitute S-4 as reported)**Sponsor: Senator Jack Welborn****First Committee: Criminal Justice, Urban Affairs, and Economic Development****Second Committee: Health Policy**

Mich. State Law Library

Date Completed: 6-29-88**RATIONALE**

With the increased incidence of acquired immunodeficiency syndrome (AIDS) throughout society, many people are concerned that prisoners could be carrying the AIDS virus into the prison system. While there has been no evidence of transmission of AIDS through casual contact, many people in prisons have more than casual contact. Reportedly, there are instances of homosexuality and intravenous drug use, which are two of the most common means of AIDS transmittal, within the prison system. Those who are employed in prisons, as well as those who are confined in prisons, are concerned about controlling the spread of AIDS within correctional facilities. They believe that a counseling program should be implemented for prisoners who have been tested for the Human Immunodeficiency Virus (HIV), and that high-risk prisoners should be separated from the rest of the prison population.

CONTENT

The bill would amend the Department of Corrections (DOC) Act to require the DOC deputy director for the Bureau of Correctional Facilities to take steps to ensure that the health and safety of all prisoners and DOC personnel were protected; and that all prisoners who received HIV testing received counseling regarding AIDS and AIDS-related complex. The DOC, in conjunction with the Department of Public Health, would have to develop and implement a comprehensive AIDS education program to be conducted by the DOC's Bureau of Health Care Services, for both prisoners and staff, at each State correctional facility.

The DOC would have to establish procedures for the separation of prisoners from the general prison population who were known by the DOC either to be sexually active with other prisoners or to use drugs intravenously, either alone or with other prisoners.

MCL 791.267

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

As the AIDS virus infects more people, the risk of transmission increases. In a prison environment, the virus may be even more prevalent than in the general population. Reportedly, there have been a dozen deaths that resulted from AIDS within the State's corrections

system. In order to protect DOC staff and inmates from the spread of AIDS, the Department should implement an AIDS education and counseling program. By requiring education, counseling, and separation of those prisoners who would be most likely to transmit the virus, the bill would attempt to protect persons within a correctional facility from the spread of AIDS.

Opposing Argument

The bill does not go far enough. Testing of all new prisoners for the HIV should be mandatory, and could be done along with the other medical examinations that are conducted at the DOC reception center. Further, segregation, not just "procedures for the separation", of high-risk prisoners should be required to protect other prisoners and staff from the spread of AIDS.

Response: The DOC already has had some success with a voluntary AIDS testing program, and the bill would allow the DOC to continue with that program. Expanding the program to include mandatory testing of all new prisoners would not be cost-efficient. The DOC estimates that there would be about one positive test result for each 100 tests conducted. In addition, a one-time test could instill a false sense of security, because in the early stages, the HIV may not be detectable, yet can be present and later develop into AIDS.

Opposing Argument

Within a correctional facility, AIDS is not just a health issue, but also a safety and security issue. Reportedly, there have been instances of self-mutilation by AIDS-carrying prisoners, who then urge DOC employees to intercede so that the prisoner can use his or her blood as a "weapon". The bill should address this problem by requiring those prisoners to be segregated.

Legislative Analyst: P. Affholter

Fiscal Analyst: B. Burghard

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

S.B. 827 (6-29-88)