

112TH CONGRESS  
1ST SESSION

# H. R. 3547

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

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2011

Ms. WATERS (for herself, Mr. CONYERS, Mr. SCOTT of Virginia, Ms. LEE of California, Mrs. CHRISTENSEN, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. TOWNS, Ms. SPEIER, Ms. WILSON of Florida, Mr. CLARKE of Michigan, Ms. NORTON, Mr. CLAY, Ms. BROWN of Florida, Mr. RANGEL, Mr. DAVIS of Illinois, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Ms. RICHARDSON, Mr. JOHNSON of Georgia, Mrs. MALONEY, Mr. LEWIS of Georgia, Mr. CLEAVER, Ms. WOOLSEY, Mr. AL GREEN of Texas, Mr. PAYNE, Mr. ELLISON, Mr. FILNER, Mr. GUTIERREZ, Mr. HONDA, Ms. SCHAKOWSKY, Mr. BLUMENAUER, Mr. WATT, and Mr. SERRANO) introduced the following bill; which was referred to the Committee on the Judiciary

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## 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 2011”.

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

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

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

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

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

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

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

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

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

22 (c) CONSULTATION.—The Bureau shall consult with  
23 appropriate officials of the Department of Health and  
24 Human Services, the Office of National Drug Control Pol-  
25 icy, the Office of National AIDS Policy, and the Centers

1 for Disease Control regarding the development of this pol-  
2 icy.

3 (d) TIME LIMIT.—The Bureau shall draft appro-  
4 priate regulations to implement this policy not later than  
5 1 year after the date of the enactment of this Act.

6 **SEC. 3. REQUIREMENTS FOR POLICY.**

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

9 (1) TESTING AND COUNSELING UPON IN-  
10 TAKE.—

11 (A) Health care personnel shall provide  
12 routine HIV testing to all inmates as a part of  
13 a comprehensive medical examination imme-  
14 diately following admission to a facility. (Health  
15 care personnel need not provide routine HIV  
16 testing to an inmate who is transferred to a fa-  
17 cility from another facility if the inmate's med-  
18 ical records are transferred with the inmate and  
19 indicate that the inmate has been tested pre-  
20 viously.)

21 (B) To all inmates admitted to a facility  
22 prior to the effective date of this policy, health  
23 care personnel shall provide routine HIV testing  
24 within no more than 6 months. HIV testing for  
25 these inmates may be performed in conjunction

1 with other health services provided to these in-  
2 mates by health care personnel.

3 (C) All HIV tests under this paragraph  
4 shall comply with the opt-out provision.

5 (2) PRE-TEST AND POST-TEST COUNSELING.—  
6 Health care personnel shall provide confidential pre-  
7 test and post-test counseling to all inmates who are  
8 tested for HIV. Counseling may be included with  
9 other general health counseling provided to inmates  
10 by health care personnel.

11 (3) HIV/AIDS PREVENTION EDUCATION.—

12 (A) Health care personnel shall improve  
13 HIV/AIDS awareness through frequent edu-  
14 cational programs for all inmates. HIV/AIDS  
15 educational programs may be provided by com-  
16 munity based organizations, local health depart-  
17 ments, and inmate peer educators.

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

1           (C)(i) The HIV/AIDS educational pro-  
2 grams and materials under this paragraph shall  
3 include information on—

4                   (I) modes of transmission, including  
5 transmission through tattooing, sexual con-  
6 tact, and intravenous drug use;

7                   (II) prevention methods;

8                   (III) treatment; and

9                   (IV) disease progression.

10           (ii) The programs and materials shall be  
11 culturally sensitive, written or designed for low  
12 literacy levels, available in a variety of lan-  
13 guages, and present scientifically accurate in-  
14 formation in a clear and understandable man-  
15 ner.

16           (4) HIV TESTING UPON REQUEST.—

17                   (A) Health care personnel shall allow in-  
18 mates to obtain HIV tests upon request once  
19 per year or whenever an inmate has a reason to  
20 believe the inmate may have been exposed to  
21 HIV. Health care personnel shall, both orally  
22 and in writing, inform inmates, during orienta-  
23 tion and periodically throughout incarceration,  
24 of their right to obtain HIV tests.

1 (B) Health care personnel shall encourage  
2 inmates to request HIV tests if the inmate is  
3 sexually active, has been raped, uses intra-  
4 venous drugs, receives a tattoo, or if the inmate  
5 is concerned that the inmate may have been ex-  
6 posed to HIV/AIDS.

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

11 (5) HIV TESTING OF PREGNANT WOMAN.—

12 (A) Health care personnel shall provide  
13 routine HIV testing to all inmates who become  
14 pregnant.

15 (B) All HIV tests under this paragraph  
16 shall comply with the opt-out provision.

17 (6) COMPREHENSIVE TREATMENT.—

18 (A) Health care personnel shall provide all  
19 inmates who test positive for HIV—

20 (i) timely, comprehensive medical  
21 treatment;

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

1 (iii) voluntary partner notification  
2 services.

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

11 (C) Health care personnel and pharmacy  
12 personnel shall ensure that the facility for-  
13 mulary contains all Food and Drug Administra-  
14 tion-approved medications necessary to provide  
15 comprehensive treatment for inmates living with  
16 HIV/AIDS, and that the facility maintains ade-  
17 quate supplies of such medications to meet in-  
18 mates' medical needs. Health care personnel  
19 and pharmacy personnel shall also develop and  
20 implement automatic renewal systems for these  
21 medications to prevent interruptions in care.

