

By the Committee on Corrections and Representatives Hill
and Wilson

1 A bill to be entitled
2 An act relating to the testing of inmates for
3 HIV; creating ss. 944.6025 and 957.055, F.S.;
4 defining the term "HIV test"; requiring the
5 Department of Corrections and contractors
6 operating private correctional facilities under
7 the Correctional Privatization Commission to
8 perform HIV testing on inmates following
9 admission to a correctional facility and upon
10 the request of a physician; requiring certain
11 recordkeeping; requiring that an HIV test be
12 performed before an inmate is released;
13 requiring provision of additional services
14 prior to an inmate's release; requiring
15 notification of the county health department
16 where the inmate will reside when an inmate who
17 has received a positive HIV test result is
18 released unexpectedly; limiting access to HIV
19 test results; requiring the Department of
20 Corrections to conduct a study of random HIV
21 testing of inmates; requiring a report;
22 providing an effective date.

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24 WHEREAS, HIV and AIDS infections are one of the state's
25 most critical challenges, with Florida having the third
26 highest number of AIDS cases in the nation and the second
27 highest number of pediatric AIDS cases, and

28 WHEREAS, the prevalence of HIV and AIDS cases in the
29 state's prisons exceed the prevalence of HIV and AIDS in the
30 general population, and

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1 WHEREAS, between 1989 and 1997, death due to AIDS
2 accounted for over half of inmate deaths in the state's
3 prisons, and

4 WHEREAS, recent advances in treatment for HIV and AIDS
5 can potentially reduce the number of opportunistic infections
6 and associated medical costs and delay the onset of death due
7 to the disease, and

8 WHEREAS, referral to appropriate medical and social
9 services upon the release of an inmate can play a crucial role
10 in the treatment, care, and secondary prevention efforts, NOW,
11 THEREFORE,

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 944.6025, Florida Statutes, is
16 created to read:

17 944.6025 HIV testing of inmates.--

18 (1) As used in this section, the term "HIV test" means
19 a test ordered to determine the presence of the antibody or
20 antigen to human immunodeficiency virus or the presence of
21 human immunodeficiency virus infection. Testing shall conform
22 to the standards established in s. 381.004(3).

23 (2)(a) Within 30 days following the admission of an
24 inmate to a correctional facility, the Department of
25 Corrections shall perform an HIV test on the inmate. All
26 inmates testing negative shall be tested again within 180
27 days. The test records and the results of the HIV tests shall
28 be placed in the inmate's medical record.

29 (b) The department shall also perform an HIV test on
30 an inmate upon the request of a physician.

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1 (3) The department shall perform an HIV test on an
2 inmate before the inmate is released by reason of parole,
3 accumulation of gain-time allowances, or expiration of
4 sentence, unless the inmate has undergone an HIV test within
5 the previous 60 days or is known to be HIV-positive as a
6 result of a previous test. The department shall record the
7 results of the HIV test in the inmate's medical record.

8 (4) Prior to the release of an inmate who has received
9 a positive HIV test result, the department shall provide
10 special transitional assistance to the inmate, which includes:

11 (a) Education on preventing the transmission of HIV
12 and on the importance of receiving followup care and
13 treatment.

14 (b) A written, individualized discharge plan that
15 links the inmate to local HIV primary care services in the
16 area where the inmate will reside.

17 (c) A 30-day supply of all medicines the inmate is
18 taking at the time of release.

19 (5) If an inmate who has received a positive HIV test
20 result is released pursuant to an emergency court order or
21 other unexpected action, the department shall immediately
22 notify the county health department in the county where the
23 inmate will reside following release, in order to ensure the
24 continuance of care and other services.

25 (6) The results of HIV tests pursuant to this section
26 shall be accessible only to persons designated by agency rule
27 and shall be exempt from the provisions of s. 119.07(1) and s.
28 24(a), Art. I of the State Constitution.

29 Section 2. Section 957.055, Florida Statutes, is
30 created to read:

31 957.055 HIV testing of inmates.--

1 (1) As used in this section, the term "HIV test" means
2 a test ordered to determine the presence of the antibody or
3 antigen to human immunodeficiency virus or the presence of
4 human immunodeficiency virus infection. Testing shall conform
5 to the standards established in s. 381.004(3).

6 (2)(a) Within 30 days following the initial assignment
7 or transfer of an inmate to a private correctional facility,
8 the contractor operating the private correctional facility
9 shall perform an HIV test on the inmate. All inmates testing
10 negative shall be tested again within 180 days. The test
11 records and the results of the HIV tests shall be placed in
12 the inmate's medical record.

13 (b) The contractor shall also perform an HIV test on
14 an inmate upon the request of a physician.

15 (3) The contractor shall perform an HIV test on an
16 inmate before the inmate is released by reason of parole,
17 accumulation of gain-time allowances, or expiration of
18 sentence, unless the inmate has undergone an HIV test within
19 the previous 60 days or is known to be HIV-positive as a
20 result of a previous test. The contractor shall record the
21 results of the HIV test in the inmate's medical record.

22 (4) Prior to the release of an inmate who has received
23 a positive HIV test result, the contractor shall provide
24 special transitional assistance to the inmate, which includes:

25 (a) Education on preventing the transmission of HIV
26 and on the importance of receiving followup care and
27 treatment.

28 (b) A written, individualized discharge plan that
29 links the inmate to local HIV primary care services in the
30 area where the inmate will reside.

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1 (c) A 30-day supply of all medicines the inmate is
2 taking at the time of release.
3 (5) If an inmate who has received a positive HIV test
4 result is released pursuant to an emergency court order or
5 other unexpected action, the contractor shall immediately
6 notify the county health department in the county where the
7 inmate will reside following release, in order to ensure the
8 continuance of care and other services.
9 (6) The results of HIV tests pursuant to this section
10 shall be accessible only to persons designated by agency rule
11 and shall be exempt from the provisions of s. 119.07(1) and s.
12 24(a), Art. I of the State Constitution.
13 Section 3. The Department of Corrections shall conduct
14 a study of the benefits of random HIV testing of inmates in
15 correctional facilities and report findings and
16 recommendations from this study to the Speaker of the House of
17 Representatives and the President of the Senate by February 1,
18 2000.
19 Section 4. This act shall take effect July 1, 1999.
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