

HOUSE BILL No. 4221

February 13, 2001, Introduced by Rep. Mortimer and referred to the Committee on Criminal Justice.

A bill to amend 1953 PA 232, entitled

"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 allow for the operation of certain facilities by private entities; 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,"

by amending section 67 (MCL 791.267), as amended by 1996 PA 565, and by adding section 67c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 67. (1) Quarters for temporary confinement apart from
2 those of regular inmates shall be provided for convicted prison-
3 ers upon commitment at each of the state correctional facilities,
4 which the director shall designate as a reception center. Within
5 60 days after the arrival of a convicted prisoner at such a state
6 correctional facility, the classification committee shall make
7 and complete a comprehensive study of the prisoner, including
8 physical and psychiatric examinations, to ensure that the pris-
9 oner is confined in the state correctional facility suited to the
10 type of rehabilitation required in his or her case. The warden
11 of the state correctional facility shall deliver a report of the
12 study of the classification committee to the deputy director of
13 the correctional facilities administration, who shall, within
14 5 days after receipt of the report, execute an order to confine
15 the prisoner in the state correctional facility determined as
16 suitable by the deputy director.

17 (2) Immediately upon arrival at a reception center desig-
18 nated pursuant to subsection (1), each incoming prisoner shall
19 undergo a test for HIV or an antibody to HIV. This subsection
20 does not apply if an incoming prisoner has been tested for HIV or
21 an antibody to HIV under section 5129 of the public health code,
22 ~~Act No. 368 of the Public Acts of 1978, being section 333.5129~~
23 ~~of the Michigan Compiled Laws~~ 1978 PA 368, MCL 333.5129, within
24 the 3 months immediately preceding the date of the prisoner's
25 arrival at the reception center, as indicated by the record
26 transferred to the department by the court under that section.

1 (3) If a prisoner receives a positive test result, ~~and is~~
2 ~~subsequently subject to discipline by the department for sexual~~
3 ~~misconduct that could transmit HIV, illegal intravenous use of~~
4 ~~controlled substances, or assaultive or predatory behavior that~~
5 ~~could transmit HIV,~~ the department shall house that prisoner ~~in~~
6 ~~administrative segregation, an inpatient health care unit, or a~~
7 ~~unit separate from the general prisoner population, as determined~~
8 ~~by the department~~ AS PROVIDED IN SECTION 67C.

9 (4) The department shall report each positive test result to
10 the department of community health, in compliance with section
11 5114 of ~~Act No. 368 of the Public Acts of 1978, being section~~
12 ~~333.5114 of the Michigan Compiled Laws~~ THE PUBLIC HEALTH CODE,
13 1978 PA 368, MCL 333.5114.

14 (5) If an employee of the department sustains a percutane-
15 ous, mucous membrane, or open wound exposure to the blood or body
16 fluid of a prisoner, the employee may, and the department shall,
17 proceed under section 67b.

18 (6) Upon the request of an employee of the department, the
19 department shall provide or arrange for a test for HIV or an
20 antibody to HIV for that employee, free of charge.

21 (7) Upon the request of an employee of the department, the
22 department shall provide to that employee the equipment necessary
23 to implement universal precautions to prevent transmission of HIV
24 infection.

25 (8) A prisoner who receives a positive HIV test result under
26 subsection (5) shall not work in a health facility operated by
27 the department.

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

4 (10) The results of a test for HIV or an antibody to HIV
5 conducted under this section shall be disclosed by the department
6 pursuant to section 67b.

7 (11) The deputy director of the correctional facilities
8 administration shall take steps to ensure that all prisoners who
9 receive HIV testing receive counseling regarding AIDS including,
10 at a minimum, treatment, transmission, and protective measures.

11 (12) The department, in conjunction with the department of
12 community health, shall develop and implement a comprehensive
13 AIDS education program designed specifically for correctional
14 environments. The program shall be conducted by the bureau
15 within the department responsible for health care, for staff and
16 for prisoners at each state correctional facility.

17 ~~(13) By March 30, 1991, the department shall submit a~~
18 ~~report regarding the testing component, managerial aspects, and~~
19 ~~effectiveness of subsections (2) to (12) to the senate and house~~
20 ~~committees with jurisdiction over matters pertaining to correc-~~
21 ~~tions, and to the senate and house committees with jurisdiction~~
22 ~~over matters pertaining to public health.~~

23 (13) ~~(14)~~ As used in this section:

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

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

26 (c) "Positive test result" means a double positive
27 enzyme-linked immunosorbent assay test, combined with a positive

1 western blot assay test, or a positive test under an HIV test
2 that is considered reliable by the federal centers for disease
3 control and is approved by the department of community health.

4 SEC. 67C. (1) ANY PRISONER WHO RECEIVES A POSITIVE TEST
5 RESULT FOR HIV, HEPATITIS B, HEPATITIS C, OR A COMMUNICABLE DIS-
6 EASE OR INFECTION THAT THE DEPARTMENT DETERMINES IS A DANGEROUS
7 OR DEADLY COMMUNICABLE DISEASE OR INFECTION SHALL BE HOUSED IN
8 ADMINISTRATIVE SEGREGATION, AN INPATIENT HEALTH CARE UNIT, OR A
9 UNIT SEPARATE FROM THE GENERAL PRISON POPULATION, AS DETERMINED
10 BY THE DEPARTMENT.

11 (2) A PRISONER HOUSED AS PROVIDED IN SUBSECTION (1) SHALL
12 NOT BE HOUSED WITH THE GENERAL PRISONER POPULATION UNTIL HE OR
13 SHE NO LONGER SHOWS A POSITIVE TEST RESULT FOR A DISEASE OR
14 INFECTION DESCRIBED IN SUBSECTION (1).

15 (3) AS USED IN THIS SECTION, "HIV" MEANS THAT TERM AS
16 DEFINED IN SECTION 67.