

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1957

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4  
5  
6 AS INTRODUCED

7 An Act relating to corrections; creating the Stop  
8 AIDS in Prison Act; providing short title; requiring  
9 the Department of Corrections to develop an HIV/AIDS  
10 testing, treatment and prevention policy; stating  
11 purpose of act; directing promulgation of certain  
12 rules by certain date; requiring certain testing,  
13 counseling, prevention education, and treatment  
14 within certain times; protecting confidentiality;  
15 allowing inmate to request certain testing; requiring  
16 testing, counseling and referral for services prior  
17 to release from prison; providing for opt out for  
18 certain testing; requiring testing under exposure  
19 incident; disallowing opt-out for certain test under  
20 exposure incident; requiring certain documentation of  
21 exposure in inmate records; requiring the Department  
22 of Corrections to make certain reports; providing  
23 content of certain reports; providing for  
24 codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 630 of Title 57, unless there is  
21 created a duplication in numbering, reads as follows:

22 This act shall be known and may be cited as the "Stop AIDS in  
23 Prison Act".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 630.1 of Title 57, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. The Department of Corrections shall develop a comprehensive  
5 policy to provide HIV/AIDS testing, treatment, and prevention for  
6 inmates within the custody of the Department and in preparation for  
7 reentry into the community.

8 B. The purposes of this act shall be to:

9 1. Stop the spread of HIV/AIDS among inmates;

10 2. Protect correction officers and other personnel from  
11 HIV/AIDS infection;

12 3. Provide comprehensive medical treatment to inmates who are  
13 diagnosed with HIV or AIDS;

14 4. Promote HIV/AIDS awareness and prevention among inmates;

15 5. Encourage inmates to take personal responsibility for their  
16 health; and

17 6. Reduce the risk that inmates will transmit HIV/AIDS to other  
18 persons in the community following their release from prison.

19 C. The Department shall consult with appropriate officials of  
20 the State Department of Health to develop policy and promulgate  
21 rules necessary to implement the provisions of this act. The  
22 Department shall prepare and promulgate rules necessary to implement  
23 the provision of this act not later than November 1, 2009.

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1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 630.2 of Title 57, unless there  
3 is created a duplication in numbering, reads as follows:

4 The Department of Corrections shall ensure:

5 1. TESTING AND COUNSELING UPON INTAKE:

- 6 a. medical personnel shall provide routine HIV testing to  
7 all inmates as a part of a comprehensive medical  
8 examination immediately following reception and  
9 admission to a facility. Medical personnel need not  
10 provide routine HIV testing to an inmate who is  
11 transferred to a facility from another facility if the  
12 inmate's medical records are transferred with the  
13 inmate and indicate that the inmate has been  
14 previously tested,
- 15 b. for all inmates admitted to a facility prior to the  
16 effective date of this act, medical personnel shall  
17 provide routine HIV testing within six (6) months of  
18 the effective date of this act. HIV testing for such  
19 inmates may be performed in conjunction with other  
20 health services provided to the inmate by medical  
21 personnel, and
- 22 c. all HIV tests required pursuant to this act shall  
23 comply with the provisions stated in this act for opt-  
24 out;

1           2.   PRE-TEST AND POST-TEST COUNSELING:

2           Medical personnel shall provide pre-test and post-test  
3 Information to all inmates tested for HIV/AIDS, and shall provide  
4 confidential counseling to all inmates who test positive for HIV or  
5 AIDS.   Counseling may be included with other general health  
6 counseling provided to inmates by medical personnel.

7           3.   HIV/AIDS PREVENTION EDUCATION:

- 8           a.   medical personnel shall improve HIV/AIDS awareness  
9           through frequent educational programs for all inmates.  
10           HIV/AIDS educational programs may be provided by  
11           community based organizations, local health  
12           departments, and inmate peer educators.   The HIV/AIDS  
13           educational programs shall include information on  
14           modes of transmission, including transmission through  
15           tattooing, sexual contact, and intravenous drug use;  
16           prevention methods; treatment; and disease  
17           progression.   HIV/AIDS educational programs shall be  
18           culturally sensitive, conducted in a variety of  
19           languages, and present scientifically accurate  
20           information in a clear and understandable manner, and  
21           b.   HIV/AIDS educational materials shall be made available  
22           to all inmates at reception, health care clinics,  
23           regular educational programs, and prior to release.  
24           HIV/AIDS educational materials shall be available in

1 both written and audio-visual media. Such materials  
2 in addition to being culturally sensitive shall be  
3 written for low literacy levels, and available in a  
4 variety of languages.

5 4. HIV TESTING UPON REQUEST:

6 a. medical personnel shall allow inmates to obtain HIV  
7 tests upon request once per year or whenever an  
8 inmate has a reason to believe the inmate may have  
9 been exposed to HIV. Medical personnel shall, both  
10 orally and in writing, inform inmates, during  
11 orientation and periodically throughout  
12 incarceration, of the right to obtain HIV tests,

13 b. medical personnel shall encourage inmates to request  
14 HIV tests if the inmate is sexually active, has been  
15 raped, uses intravenous drugs, receives a tattoo, or  
16 if the inmate is concerned that the inmate may have  
17 been exposed to HIV/AIDS, and

18 c. an inmate's request for an HIV test shall not be  
19 considered an indication that the inmate has been  
20 placed at risk of infection or has committed a crime  
21 or any violation of prison rules.

22 5. HIV TESTING OF PREGNANT WOMAN:

23 a. medical personnel shall provide routine HIV testing to  
24 all inmates who become pregnant, and

1           b. all HIV tests under this paragraph shall comply with  
2           the provisions of this act for opt-out.

