

FINAL BILL REPORT

ESSB 6285

FULL VETO

As Passed Legislature

Brief Description: Providing for disclosure of offenders' HIV test results to department of corrections and jail staff.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Zarelli, Roach, Schow, Long, McCaslin, Morton, Hochstatter, Swecker, Hargrove, Hale, Strannigan, Oke, Wood, Finkbeiner, Deccio, Johnson, A. Anderson, Cantu, Moyer and West).

Senate Committee on Human Services & Corrections
House Committee on Corrections

Background: Certain offenders are required to submit to mandatory HIV testing as soon as possible after sentencing. Those subject to mandatory testing include offenders convicted of sex offenses, prostitution, and certain drug offenses. Many other offenders volunteer for HIV testing as the result of education and prevention programs conducted in jails and prisons. Current law also allows Department of Corrections (DOC) officials and jail administrators to order HIV testing when an inmate's actual or threatened behavior presents a possible risk to staff, the general public, or other persons.

Test results must then be given to the offender and the administrator of the facility. Prison superintendents and jail administrators are authorized to disclose the results only as they deem necessary to protect the safety and security of the staff, offenders, and the public, including transporting officers and receiving facilities. Unauthorized disclosure is prohibited.

In fiscal year 1995, approximately 1,000 DOC inmates were tested for HIV. Of those, 1.4 percent received positive results. More than two-thirds of the tests were requested by offenders, 17 percent were requested by DOC health care providers, and 15.3 percent were the result of court orders.

Summary: Department of Corrections (DOC) health care providers and local public health officers are required to disclose the sexually transmitted disease status of DOC offenders, including the results of court-ordered HIV tests, to the superintendent or administrator of the facility. Local public health officers must also disclose the sexually transmitted disease status of jail inmates or detainees, including the results of court-ordered HIV tests, to jail administrators. These disclosures are not intended to take the place of universal precautions, which are reaffirmed by the Legislature as the most effective method of protection against communicable diseases.

Information given to prison and jail administrators is to be utilized only for disease prevention and control, and for protection of the safety and security of the staff, offenders, detainees, and the public.

The confidentiality of an offender's sexually transmitted disease status must be maintained, except that a correctional officer or jail staff must be given the results of an offender's HIV test if they have been substantially exposed to the offender's bodily fluids and the test is mandated under the requirements of current law.

The mandatory disclosure of test results only applies to court-ordered testing and not to voluntary testing.

Unauthorized disclosure or improper use of the information is punishable both in disciplinary actions and as a gross misdemeanor.

Both DOC and local jail administrators are directed to implement policies and procedures for the uniform distribution of communicable disease prevention protocols to all staff who, in the course of their regularly assigned job responsibilities, may come into close physical proximity with affected offenders. These protocols must include, but are not limited to, information learned about offenders as the result of court-ordered HIV testing.

The requirements and limitations of the protocols are specified. They must include the name of the offender and any special precautions to be taken with the offender in order to reduce the risk of transmission of the communicable disease. The protocols may not identify the offender's particular communicable disease.

The Department of Health and DOC are each required to adopt rules for implementation. They are both required to report back to the Legislature on changes in rules, policies, and procedures adopted in response to this act, and to collect information on the number and circumstances of disclosures made as a result of the changes contained in the act.

Votes on Final Passage:

Senate	41	8	
House	95	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	98	0
Senate	48	0