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## HIV/HBV TESTING OF PRISONERS

House Bill 5881

Sponsor: Rep. David Galloway

Committee: Health Policy

Complete to 5-14-96

### A SUMMARY OF HOUSE BILL 5881 AS INTRODUCED 5-9-96

Currently, if an employee of the Department of Corrections is exposed to the blood or body fluid of a prisoner in a manner that could transmit HIV, the prisoner is required to be tested for HIV or HIV-antibodies. A prisoner refusing to undergo the test is considered by the Department of Corrections to be HIV positive.

Instead, House Bill 5881 would amend the Department of Corrections act to specify that if a Department of Corrections employee sustained a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of a prisoner, the employee could request that the prisoner be tested for HIV and/or hepatitis B infection. The request would have to be made within 72 hours after the exposure occurred, in writing, on a form provided by the department. The form would have to be dated and contain the employee's name, address, a description of the exposure, and a statement that the employee would be subject to confidentiality requirements of the act and the Public Health Code (MCL 333.5131), but could not contain any information that could identify the prisoner.

If the wound were determined by the department to have occurred, and that it fit the criteria under administrative rules pertaining to percutaneous, mucous membrane, or open wound exposures, the department would have to test the prisoner for HIV and/or HBV, whether or not he or she consented to be tested. The department would not have to provide a hearing or obtain a court order before testing a prisoner.

Should the department determine that the wound did not fit the rule criteria or that there was not reasonable cause to believe the exposure occurred, the department would not have to test the prisoner. However, the department would have to state, in writing, on the request form the reason it determined that reasonable cause did not exist or that the exposure did not fit the rule criteria. A copy of the completed request form would have to be transmitted to the employee making the request within two days after the determination was made.

If a prisoner were tested for HIV and/or HBV infection, the employee would have to be notified by the department within two days after test results were obtained as to whether the results were positive or negative. Notification would have to be made directly to the employee or, if requested, to his or her primary care physician or other health professional. The notice could not contain information that could identify the prisoner who had been tested. Information contained in the notice would be restricted under various confidentiality requirements in the act, the Public Health Code, and rules promulgated under the Public Health Code. In addition to penalties set forth in the Public Health Code and rules promulgated under the code, a person who disclosed information from the notice in violation of the act would be guilty of a

misdemeanor. Further, the bill would specify that the Department of Corrections would have to comply with a provision in the Public Health Code requiring that governmental entities report positive HIV test results to the Department of Community Health.

MCL 791.267

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.