3       6. COMPREHENSIVE TREATMENT:

4           a. medical personnel shall provide all inmates who test  
5           positive for HIV:

6               (1) timely, comprehensive medical treatment,

7               (2) confidential counseling on managing their medical  
8               condition and prevention of transmission to other  
9               persons, and

10              (3) voluntary partner notification services;

11           b. medical care provided under this paragraph shall be  
12           consistent with current State Department of Health  
13           guidelines and standard medical practice. Medical  
14           personnel shall discuss treatment options, the  
15           importance of adherence to antiretroviral therapy, and  
16           the side effects of medications with inmates receiving  
17           treatment,

18           c. medical and pharmacy personnel shall ensure that the  
19           facility formulary contains all Food and Drug  
20           Administration-approved medications necessary to  
21           provide comprehensive treatment for inmates diagnosed  
22           with HIV or AIDS, and that the facility maintains  
23           adequate supplies of such medications to meet inmate  
24           medical needs. Medical and pharmacy personnel shall

1 also develop and implement automatic renewal systems  
2 for these medications to prevent interruptions in care  
3 and treatment, and

- 4 d. correctional staff and medical and pharmacy personnel  
5 shall develop and implement distribution procedures to  
6 ensure timely and confidential access to medications  
7 for HIV and AIDS;

8 7. PROTECTION OF CONFIDENTIALITY:

- 9 a. medical personnel shall develop and implement  
10 procedures to ensure the confidentiality of inmate  
11 tests, diagnoses, and treatment. Medical personnel  
12 and correctional staff shall receive regular training  
13 on the implementation of confidential procedures.  
14 Penalties for violations of inmate confidentiality by  
15 medical personnel or correctional staff shall be  
16 specified and strictly enforced, except as authorized  
17 by law for dissemination of HIV or AIDS information  
18 within the prison population and personnel by the  
19 Department of Corrections, and
- 20 b. HIV testing, counseling, and treatment shall be  
21 provided in a confidential setting where other routine  
22 health services are provided and in a manner that  
23 allows the inmate to request and obtain these services  
24 as routine medical services;

1 8. TESTING, COUNSELING, AND REFERRAL PRIOR TO REENTRY:

2 a. medical personnel shall provide routine HIV testing to  
3 all inmates not more than three (3) months prior to  
4 their release and reentry into the community. Inmates  
5 who are already known to be infected need not be  
6 tested again. This requirement may be waived if an  
7 inmate's release occurs without sufficient notice to  
8 medical personnel to allow for a routine HIV test and  
9 notification to the inmate of the results,

10 b. all HIV tests performed under the provision of this  
11 paragraph shall comply with the provision of the act  
12 for opt-out, and

13 c. for all inmates who test positive for HIV and all  
14 inmates who already are known to have HIV/AIDS,  
15 medical personnel shall provide:

16 (1) confidential prerelease counseling on managing  
17 their medical condition in the community,  
18 accessing appropriate treatment and services in  
19 the community, and preventing the transmission of  
20 their condition to family members and other  
21 persons in the community,

22 (2) referrals to appropriate health care providers  
23 and social service agencies in the community that  
24 meet the inmate's individual needs, including

1 voluntary partner notification services and  
2 prevention counseling services for people living  
3 with HIV/AIDS, and

4 (3) a thirty (30) day supply of any medically  
5 necessary medications the inmate is currently  
6 receiving;

7 9. OPT-OUT PROVISION:

8 Inmates shall have the right to refuse routine HIV testing.

9 Inmates shall be informed both orally and in writing of this right.

10 Oral and written disclosure of this right may be included with other

11 general health information and counseling provided to inmates by

12 medical personnel. If an inmate refuses a routine test for HIV,

13 medical personnel shall make a note of such refusal in the inmate's

14 confidential medical records. However, the inmate's refusal shall

15 not be considered a violation of prison rules or result in

16 disciplinary action.

17 10. EXPOSURE INCIDENT TESTING:

18 The Department may perform HIV testing of an inmate who is

19 involved in an exposure incident. This test shall not require the

20 inmate's consent nor allow for opt-out. Medical personnel shall

21 document the reason for exposure incident testing in the inmate's

22 confidential medical records.

23 11. TIMELY NOTIFICATION OF TEST RESULTS:

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1 Medical personnel shall provide timely notification to inmates  
2 and appropriate personnel of the Department as authorized by law of  
3 the results of HIV tests.

4 SECTION 4. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 630.3 of Title 57, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. Not later than November 1, 2009, the Department of  
8 Corrections shall provide a report to the Legislature on policies  
9 and procedures to provide testing, treatment, and prevention  
10 education programs for hepatitis and other diseases transmitted  
11 through sexual activity and intravenous drug use. The Department  
12 shall consult with appropriate officials of the State Department of  
13 Health regarding the development of the reports required in this  
14 section.

15 B. Not later than November 1, 2010, and annually thereafter,  
16 the Department of Corrections shall report to the Legislature on the  
17 incidence among inmates of diseases transmitted through sexual  
18 activity and intravenous drug use.

19 C. Reports pursuant to subsection B of this section shall  
20 discuss:

21 1. The incidence among inmates of HIV/AIDS, hepatitis, and  
22 other diseases transmitted through sexual activity and intravenous  
23 drug use;

24

1        2. Updates on Department testing, treatment, and prevention  
2 education programs for these diseases;

3        3. The number of inmates who tested positive for HIV upon  
4 intake;

5        4. The number of inmates who tested positive prior to reentry;

6        5. The number of inmates who were not tested prior to reentry  
7 because they were released without sufficient notice;

8        6. The number of inmates who opted-out of taking the test;

9        7. The number of inmates who were tested following exposure  
10 incidents; and

11       8. The number of inmates under treatment for HIV/AIDS.

12       SECTION 5. This act shall become effective November 1, 2008.

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