

111TH CONGRESS
1ST SESSION

H. R. 1429

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2009

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

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 2009”.

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,

1 and prevention for inmates within the correctional setting
2 and upon reentry.

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

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

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

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

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

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

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

18 (c) CONSULTATION.—The Bureau shall consult with
19 appropriate officials of the Department of Health and
20 Human Services, the Office of National Drug Control Pol-
21 icy, and the Centers for Disease Control regarding the de-
22 velopment of this policy.

23 (d) TIME LIMIT.—The Bureau shall draft appro-
24 priate regulations to implement this policy not later than
25 1 year after the date of the enactment of this Act.

1 **SEC. 3. REQUIREMENTS FOR POLICY.**

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

4 (1) TESTING AND COUNSELING UPON IN-
5 TAKE.—

6 (A) Medical personnel shall provide routine
7 HIV testing to all inmates as a part of a com-
8 prehensive medical examination immediately fol-
9 lowing admission to a facility. (Medical per-
10 sonnel need not provide routine HIV testing to
11 an inmate who is transferred to a facility from
12 another facility if the inmate's medical records
13 are transferred with the inmate and indicate
14 that the inmate has been tested previously.)

15 (B) To all inmates admitted to a facility
16 prior to the effective date of this policy, medical
17 personnel shall provide routine HIV testing
18 within no more than 6 months. HIV testing for
19 these inmates may be performed in conjunction
20 with other health services provided to these in-
21 mates by medical personnel.

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

24 (2) PRE-TEST AND POST-TEST COUNSELING.—
25 Medical personnel shall provide confidential pre-test
26 and post-test counseling to all inmates who are test-

1 ed for HIV. Counseling may be included with other
2 general health counseling provided to inmates by
3 medical personnel.

4 (3) HIV/AIDS PREVENTION EDUCATION.—

5 (A) Medical personnel shall improve HIV/
6 AIDS awareness through frequent educational
7 programs for all inmates. HIV/AIDS edu-
8 cational programs may be provided by commu-
9 nity based organizations, local health depart-
10 ments, and inmate peer educators. These HIV/
11 AIDS educational programs shall include infor-
12 mation on modes of transmission, including
13 transmission through tattooing, sexual contact,
14 and intravenous drug use; prevention methods;
15 treatment; and disease progression. HIV/AIDS
16 educational programs shall be culturally sen-
17 sitive, conducted in a variety of languages, and
18 present scientifically accurate information in a
19 clear and understandable manner.

20 (B) HIV/AIDS educational materials shall
21 be made available to all inmates at orientation,
22 at health care clinics, at regular educational
23 programs, and prior to release. Both written
24 and audio-visual materials shall be made avail-
25 able to all inmates. These materials shall be

1 culturally sensitive, written for low literacy lev-
2 els, and available in a variety of languages.

3 (4) HIV TESTING UPON REQUEST.—

4 (A) Medical personnel shall allow inmates
5 to obtain HIV tests upon request once per year
6 or whenever an inmate has a reason to believe
7 the inmate may have been exposed to HIV.
8 Medical personnel shall, both orally and in writ-
9 ing, inform inmates, during orientation and pe-
10 riodically throughout incarceration, of their
11 right to obtain HIV tests.

12 (B) Medical personnel shall encourage in-
13 mates to request HIV tests if the inmate is sex-
14 ually active, has been raped, uses intravenous
15 drugs, receives a tattoo, or if the inmate is con-
16 cerned that the inmate may have been exposed
17 to HIV/AIDS.

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

22 (5) HIV TESTING OF PREGNANT WOMAN.—

23 (A) Medical personnel shall provide routine
24 HIV testing to all inmates who become preg-
25 nant.

1 (B) All HIV tests under this paragraph
2 shall comply with paragraph (9).

3 (6) COMPREHENSIVE TREATMENT.—

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

6 (i) timely, comprehensive medical
7 treatment;

8 (ii) confidential counseling on man-
9 aging their medical condition and pre-
10 venting its transmission to other persons;
11 and

12 (iii) voluntary partner notification
13 services.

14 (B) Medical care provided under this para-
15 graph shall be consistent with current Depart-
16 ment of Health and Human Services guidelines
17 and standard medical practice. Medical per-
18 sonnel shall discuss treatment options, the im-
19 portance of adherence to antiretroviral therapy,
20 and the side effects of medications with inmates
21 receiving treatment.

22 (C) Medical and pharmacy personnel shall
23 ensure that the facility formulary contains all
24 Food and Drug Administration-approved medi-
25 cations necessary to provide comprehensive

1 treatment for inmates living with HIV/AIDS,
2 and that the facility maintains adequate sup-
3 plies of such medications to meet inmates' med-
4 ical needs. Medical and pharmacy personnel
5 shall also develop and implement automatic re-
6 newal systems for these medications to prevent
7 interruptions in care.

8 (D) Correctional staff and medical and
9 pharmacy personnel shall develop and imple-
10 ment distribution procedures to ensure timely
11 and confidential access to medications.

12 (7) PROTECTION OF CONFIDENTIALITY.—

13 (A) Medical personnel shall develop and
14 implement procedures to ensure the confiden-
15 tiality of inmate tests, diagnoses, and treat-
16 ment. Medical personnel and correctional staff
17 shall receive regular training on the implemen-
18 tation of these procedures. Penalties for viola-
19 tions of inmate confidentiality by medical per-
20 sonnel or correctional staff shall be specified
21 and strictly enforced.

