

# HOUSE BILL No. 4131

February 1, 2005, Introduced by Rep. Mortimer and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending section 67 (MCL 791.267), as amended by 1996 PA 565,  
and by adding section 67c.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 67. (1) Quarters for temporary confinement apart from  
2       those of regular inmates shall be provided for convicted prisoners  
3       upon commitment at each of the state correctional facilities, which  
4       the director shall designate as a reception center. Within 60 days  
5       after the arrival of a convicted prisoner at such a state  
6       correctional facility, the classification committee shall make and  
7       complete a comprehensive study of the prisoner, including physical

1 and psychiatric examinations, to ensure that the prisoner is  
2 confined in the state correctional facility suited to the type of  
3 rehabilitation required in his or her case. The warden of the state  
4 correctional facility shall deliver a report of the study of the  
5 classification committee to the deputy director of the correctional  
6 facilities administration, who shall, within 5 days after receipt  
7 of the report, execute an order to confine the prisoner in the  
8 state correctional facility determined as suitable by the deputy  
9 director.

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

20 (3) If a prisoner receives a positive test result, ~~and is~~  
21 ~~subsequently subject to discipline by the department for sexual~~  
22 ~~misconduct that could transmit HIV, illegal intravenous use of~~  
23 ~~controlled substances, or assaultive or predatory behavior that~~  
24 ~~could transmit HIV,~~ the department shall house that prisoner ~~in~~  
25 ~~administrative segregation, an inpatient health care unit, or a~~  
26 ~~unit separate from the general prisoner population, as determined~~  
27 ~~by the department~~ **AS PROVIDED IN SECTION 67C.**

1 (4) The department shall report each positive test result to  
2 the department of community health, in compliance with section 5114  
3 of ~~Act No. 368 of the Public Acts of 1978, being section 333.5114~~  
4 ~~of the Michigan Compiled Laws~~ **THE PUBLIC HEALTH CODE, 1978 PA 368,**  
5 **MCL 333.5114.**

6 (5) If an employee of the department sustains a percutaneous,  
7 mucous membrane, or open wound exposure to the blood or body fluid  
8 of a prisoner, the employee may, and the department shall, proceed  
9 under section 67b.

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

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

17 (8) A prisoner who receives a positive HIV test result under  
18 subsection (5) shall not work in a health facility operated by the  
19 department.

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

23 (10) The results of a test for HIV or an antibody to HIV  
24 conducted under this section shall be disclosed by the department  
25 pursuant to section 67b.

26 (11) The deputy director of the correctional facilities  
27 administration shall take steps to ensure that all prisoners who

1 receive HIV testing receive counseling regarding AIDS including, at  
2 a minimum, treatment, transmission, and protective measures.

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

9 ~~(13) By March 30, 1991, the department shall submit a report~~  
10 ~~regarding the testing component, managerial aspects, and~~  
11 ~~effectiveness of subsections (2) to (12) to the senate and house~~  
12 ~~committees with jurisdiction over matters pertaining to~~  
13 ~~corrections, and to the senate and house committees with~~  
14 ~~jurisdiction over matters pertaining to public health.~~

15 (13) ~~-(14)-~~ As used in this section:

16 (a) "AIDS" means acquired immunodeficiency syndrome.

17 (b) "HIV" means human immunodeficiency virus.

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

23 **SEC. 67C. (1) ANY PRISONER WHO RECEIVES A POSITIVE TEST RESULT**  
24 **FOR HIV, HEPATITIS B, HEPATITIS C, OR A COMMUNICABLE DISEASE OR**  
25 **INFECTION THAT THE DEPARTMENT DETERMINES IS A DANGEROUS OR DEADLY**  
26 **COMMUNICABLE DISEASE OR INFECTION SHALL BE HOUSED IN ADMINISTRATIVE**  
27 **SEGREGATION, AN INPATIENT HEALTH CARE UNIT, OR A UNIT SEPARATE FROM**

1 THE GENERAL PRISON POPULATION, AS DETERMINED BY THE DEPARTMENT.

2 (2) A PRISONER HOUSED AS PROVIDED IN SUBSECTION (1) SHALL NOT  
3 BE HOUSED WITH THE GENERAL PRISONER POPULATION UNTIL HE OR SHE NO  
4 LONGER SHOWS A POSITIVE TEST RESULT FOR A DISEASE OR INFECTION  
5 DESCRIBED IN SUBSECTION (1).

6 (3) AS USED IN THIS SECTION, "HIV" MEANS THAT TERM AS DEFINED  
7 IN SECTION 67.