



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5881 (as reported without amendment)
Sponsor: Representative David N. Galloway
House Committee: Health Policy
Senate Committee: Health Policy and Senior Citizens

CONTENT

The bill would amend the Department of Corrections law to allow Department of Corrections (DOC) employees who sustained a percutaneous, mucous membrane, or open wound exposure to the blood or body fluid of a prisoner to request that the prisoner be tested for HIV infection or hepatitis B (HBV) infection, or both. Requests would have to be made to the DOC on a form provided by the Department within 72 hours after the exposure had occurred. (The Department would be required to develop and distribute these forms.) The request form could not contain information that would identify the prisoner.

When the DOC received a request from an employee for the testing of a prisoner, it would have to determine whether there was reasonable cause to believe that the exposure described in the request had occurred; and if it was a percutaneous, mucous membrane, or open wound exposure pursuant to administrative rules. If the DOC determined that the exposure had occurred, it would be required to test the prisoner for HIV infection, HBV infection, or both, as indicated in the request. The DOC could test a prisoner under the bill whether or not the prisoner consented to the test and would not be required either to give the prisoner an opportunity for a hearing or to obtain a court order before administering the test.

The DOC would have to notify the requesting employee of the test results, whether positive or negative, within two days after obtaining the results. (The DOC also would be required to notify the Department of Community Health of each positive HIV test result.) The notification to the employee would have to be transmitted directly to the employee, unless he or she had requested that the results be sent to his or her primary care physician or to another designated health professional. The notice could not contain information that would identify the prisoner; information contained in the notice would be confidential and subject to the bill's provisions and the confidentiality provisions of the Public Health Code and rules promulgated under the Code. Anyone who disclosed information in violation of the bill would be guilty of a misdemeanor, in addition to being subject to penalties prescribed in the Code or in administrative rules.

MCL 791.267 et al.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill is likely to have little or no fiscal impact on the Department of Corrections. Currently, all incoming prisoners are tested for HIV, and when employees are exposed to the blood or body fluids of a prisoner in a manner that could transmit HIV, the prisoner either is tested or if the prisoner refuses, is considered HIV positive. In addition, upon request, employees are able to receive an HIV test free of charge.

Date Completed: 11-27-96

Fiscal Analyst: M. Hansen

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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.