

By Representative 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 tests on inmates prior to an  
9           inmate's release; authorizing HIV testing of  
10          inmates upon the request of a physician;  
11          requiring certain recordkeeping; requiring  
12          provision of additional services prior to an  
13          inmate's release; requiring notification of the  
14          county health department where the inmate will  
15          reside when an inmate who has received a  
16          positive HIV test result is released  
17          unexpectedly; limiting access to HIV test  
18          results; providing an effective date.

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20           WHEREAS, HIV and AIDS infections are one of the state's  
21          most critical challenges, with Florida having the third  
22          highest number of AIDS cases in the nation and the second  
23          highest number of pediatric AIDS cases, and

24           WHEREAS, the prevalence of HIV and AIDS cases in the  
25          state's prisons exceed the prevalence of HIV and AIDS in the  
26          general population, and

27           WHEREAS, between 1989 and 1997, death due to AIDS  
28          accounted for over half of inmate deaths in the state's  
29          prisons, and

30           WHEREAS, recent advances in treatment for HIV and AIDS  
31          can potentially reduce the number of opportunistic infections

1 and associated medical costs and delay the onset of death due  
2 to the disease, and

3 WHEREAS, referral to appropriate medical and social  
4 services upon the release of an inmate can play a crucial role  
5 in the treatment, care, and secondary prevention efforts, NOW,  
6 THEREFORE,

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

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10 Section 1. Section 944.6025, Florida Statutes, is  
11 created to read:

12 944.6025 HIV testing of inmates.--

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

18 (2) The department shall perform an HIV test on an  
19 inmate before the inmate is released by reason of parole,  
20 accumulation of gain-time allowances, or expiration of  
21 sentence, unless the inmate has undergone an HIV test within  
22 the previous 60 days or is known to be HIV-positive as a  
23 result of a previous test. The department is authorized to  
24 perform an HIV test on an inmate upon the request of a  
25 physician. The department shall record the results of an HIV  
26 test in the inmate's medical record.

27 (3) Prior to the release of an inmate who has received  
28 a positive HIV test result, the department shall provide  
29 special transitional assistance to the inmate, which includes:  
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1       (a) Education on preventing the transmission of HIV  
2 and on the importance of receiving followup care and  
3 treatment.

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

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

9       (4) If an inmate who has received a positive HIV test  
10 result is released pursuant to an emergency court order or  
11 other unexpected action, the department shall immediately  
12 notify the county health department in the county where the  
13 inmate will reside following release, in order to ensure the  
14 continuance of care and other services.

15       (5) The results of HIV tests pursuant to this section  
16 shall be accessible only to persons designated by department  
17 rule and shall be exempt from the provisions of s. 119.07(1)  
18 and s. 24(a), Art. I of the State Constitution.

19       Section 2. Section 957.055, Florida Statutes, is  
20 created to read:

21       957.055 HIV testing of inmates.--

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

27       (2) The contractor shall perform an HIV test on an  
28 inmate before the inmate is released by reason of parole,  
29 accumulation of gain-time allowances, or expiration of  
30 sentence, unless the inmate has undergone an HIV test within  
31 the previous 60 days or is known to be HIV-positive as a

1 result of a previous test. The contractor is authorized to  
2 perform an HIV test on an inmate upon the request of a  
3 physician. The contractor shall record the results of an HIV  
4 test in the inmate's medical record.

5 (3) Prior to the release of an inmate who has received  
6 a positive HIV test result, the contractor shall provide  
7 special transitional assistance to the inmate, which includes:

8 (a) Education on preventing the transmission of HIV  
9 and on the importance of receiving followup care and  
10 treatment.

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

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

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

22 (5) The results of HIV tests pursuant to this section  
23 shall be accessible only to persons designated by Department  
24 of Corrections rule and shall be exempt from the provisions of  
25 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

26 Section 3. This act shall take effect July 1, 2001.  
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HOUSE SUMMARY

Requires that the Department of Corrections and contractors operating private correctional facilities under the Correctional Privatization Commission perform an HIV test before an inmate is released. Requires that an inmate who has received a positive HIV test be provided with educational services, a discharge plan, and medications prior to release. Requires the Department of Corrections and contractors operating private correctional facilities under the Correctional Privatization Commission to notify the county health department where the inmate will reside when an inmate who has received a positive HIV test result is released pursuant to an emergency order or other unexpected action. Limits access to test results.