



# HOUSE BILL No. 5408

November 9, 1995, Introduced by Reps. Jaye, Cropsey, Kaza, LeTarte, McBryde, Kukuk, Prusi, Walberg, Jamian, Geiger, Dalman and Bobier and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 67 of Act No. 232 of the Public Acts of 1953, entitled as amended

"An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

as amended by Act No. 510 of the Public Acts of 1988, being section 791.267 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Section 1. Section 67 of Act No. 232 of the Public Acts of  
2 1953, as amended by Act No. 510 of the Public Acts of 1988, being  
3 section 791.267 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5       Sec. 67. (1) Quarters for temporary confinement apart from  
6 those of regular inmates shall be provided for convicted prison-  
7 ers upon commitment at each of the state correctional facilities,  
8 which the commission shall designate as a reception center.

9 Within 60 days after the arrival of a convicted prisoner at such  
10 a state correctional facility, the classification committee shall  
11 make and complete a comprehensive study of the prisoner, includ-  
12 ing physical and psychiatric examinations, to ensure that the  
13 prisoner is confined in the state correctional facility suited to  
14 the type of rehabilitation required in his or her case. The  
15 warden of the state correctional facility shall deliver a report  
16 of the study of the classification committee to the deputy direc-  
17 tor in charge of the bureau of correctional facilities, who  
18 shall, within 5 days after receipt of the report, execute an  
19 order to confine the prisoner in the state correctional facility  
20 determined as suitable by the deputy director.

21       (2) Immediately upon arrival at a reception center desig-  
22 nated pursuant to subsection (1), each incoming prisoner shall  
23 undergo a test for HIV or an antibody to HIV. This subsection  
24 shall not apply if an incoming prisoner has been tested for HIV  
25 or an antibody to HIV under section 5129 of the public health  
26 code, Act No. 368 of the Public Acts of 1978, being section

1 333.5129 of the Michigan Compiled Laws, within the 3 months  
2 immediately preceding the date of the prisoner's arrival at the  
3 reception center, as indicated by the record transferred to the  
4 department by the court under that section.

5 (3) If a prisoner receives a positive test result, and is  
6 subsequently subject to discipline by the department for sexual  
7 misconduct that could transmit HIV, illegal intravenous use of  
8 controlled substances, or assaultive or predatory behavior that  
9 could transmit HIV, the department shall house that prisoner in  
10 administrative segregation, an inpatient health care unit, or a  
11 unit separate from the general prisoner population, as determined  
12 by the department.

13 (4) The department shall report each positive test result to  
14 the department of public health AND TO EACH CORRECTIONAL OFFICER  
15 EMPLOYED AT THE CORRECTIONAL FACILITY WHERE THE PRISONER IS  
16 HOUSED.

17 (5) If an employee of the department is exposed to the blood  
18 or body fluid of a prisoner by that prisoner in a manner that  
19 could transmit HIV, the prisoner shall be tested for HIV or an  
20 antibody to HIV. If the prisoner refuses to undergo the test, he  
21 or she shall be considered by the department to be HIV positive.

22 (6) Upon the request of an employee of the department, **the**  
23 department shall provide or arrange for a test for HIV or an  
24 antibody to HIV for that employee, free of charge.

25 (7) Upon the request of an employee of the department, the  
26 department shall provide to that employee the equipment necessary

1 to implement universal precautions to prevent transmission of HIV  
2 infection.

3 (8) A prisoner who receives a positive HIV test result or  
4 who is considered by the department to be HIV positive pursuant  
5 to this section shall not work in a health facility operated by  
6 the department.

7 (9) The department shall conduct a seroprevalence study of  
8 the prisoners in all state correctional facilities to determine  
9 the percentage of prisoners who are HIV infected.

10 (10) The results of a test for HIV or an antibody to HIV  
11 conducted under this section shall be disclosed by the department  
12 only to persons who demonstrate to the department a need to know  
13 the test results, and as otherwise provided in subsection (4).

14 (11) The deputy director in charge of the bureau of correc-  
15 tional facilities shall take steps to ensure that all prisoners  
16 who receive HIV testing receive counseling regarding acquired  
17 immunodeficiency syndrome and acquired immunodeficiency syndrome  
18 related complex, including, at a minimum, treatment, transmis-  
19 sion, and protective measures.

20 (12) The department, in conjunction with the department of  
21 public health, shall develop and implement a comprehensive AIDS  
22 education program designed specifically for correctional  
23 environments. The program shall be conducted by the bureau  
24 within the department responsible for health care, for staff and  
25 for prisoners at each state correctional facility.

26 ~~(13) Two years after the effective date of the amendatory~~  
27 ~~act that added this subsection, the department shall submit a~~

1 ~~report regarding the testing component, managerial aspects, and~~  
2 ~~effectiveness of subsections (2) to (12) to the senate and house~~  
3 ~~committees with jurisdiction over matters pertaining to correc-~~  
4 ~~tions, and to the senate and house committees with jurisdiction~~  
5 ~~over matters pertaining to public health.~~

6 (13) ~~(14)~~ As used in this section:

7 (a) "AIDS" means acquired immunodeficiency syndrome.

8 (b) "HIV" means human immunodeficiency virus.

9 (c) "Positive test result" means a double positive  
10 enzyme-linked immunosorbent assay test, combined with a positive  
11 western blot assay test, or a positive test under an HIV test  
12 that is considered reliable by the federal centers for disease  
13 control and is approved by the department of public health.