22 (B) HIV testing, counseling, and treat-
23 ment shall be provided in a confidential setting
24 where other routine health services are provided
25 and in a manner that allows the inmate to re-

1 quest and obtain these services as routine med-
2 ical services.

3 (8) TESTING, COUNSELING, AND REFERRAL
4 PRIOR TO REENTRY.—

5 (A) Medical personnel shall provide routine
6 HIV testing to all inmates no more than 3
7 months prior to their release and reentry into
8 the community. (Inmates who are already
9 known to be infected need not be tested again.)
10 This requirement may be waived if an inmate's
11 release occurs without sufficient notice to the
12 Bureau to allow medical personnel to perform a
13 routine HIV test and notify the inmate of the
14 results.

15 (B) All HIV tests under this paragraph
16 shall comply with paragraph (9).

17 (C) To all inmates who test positive for
18 HIV and all inmates who already are known to
19 have HIV/AIDS, medical personnel shall pro-
20 vide—

21 (i) confidential prerelease counseling
22 on managing their medical condition in the
23 community, accessing appropriate treat-
24 ment and services in the community, and
25 preventing the transmission of their condi-

1 tion to family members and other persons
2 in the community;

3 (ii) referrals to appropriate health
4 care providers and social service agencies
5 in the community that meet the inmate's
6 individual needs, including voluntary part-
7 ner notification services and prevention
8 counseling services for people living with
9 HIV/AIDS; and

10 (iii) a 30-day supply of any medically
11 necessary medications the inmate is cur-
12 rently receiving.

13 (9) OPT-OUT PROVISION.—Inmates shall have
14 the right to refuse routine HIV testing. Inmates
15 shall be informed both orally and in writing of this
16 right. Oral and written disclosure of this right may
17 be included with other general health information
18 and counseling provided to inmates by medical per-
19 sonnel. If an inmate refuses a routine test for HIV,
20 medical personnel shall make a note of the inmate's
21 refusal in the inmate's confidential medical records.
22 However, the inmate's refusal shall not be consid-
23 ered a violation of prison rules or result in discipli-
24 nary action.

1 (10) EXCLUSION OF TESTS PERFORMED UNDER
2 SECTION 4014(B) FROM THE DEFINITION OF ROU-
3 TINE HIV TESTING.—HIV testing of an inmate
4 under section 4014(b) of title 18, United States
5 Code, is not routine HIV testing for the purposes of
6 paragraph (9). Medical personnel shall document the
7 reason for testing under section 4014(b) of title 18,
8 United States Code, in the inmate’s confidential
9 medical records.

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

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

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

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

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

19 (3) by striking “if such individual is determined
20 to be at risk for infection with such virus in accord-
21 ance with the guidelines issued by the Bureau of
22 Prisons relating to infectious disease management”
23 and inserting “unless the individual declines. The
24 Attorney General shall also cause such individual to

1 be so tested before release unless the individual de-
2 clines.”.

3 (b) INADMISSIBILITY OF HIV TEST RESULTS IN
4 CIVIL AND CRIMINAL PROCEEDINGS.—Section 4014(d) of
5 title 18, United States Code, is amended by inserting “or
6 under the Stop AIDS in Prison Act of 2009” after “under
7 this section”.

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

14 **SEC. 5. REPORTING REQUIREMENTS.**

15 (a) REPORT ON HEPATITIS AND OTHER DISEASES.—
16 Not later than 1 year after the date of the enactment of
17 this Act, the Bureau shall provide a report to the Congress
18 on Bureau policies and procedures to provide testing,
19 treatment, and prevention education programs for Hepa-
20 titis and other diseases transmitted through sexual activ-
21 ity and intravenous drug use. The Bureau shall consult
22 with appropriate officials of the Department of Health and
23 Human Services, the Office of National Drug Control Pol-
24 icy, and the Centers for Disease Control regarding the de-
25 velopment of this report.

1 (b) ANNUAL REPORTS.—

2 (1) GENERALLY.—Not later than 2 years after
3 the date of the enactment of this Act, and then an-
4 nually thereafter, the Bureau shall report to Con-
5 gress on the incidence among inmates of diseases
6 transmitted through sexual activity and intravenous
7 drug use.

8 (2) MATTERS PERTAINING TO VARIOUS DIS-
9 EASES.—Reports under paragraph (1) shall dis-
10 cuss—

11 (A) the incidence among inmates of HIV/
12 AIDS, Hepatitis, and other diseases trans-
13 mitted through sexual activity and intravenous
14 drug use; and

15 (B) updates on Bureau testing, treatment,
16 and prevention education programs for these
17 diseases.

18 (3) MATTERS PERTAINING TO HIV/AIDS
19 ONLY.—Reports under paragraph (1) shall also in-
20 clude—

21 (A) the number of inmates who tested
22 positive for HIV upon intake;

23 (B) the number of inmates who tested
24 positive prior to reentry;

1 (C) the number of inmates who were not
2 tested prior to reentry because they were re-
3 leased without sufficient notice;

4 (D) the number of inmates who opted-out
5 of taking the test;

6 (E) the number of inmates who were test-
7 ed under section 4014(b) of title 18, United
8 States Code; and

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

11 (4) CONSULTATION.—The Bureau shall consult
12 with appropriate officials of the Department of
13 Health and Human Services, the Office of National
14 Drug Control Policy, and the Centers for Disease
15 Control regarding the development of reports under
16 paragraph (1).

17 **SEC. 6. APPROPRIATIONS.**

18 There are authorized to be appropriated such sums
19 as may be necessary to carry out this Act.

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