

Union Calendar No. 213

110TH CONGRESS
1ST SESSION

H. R. 1943

[Report No. 110-342]

To provide for an effective HIV/AIDS program in Federal prisons.

IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2007

Ms. WATERS (for herself, Mr. CONYERS, Mr. SMITH of Texas, Mr. SCOTT of Virginia, Mr. FORBES, Ms. LEE, and Mrs. CHRISTENSEN) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 24, 2007

Additional sponsors: Mr. CUMMINGS, Mr. WATT, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. PAYNE, Mr. CLAY, Mr. GRIJALVA, Ms. CORRINE BROWN of Florida, Mr. COHEN, Ms. WOOLSEY, Mr. JOHNSON of Georgia, Mr. WYNN, Ms. SOLIS, Mr. GUTIERREZ, Mr. MEEKS of New York, Ms. CLARKE, Ms. NORTON, Mr. JEFFERSON, Ms. JACKSON-LEE of Texas, Mr. AL GREEN of Texas, Mr. HASTINGS of Florida, Mr. STARK, Mr. HONDA, Ms. CASTOR, Mr. RUSH, Mr. NADLER, Mr. RANGEL, Mr. FORTUÑO, Mr. JACKSON of Illinois, Mr. BUTTERFIELD, Ms. CARSON, Mr. ELLISON, Mr. THOMPSON of Mississippi, Ms. WATSON, Mrs. JONES of Ohio, Mr. MCGOVERN, and Mrs. MALONEY of New York

SEPTEMBER 24, 2007

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To provide for an effective HIV/AIDS program in Federal
prisons.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop AIDS in Prison
5 Act of 2007”.

6 **SEC. 2. COMPREHENSIVE HIV/AIDS POLICY.**

7 (a) IN GENERAL.—The Bureau of Prisons (herein-
8 after in this Act referred to as the “Bureau”) shall develop
9 a comprehensive policy to provide HIV testing, treatment,
10 and prevention for inmates within the correctional setting
11 and upon reentry.

12 (b) PURPOSE.—The purposes of this policy shall be
13 as follows:

14 (1) To stop the spread of HIV/AIDS among in-
15 mates.

16 (2) To protect prison guards and other per-
17 sonnel from HIV/AIDS infection.

18 (3) To provide comprehensive medical treat-
19 ment to inmates who are living with HIV/AIDS.

20 (4) To promote HIV/AIDS awareness and pre-
21 vention among inmates.

22 (5) To encourage inmates to take personal re-
23 sponsibility for their health.

1 (6) To reduce the risk that inmates will trans-
2 mit HIV/AIDS to other persons in the community
3 following their release from prison.

4 (c) CONSULTATION.—The Bureau shall consult with
5 appropriate officials of the Department of Health and
6 Human Services, the Office of National Drug Control Pol-
7 icy, and the Centers for Disease Control regarding the de-
8 velopment of this policy.

9 (d) TIME LIMIT.—The Bureau shall draft appro-
10 priate regulations to implement this policy not later than
11 1 year after the date of the enactment of this Act.

12 **SEC. 3. REQUIREMENTS FOR POLICY.**

13 The policy created under section 2 shall do the fol-
14 lowing:

15 (1) TESTING AND COUNSELING UPON IN-
16 TAKE.—

17 (A) Medical personnel shall provide routine
18 HIV testing to all inmates as a part of a com-
19 prehensive medical examination immediately fol-
20 lowing admission to a facility. (Medical per-
21 sonnel need not provide routine HIV testing to
22 an inmate who is transferred to a facility from
23 another facility if the inmate’s medical records
24 are transferred with the inmate and indicate
25 that the inmate has been tested previously.)

1 (B) To all inmates admitted to a facility
2 prior to the effective date of this policy, medical
3 personnel shall provide routine HIV testing
4 within no more than 6 months. HIV testing for
5 these inmates may be performed in conjunction
6 with other health services provided to these in-
7 mates by medical personnel.

8 (C) All HIV tests under this paragraph
9 shall comply with paragraph (9).

10 (2) PRE-TEST AND POST-TEST COUNSELING.—

11 Medical personnel shall provide confidential pre-test
12 and post-test counseling to all inmates who are test-
13 ed for HIV. Counseling may be included with other
14 general health counseling provided to inmates by
15 medical personnel.

16 (3) HIV/AIDS PREVENTION EDUCATION.—

17 (A) Medical personnel shall improve HIV/
18 AIDS awareness through frequent educational
19 programs for all inmates. HIV/AIDS edu-
20 cational programs may be provided by commu-
21 nity based organizations, local health depart-
22 ments, and inmate peer educators. These HIV/
23 AIDS educational programs shall include infor-
24 mation on modes of transmission, including
25 transmission through tattooing, sexual contact,

1 and intravenous drug use; prevention methods;
2 treatment; and disease progression. HIV/AIDS
3 educational programs shall be culturally sen-
4 sitive, conducted in a variety of languages, and
5 present scientifically accurate information in a
6 clear and understandable manner.

