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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 827 (Substitute S-2)

Sponsor: Senator Jack Welborn

First Committee: Criminal Justice, Urban Affairs, and Economic Development

Second Committee: Health Policy

Date Completed: 6-21-88

SUMMARY OF SENATE BILL 827 (Substitute S-2):

The bill would amend the Department of Corrections (DOC) Act to require that, upon arrival at a DOC reception center, all convicted prisoners undergo a test for the Human Immunodeficiency Virus (HIV) or its antibody. If a prisoner's test were positive, or if he or she tested positive and were diagnosed as having acquired immunodeficiency syndrome (AIDS) or AIDS-related complex, the DOC deputy director for the Bureau of Correctional Facilities would have to take steps to ensure all of the following:

- That the health and safety of all prisoners and DOC personnel in a correctional facility were protected.
- That the HIV was not transmitted to other prisoners in the facility.
- That all prisoners who tested positive, or were diagnosed as having AIDS or AIDS-related complex, received counseling regarding AIDS and AIDS-related complex, including treatment, transmission, and protective measures.

The bill would require the DOC to implement an AIDS education program designed specifically for a correctional facility environment. The program would have 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 separate housing units for those prisoners who tested positive and were known by the DOC either to be sexually active with other prisoners or to use drugs intravenously; who were convicted of a felony involving criminal sexual conduct with a member of the same sex; or who were known by the Department to attempt to spread the HIV by spitting blood or other acts. Prisoners who tested positive also would be prohibited from working in a health facility.

In addition, the DOC would have to conduct a statistically valid survey of the prisoners in all State correctional facilities in order to determine the percentage of State prisoners who are infected with the HIV. Within two years after the bill's effective date, the Department would have to report to the Senate and House committees with jurisdiction over corrections issues. The report would have to cover the bill's testing

requirement, the DOC's managerial program, and the bill's overall effectiveness.

MCL 791.267

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would result in an indeterminate expenditure increase for the State in FY 1987-88 and FY 1988-89. The indeterminate increase would be the result of three primary factors:

- The date the bill would take effect during FY 1987-88.
- The number of individuals who were identified as having tested positive for the HIV and were active intravenous drug users, sexually active with other prisoners, known by the Department to spread or attempt to spread the HIV by spitting blood or other similar acts that may transmit the virus, or convicted of criminal sexual conduct with individuals of the same sex; who are not currently identified with certainty by the Department.
- The programmatic and security issues associated with separate housing for the prisoners described under point two above, which have not been assessed by the Department.

The testing of all individuals when they enter the State prison system would cost approximately \$5 per prisoner. For FY 1988-89, based on a projected new prison commitment rate of 11,000-13,000 individuals, the cost of testing would be \$55,000-65,000.

As of May 5, 1988, the Department had identified three cases of AIDS, 23 cases of AIDS-related complex and 46 prisoners who had tested positive for the HIV but exhibited no symptoms, for a total of 72 prisoners. Based on this number of prisoners, 0.3% of the Bureau of Correctional Facilities population as of April 13, 1988, and the fact the Department has not yet assessed the programmatic and security issues associated with providing separate housing units, an estimate of the fiscal impact of this aspect of the bill cannot be made at this time.

Fiscal Analyst: B. Burghardt

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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.