

114TH CONGRESS
1ST SESSION

H. R. 768

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2015

Ms. MAXINE WATERS of California (for herself, Mr. CONYERS, Ms. LEE, Mr. GRIJALVA, Mr. SCOTT of Virginia, Ms. CLARKE of New York, Ms. NORTON, Mr. JOHNSON of Georgia, Mr. CUMMINGS, Mr. HONDA, Ms. JACKSON LEE, Mr. HASTINGS, Mr. RANGEL, Mr. NADLER, Ms. MOORE, Mr. RUSH, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. DANNY K. DAVIS of Illinois, Mrs. DAVIS of California, Mr. MEEKS, Mrs. WATSON COLEMAN, Ms. VELÁZQUEZ, and Mr. LEWIS) 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 2015”.

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

1 a comprehensive policy to provide HIV testing, treatment,
2 and prevention for inmates within the correctional setting
3 and upon reentry.

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

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

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

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

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

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

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

19 (c) CONSULTATION.—The Bureau shall consult with
20 appropriate officials of the Department of Health and
21 Human Services, the Office of National Drug Control Pol-
22 icy, the Office of National AIDS Policy, and the Centers
23 for Disease Control regarding the development of this pol-
24 icy.

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

4 **SEC. 3. REQUIREMENTS FOR POLICY.**

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

7 (1) TESTING AND COUNSELING UPON IN-
8 TAKE.—

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

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

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

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

4 Health care personnel shall provide confidential pre-
5 test and post-test counseling to all inmates who are
6 tested for HIV. Counseling may be included with
7 other general health counseling provided to inmates
8 by health care personnel.

9 (3) HIV/AIDS PREVENTION EDUCATION.—

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

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

22 (C)(i) The HIV/AIDS educational pro-
23 grams and materials under this paragraph shall
24 include information on—

1 (I) modes of transmission, including
2 transmission through tattooing, sexual con-
3 tact, and intravenous drug use;

4 (II) prevention methods;

5 (III) treatment; and

6 (IV) disease progression.

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

13 (4) HIV TESTING UPON REQUEST.—

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

22 (B) Health care personnel shall encourage
23 inmates to request HIV tests if the inmate is
24 sexually active, has been raped, uses intra-
25 venous drugs, receives a tattoo, or if the inmate

1 is concerned that the inmate may have been ex-
2 posed to HIV/AIDS.

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

7 (5) HIV TESTING OF PREGNANT WOMEN.—

8 (A) Health care personnel shall provide
9 routine HIV testing to all inmates who become
10 pregnant.

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

13 (6) COMPREHENSIVE TREATMENT.—

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

16 (i) timely, comprehensive medical
17 treatment;

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

22 (iii) voluntary partner notification
23 services.

24 (B) Health care provided under this para-
25 graph shall be consistent with current Depart-

1 ment of Health and Human Services guidelines
2 and standard medical practice. Health care per-
3 sonnel shall discuss treatment options, the im-
4 portance of adherence to antiretroviral therapy,
5 and the side effects of medications with inmates
6 receiving treatment.

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

18 (D) Correctional staff, health care per-
19 sonnel, and pharmacy personnel shall develop
20 and implement distribution procedures to en-
21 sure timely and confidential access to medica-
22 tions.

23 (7) PROTECTION OF CONFIDENTIALITY.—

24 (A) Health care personnel shall develop
25 and implement procedures to ensure the con-

1 confidentiality of inmate tests, diagnoses, and
2 treatment. Health care personnel and correc-
3 tional staff shall receive regular training on the
4 implementation of these procedures. Penalties
5 for violations of inmate confidentiality by health
6 care personnel or correctional staff shall be
7 specified and strictly enforced.

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

14 (8) TESTING, COUNSELING, AND REFERRAL
15 PRIOR TO REENTRY.—

16 (A) Health care personnel shall provide
17 routine HIV testing to all inmates no more
18 than 3 months prior to their release and re-
19 entry into the community. (Inmates who are al-
20 ready known to be infected need not be tested
21 again.) This requirement may be waived if an
22 inmate's release occurs without sufficient notice
23 to the Bureau to allow health care personnel to
24 perform a routine HIV test and notify the in-
25 mate of the results.

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

3 (C) To all inmates who test positive for
4 HIV and all inmates who already are known to
5 have HIV/AIDS, health care personnel shall
6 provide—

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

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

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

24 (9) OPT-OUT PROVISION.—Inmates shall have
25 the right to refuse routine HIV testing. Inmates

1 shall be informed both orally and in writing of this
2 right. Oral and written disclosure of this right may
3 be included with other general health information
4 and counseling provided to inmates by health care
5 personnel. If an inmate refuses a routine test for
6 HIV, health care personnel shall make a note of the
7 inmate's refusal in the inmate's confidential medical
8 records. However, the inmate's refusal shall not be
9 considered a violation of prison rules or result in dis-
10 ciplinary action. Any reference in this section to the
11 "opt-out provision" shall be deemed a reference to
12 the requirement of this paragraph.

13 (10) EXCLUSION OF TESTS PERFORMED UNDER
14 SECTION 4014(b) FROM THE DEFINITION OF ROU-
15 TINE HIV TESTING.—HIV testing of an inmate
16 under section 4014(b) of title 18, United States
17 Code, is not routine HIV testing for the purposes of
18 the opt-out provision. Health care personnel shall
19 document the reason for testing under section
20 4014(b) of title 18, United States Code, in the in-
21 mate's confidential medical records.

22 (11) TIMELY NOTIFICATION OF TEST RE-
23 SULTS.—Health care personnel shall provide timely
24 notification 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 2015” 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, the Office of National AIDS Policy, and the Centers
12 for Disease Control regarding the development of this re-
13 port.

14 (b) **ANNUAL REPORTS.—**

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

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

24 (A) the incidence among inmates of HIV/
25 AIDS, hepatitis, and other diseases transmitted

1 through sexual activity and intravenous drug
2 use; and

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

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

9 (A) the number of inmates who tested
10 positive for HIV upon intake;

11 (B) the number of inmates who tested
12 positive prior to reentry;

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

16 (D) the number of inmates who opted-out
17 of taking the test;

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

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

23 (4) CONSULTATION.—The Bureau shall consult
24 with appropriate officials of the Department of
25 Health and Human Services, the Office of National

- 1 Drug Control Policy, the Office of National AIDS
- 2 Policy, and the Centers for Disease Control regard-
- 3 ing the development of reports under paragraph (1).

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