7 (B) HIV/AIDS educational materials shall
8 be made available to all inmates at orientation,
9 at health care clinics, at regular educational
10 programs, and prior to release. Both written
11 and audio-visual materials shall be made avail-
12 able to all inmates. These materials shall be
13 culturally sensitive, written for low literacy lev-
14 els, and available in a variety of languages.

15 (4) HIV TESTING UPON REQUEST.—

16 (A) Medical personnel shall allow inmates
17 to obtain HIV tests upon request once per year
18 or whenever an inmate has a reason to believe
19 the inmate may have been exposed to HIV.
20 Medical personnel shall, both orally and in writ-
21 ing, inform inmates, during orientation and pe-
22 riodically throughout incarceration, of their
23 right to obtain HIV tests.

24 (B) Medical personnel shall encourage in-
25 mates to request HIV tests if the inmate is sex-

1 usually active, has been raped, uses intravenous
2 drugs, receives a tattoo, or if the inmate is con-
3 cerned that the inmate may have been exposed
4 to HIV/AIDS.

5 (C) An inmate's request for an HIV test
6 shall not be considered an indication that the
7 inmate has put him/herself at risk of infection
8 and/or committed a violation of prison rules.

9 (5) HIV TESTING OF PREGNANT WOMAN.—

10 (A) Medical personnel shall provide routine
11 HIV testing to all inmates who become preg-
12 nant.

13 (B) All HIV tests under this paragraph
14 shall comply with paragraph (9).

15 (6) COMPREHENSIVE TREATMENT.—

16 (A) Medical personnel shall provide all in-
17 mates who test positive for HIV—

18 (i) timely, comprehensive medical
19 treatment;

20 (ii) confidential counseling on man-
21 aging their medical condition and pre-
22 venting its transmission to other persons;
23 and

24 (iii) voluntary partner notification
25 services.

1 (B) Medical care provided under this para-
2 graph shall be consistent with current Depart-
3 ment of Health and Human Services guidelines
4 and standard medical practice. Medical per-
5 sonnel shall discuss treatment options, the im-
6 portance of adherence to antiretroviral therapy,
7 and the side effects of medications with inmates
8 receiving treatment.

9 (C) Medical and pharmacy personnel shall
10 ensure that the facility formulary contains all
11 Food and Drug Administration-approved medi-
12 cations necessary to provide comprehensive
13 treatment for inmates living with HIV/AIDS,
14 and that the facility maintains adequate sup-
15 plies of such medications to meet inmates' med-
16 ical needs. Medical and pharmacy personnel
17 shall also develop and implement automatic re-
18 newal systems for these medications to prevent
19 interruptions in care.

20 (D) Correctional staff and medical and
21 pharmacy personnel shall develop and imple-
22 ment distribution procedures to ensure timely
23 and confidential access to medications.

24 (7) PROTECTION OF CONFIDENTIALITY.—

1 (A) Medical personnel shall develop and
2 implement procedures to ensure the confiden-
3 tiality of inmate tests, diagnoses, and treat-
4 ment. Medical personnel and correctional staff
5 shall receive regular training on the implemen-
6 tation of these procedures. Penalties for viola-
7 tions of inmate confidentiality by medical per-
8 sonnel or correctional staff shall be specified
9 and strictly enforced.

10 (B) HIV testing, counseling, and treat-
11 ment shall be provided in a confidential setting
12 where other routine health services are provided
13 and in a manner that allows the inmate to re-
14 quest and obtain these services as routine med-
15 ical services.

16 (8) TESTING, COUNSELING, AND REFERRAL
17 PRIOR TO REENTRY.—

18 (A) Medical personnel shall provide routine
19 HIV testing to all inmates no more than 3
20 months prior to their release and reentry into
21 the community. (Inmates who are already
22 known to be infected need not be tested again.)
23 This requirement may be waived if an inmate's
24 release occurs without sufficient notice to the
25 Bureau to allow medical personnel to perform a

1 routine HIV test and notify the inmate of the
2 results.

3 (B) All HIV tests under this paragraph
4 shall comply with paragraph (9).

5 (C) To all inmates who test positive for
6 HIV and all inmates who already are known to
7 have HIV/AIDS, medical personnel shall pro-
8 vide—

9 (i) confidential prerelease counseling
10 on managing their medical condition in the
11 community, accessing appropriate treat-
12 ment and services in the community, and
13 preventing the transmission of their condi-
14 tion to family members and other persons
15 in the community;

16 (ii) referrals to appropriate health
17 care providers and social service agencies
18 in the community that meet the inmate's
19 individual needs, including voluntary part-
20 ner notification services and prevention
21 counseling services for people living with
22 HIV/AIDS; and

23 (iii) a 30-day supply of any medically
24 necessary medications the inmate is cur-
25 rently receiving.