22 (D) Correctional staff, health care per-  
23 sonnel, and pharmacy personnel shall develop  
24 and implement distribution procedures to en-

1           sure timely and confidential access to medica-  
2           tions.

3           (7) PROTECTION OF CONFIDENTIALITY.—

4           (A) Health care personnel shall develop  
5           and implement procedures to ensure the con-  
6           fidentiality of inmate tests, diagnoses, and  
7           treatment. Health care personnel and correc-  
8           tional staff shall receive regular training on the  
9           implementation of these procedures. Penalties  
10          for violations of inmate confidentiality by health  
11          care personnel or correctional staff shall be  
12          specified and strictly enforced.

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

19          (8) TESTING, COUNSELING, AND REFERRAL  
20          PRIOR TO REENTRY.—

21          (A) Health care personnel shall provide  
22          routine HIV testing to all inmates no more  
23          than 3 months prior to their release and re-  
24          entry into the community. (Inmates who are al-  
25          ready known to be infected need not be tested



1           again.) This requirement may be waived if an  
2           inmate's release occurs without sufficient notice  
3           to the Bureau to allow health care personnel to  
4           perform a routine HIV test and notify the in-  
5           mate of the results.

6           (B) All HIV tests under this paragraph  
7           shall comply with the opt-out provision.

8           (C) To all inmates who test positive for  
9           HIV and all inmates who already are known to  
10          have HIV/AIDS, health care personnel shall  
11          provide—

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

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

1 (iii) a 30-day supply of any medically  
2 necessary medications the inmate is cur-  
3 rently receiving.

4 (9) OPT-OUT PROVISION.—Inmates shall have  
5 the right to refuse routine HIV testing. Inmates  
6 shall be informed both orally and in writing of this  
7 right. Oral and written disclosure of this right may  
8 be included with other general health information  
9 and counseling provided to inmates by health care  
10 personnel. If an inmate refuses a routine test for  
11 HIV, health care personnel shall make a note of the  
12 inmate’s refusal in the inmate’s confidential medical  
13 records. However, the inmate’s refusal shall not be  
14 considered a violation of prison rules or result in dis-  
15 disciplinary action. Any reference in this section to the  
16 “opt-out provision” shall be deemed a reference to  
17 the requirement of this paragraph.

18 (10) EXCLUSION OF TESTS PERFORMED UNDER  
19 SECTION 4014(b) FROM THE DEFINITION OF ROU-  
20 TINE HIV TESTING.—HIV testing of an inmate  
21 under section 4014(b) of title 18, United States  
22 Code, is not routine HIV testing for the purposes of  
23 the opt-out provision. Health care personnel shall  
24 document the reason for testing under section

1 4014(b) of title 18, United States Code, in the in-  
2 mate’s confidential medical records.

3 (11) **TIMELY NOTIFICATION OF TEST RE-**  
4 **SULTS.**—Health care personnel shall provide timely  
5 notification to inmates of the results of HIV tests.

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

7 (a) **SCREENING IN GENERAL.**—Section 4014(a) of  
8 title 18, United States Code, is amended—

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

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

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

20 (b) **INADMISSIBILITY OF HIV TEST RESULTS IN**  
21 **CIVIL AND CRIMINAL PROCEEDINGS.**—Section 4014(d) of  
22 title 18, United States Code, is amended by inserting “or  
23 under the Stop AIDS in Prison Act of 2011” after “under  
24 this section”.

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

7 **SEC. 5. REPORTING REQUIREMENTS.**

8 (a) REPORT ON HEPATITIS AND OTHER DISEASES.—  
9 Not later than 1 year after the date of the enactment of  
10 this Act, the Bureau shall provide a report to the Congress  
11 on Bureau policies and procedures to provide testing,  
12 treatment, and prevention education programs for hepa-  
13 titis and other diseases transmitted through sexual activ-  
14 ity and intravenous drug use. The Bureau shall consult  
15 with appropriate officials of the Department of Health and  
16 Human Services, the Office of National Drug Control Pol-  
17 icy, the Office of National AIDS Policy, and the Centers  
18 for Disease Control regarding the development of this re-  
19 port.

20 (b) ANNUAL REPORTS.—

21 (1) GENERALLY.—Not later than 2 years after  
22 the date of the enactment of this Act, and then an-  
23 nually thereafter, the Bureau shall report to Con-  
24 gress on the incidence among inmates of diseases

1 transmitted through sexual activity and intravenous  
2 drug use.

3 (2) MATTERS PERTAINING TO VARIOUS DIS-  
4 EASES.—Reports under paragraph (1) shall dis-  
5 cuss—

6 (A) the incidence among inmates of HIV/  
7 AIDS, hepatitis, and other diseases transmitted  
8 through sexual activity and intravenous drug  
9 use; and

10 (B) updates on Bureau testing, treatment,  
11 and prevention education programs for these  
12 diseases.

13 (3) MATTERS PERTAINING TO HIV/AIDS  
14 ONLY.—Reports under paragraph (1) shall also in-  
15 clude—

16 (A) the number of inmates who tested  
17 positive for HIV upon intake;

18 (B) the number of inmates who tested  
19 positive prior to reentry;

20 (C) the number of inmates who were not  
21 tested prior to reentry because they were re-  
22 leased without sufficient notice;

23 (D) the number of inmates who opted-out  
24 of taking the test;

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

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

6           (4) CONSULTATION.—The Bureau shall consult  
7           with appropriate officials of the Department of  
8           Health and Human Services, the Office of National  
9           Drug Control Policy, the Office of National AIDS  
10          Policy, and the Centers for Disease Control regard-  
11          ing the development of reports under paragraph (1).

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