

Act No. 510  
Public Acts of 1988  
Approved by the Governor  
December 29, 1988  
Filed with the Secretary of State  
December 29, 1988

**STATE OF MICHIGAN  
84TH LEGISLATURE  
REGULAR SESSION OF 1988**

Introduced by Reps. Bender, Van Regenmorter, Willis Bullard, Bandstra, Fitzgerald, O'Connor, Strand  
and Hoffman

# **ENROLLED HOUSE BILL No. 4028**

AN ACT to amend the title and section 67 of Act No. 232 of the Public Acts of 1953, entitled as amended "An act to revise, consolidate, and codify the laws relating to probationers and probation officers as herein defined, to pardons, reprieves, commutations, and paroles, to the administration of penal institutions, correctional farms, and probation recovery camps, to prison labor and prison industries, and the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are hereby transferred; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," being section 791.267 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. The title and section 67 of Act No. 232 of the Public Acts of 1953, being section 791.267 of the Michigan Compiled Laws, is amended to read as follows:

## **TITLE**

An act to revise, consolidate, and codify the laws relating to probationers and probation officers as herein defined, to pardons, reprieves, commutations, and paroles, to the administration of penal institutions, correctional farms, and probation recovery camps, to prison labor and prison industries, and the supervision

and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are hereby transferred; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

Sec. 67. (1) Quarters for temporary confinement apart from those of regular inmates shall be provided for convicted prisoners upon commitment at each of the state correctional facilities, which the commission shall designate as a reception center. Within 60 days after the arrival of a convicted prisoner at such a state correctional facility, the classification committee shall make and complete a comprehensive study of the prisoner, including physical and psychiatric examinations, to ensure that the prisoner is confined in the state correctional facility suited to the type of rehabilitation required in his or her case. The warden of the state correctional facility shall deliver a report of the study of the classification committee to the deputy director in charge of the bureau of correctional facilities, who shall, within 5 days after receipt of the report, execute an order to confine the prisoner in the state correctional facility determined as suitable by the deputy director.

(2) Immediately upon arrival at a reception center designated pursuant to subsection (1), each incoming prisoner shall undergo a test for HIV or an antibody to HIV. This subsection shall not apply if an incoming prisoner has been tested for HIV or an antibody to HIV under section 5129 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.5129 of the Michigan Compiled Laws, within the 3 months immediately preceding the date of the prisoner's arrival at the reception center, as indicated by the record transferred to the department by the court under that section.

(3) If a prisoner receives a positive test result, and is subsequently subject to discipline by the department for sexual misconduct that could transmit HIV, illegal intravenous use of controlled substances, or assaultive or predatory behavior that could transmit HIV, the department shall house that prisoner in administrative segregation, an inpatient health care unit, or a unit separate from the general prisoner population, as determined by the department.

(4) The department shall report each positive test result to the department of public health.

(5) If an employee of the department is exposed to the blood or body fluid of a prisoner by that prisoner in a manner that could transmit HIV, the prisoner shall be tested for HIV or an antibody to HIV. If the prisoner refuses to undergo the test, he or she shall be considered by the department to be HIV positive.

(6) Upon the request of an employee of the department, the department shall provide or arrange for a test for HIV or an antibody to HIV for that employee, free of charge.

(7) Upon the request of an employee of the department, the department shall provide to that employee the equipment necessary to implement universal precautions to prevent transmission of HIV infection.

(8) A prisoner who receives a positive HIV test result or who is considered by the department to be HIV positive pursuant to this section shall not work in a health facility operated by the department.

(9) The department shall conduct a seroprevalence study of the prisoners in all state correctional facilities to determine the percentage of prisoners who are HIV infected.

(10) The results of a test for HIV or an antibody to HIV conducted under this section shall be disclosed by the department only to persons who demonstrate to the department a need to know the test results, and as otherwise provided in subsection (4).

(11) The deputy director in charge of the bureau of correctional facilities shall take steps to ensure that all prisoners who receive HIV testing receive counseling regarding acquired immunodeficiency syndrome and acquired immunodeficiency syndrome related complex, including, at a minimum, treatment, transmission, and protective measures.

(12) The department, in conjunction with the department of public health, shall develop and implement a comprehensive AIDS education program designed specifically for correctional environments. The program shall be conducted by the bureau within the department responsible for health care, for staff and for prisoners at each state correctional facility.

(13) Two years after the effective date of the amendatory act that added this subsection, the department shall submit a report regarding the testing component, managerial aspects, and effectiveness of subsections (2) to (12) to the senate and house committees with jurisdiction over matters pertaining to corrections, and to the senate and house committees with jurisdiction over matters pertaining to public health.

(14) As used in this section:

(a) "AIDS" means acquired immunodeficiency syndrome.

(b) "HIV" means human immunodeficiency virus.

(c) "Positive test result" means a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive test under an HIV test that is considered reliable by the federal centers for disease control and is approved by the department of public health.

Section 2. This amendatory act shall take effect January 1, 1989.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved .....

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Governor.