1 (9) OPT-OUT PROVISION.—Inmates shall have
2 the right to refuse routine HIV testing. Inmates
3 shall be informed both orally and in writing of this
4 right. Oral and written disclosure of this right may
5 be included with other general health information
6 and counseling provided to inmates by medical per-
7 sonnel. If an inmate refuses a routine test for HIV,
8 medical personnel shall make a note of the inmate’s
9 refusal in the inmate’s confidential medical records.
10 However, the inmate’s refusal shall not be consid-
11 ered a violation of prison rules or result in discipli-
12 nary action.

13 (10) EXPOSURE INCIDENT TESTING.—The Bu-
14 reau may perform HIV testing of an inmate under
15 section 4014 of title 18, United States Code. HIV
16 testing of an inmate who is involved in an exposure
17 incident is not “routine HIV testing” for the pur-
18 poses of paragraph (9) and does not require the in-
19 mate’s consent. Medical personnel shall document
20 the reason for exposure incident testing in the in-
21 mate’s confidential medical records.

22 (11) TIMELY NOTIFICATION OF TEST RE-
23 SULTS.—Medical personnel shall provide timely noti-
24 fication to inmates of the results of HIV tests.

1 **SEC. 4. CHANGES IN EXISTING LAW.**

2 (a) SCREENING IN GENERAL.—Section 4014(a) of
3 title 18, United States Code, is amended—

4 (1) by striking “for a period of 6 months or
5 more”;

6 (2) by striking “, as appropriate,”; and

7 (3) by striking “if such individual is determined
8 to be at risk for infection with such virus in accord-
9 ance with the guidelines issued by the Bureau of
10 Prisons relating to infectious disease management”
11 and inserting “unless the individual declines. The
12 Attorney General shall also cause such individual to
13 be so tested before release unless the individual de-
14 clines.”.

15 (b) INADMISSIBILITY OF HIV TEST RESULTS IN
16 CIVIL AND CRIMINAL PROCEEDINGS.—Section 4014(d) of
17 title 18, United States Code, is amended by inserting “or
18 under the Stop AIDS in Prison Act of 2007” after “under
19 this section”.

20 (c) SCREENING AS PART OF ROUTINE SCREENING.—
21 Section 4014(e) of title 18, United States Code, is amend-
22 ed by adding at the end the following: “Such rules shall
23 also provide that the initial test under this section be per-
24 formed as part of the routine health screening conducted
25 at intake.”.

1 **SEC. 5. REPORTING REQUIREMENTS.**

2 (a) REPORT ON HEPATITIS AND OTHER DISEASES.—
3 Not later than 1 year after the date of the enactment of
4 this Act, the Bureau shall provide a report to the Congress
5 on Bureau policies and procedures to provide testing,
6 treatment, and prevention education programs for Hepa-
7 titis and other diseases transmitted through sexual activ-
8 ity and intravenous drug use. The Bureau shall consult
9 with appropriate officials of the Department of Health and
10 Human Services, the Office of National Drug Control Pol-
11 icy, and the Centers for Disease Control regarding the de-
12 velopment of this report.

13 (b) ANNUAL REPORTS.—

14 (1) GENERALLY.—Not later than 2 years after
15 the date of the enactment of this Act, and then an-
16 nually thereafter, the Bureau shall report to Con-
17 gress on the incidence among inmates of diseases
18 transmitted through sexual activity and intravenous
19 drug use.

20 (2) MATTERS PERTAINING TO VARIOUS DIS-
21 EASES.—Reports under paragraph (1) shall dis-
22 cuss—

23 (A) the incidence among inmates of HIV/
24 AIDS, Hepatitis, and other diseases trans-
25 mitted through sexual activity and intravenous
26 drug use; and

1 (B) updates on Bureau testing, treatment,
2 and prevention education programs for these
3 diseases.

4 (3) MATTERS PERTAINING TO HIV/AIDS
5 ONLY.—Reports under paragraph (1) shall also in-
6 clude—

7 (A) the number of inmates who tested
8 positive for HIV upon intake;

9 (B) the number of inmates who tested
10 positive prior to reentry;

11 (C) the number of inmates who were not
12 tested prior to reentry because they were re-
13 leased without sufficient notice;

14 (D) the number of inmates who opted-out
15 of taking the test;

16 (E) the number of inmates who were test-
17 ed following exposure incidents; and

18 (F) the number of inmates under treat-
19 ment for HIV/AIDS.

20 (4) CONSULTATION.—The Bureau shall consult
21 with appropriate officials of the Department of
22 Health and Human Services, the Office of National
23 Drug Control Policy, and the Centers for Disease
24 Control regarding the development of reports under
25 paragraph (1).

1 **SEC. 6. APPROPRIATIONS.**

2 There are authorized to be appropriated such sums

3 as may be necessary to carry out this Act.

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