

AMENDED IN SENATE JULY 15, 1996  
AMENDED IN ASSEMBLY MAY 20, 1996  
AMENDED IN ASSEMBLY APRIL 16, 1996

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3378**

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**Introduced by Assembly Member Brown**

February 23, 1996

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An act to amend Sections ~~7512.5, 7516, and 7517~~ of, and to repeal Sections ~~7513, 7515, 7516.5, and 7516.8~~ of, the Penal Code, relating to 7500, 7501, 7503, 7505, 7512.5, 7513, 7515, 7518, 7520, 7521, and 7522 of the Penal Code, relating to correctional institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 3378, as amended, Brown. Correctional institutions: ~~communicable disease~~ human immunodeficiency virus.

*Existing law authorizes the testing of an inmate under certain circumstances, if there is a reasonable belief that the inmate may be suffering from AIDS or AIDS-related diseases and is a danger to other inmates or staff.*

*This bill would replace the reference to AIDS-related diseases with that of human immunodeficiency virus (HIV) infection. The bill would make conforming changes to related provisions. The bill would also revise provisions relating to an inmate's right to appeal a decision to test for HIV or AIDS.*

Existing law gives the State Department of Health Services specified powers and duties with respect to the testing of inmates for HIV and AIDS.

The bill would generally transfer those powers and duties from the State Department of Health Services to the Department of Corrections, the Department of the Youth Authority, or the county, city, or county and city, and would provide that the Office of AIDS in the State Department of Health Services shall act as a consultant.

By imposing new duties on cities, counties, and local health officers, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law sets forth procedures under which the chief medical officer, as defined, who serves a specified law enforcement agency or correctional institution, is authorized, and in some cases is required, to require HIV testing of an inmate or certain persons in custody. These provisions include procedures for the appeal of the chief medical officer's decision to a 3-person panel and the appeal of the panel's decision to the superior court.~~

~~This bill would delete the authority to appeal under these provisions and make conforming changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. ~~Section 7512.5 of the Penal Code is~~  
2



1 SECTION 1. Section 7500 of the Penal Code is  
2 amended to read:

3 7500. The Legislature finds and declares all of the  
4 following:

5 (a) The public peace, health, and safety is endangered  
6 by the spread of *the human immunodeficiency virus*  
7 (*HIV*) and acquired immune deficiency syndrome  
8 (AIDS) within state and local correctional institutions.

9 (b) The spread of AIDS within prison and jail  
10 populations presents a grave danger to inmates within  
11 those populations, law enforcement personnel, and other  
12 persons in contact with a prisoner infected with the AIDS  
13 virus, both during and after the prisoner's confinement.  
14 Law enforcement personnel and prisoners are  
15 particularly vulnerable to this danger, due to the high  
16 number of assaults and other violent acts which occur  
17 within correctional institutions.

18 (c) AIDS has the frightening potential of spreading  
19 more rapidly within the closed society of correctional  
20 institutions than outside these institutions. This major  
21 public health problem is compounded by the further  
22 potential of rapid spread of communicable disease  
23 outside correctional institutions, through contacts of an  
24 infected prisoner who is not treated and monitored upon  
25 his or her release.

26 (d) New diseases of epidemic proportions, such as  
27 AIDS may suddenly and tragically infect large numbers  
28 of people. This title primarily addresses a current  
29 problem of this nature, the spread of AIDS among those  
30 in correctional institutions and among the people of  
31 California.

32 (e) ~~AIDS and AIDS-related conditions~~ *HIV and AIDS*  
33 pose a major threat to the public health and safety of those  
34 governmental employees and others whose  
35 responsibilities bring them into most direct contact with  
36 persons afflicted with those illnesses, and the protection  
37 of the health and safety of these personnel is of equal  
38 importance to the people of the State of California as is  
39 the protection of the health of those afflicted with the  
40 diseases who are held in custodial situations.



1 (f) Testing described in this title of individuals housed  
 2 within state and local correctional facilities for evidence  
 3 of infection by ~~the human immunodeficiency virus~~  
 4 ~~(HIV), HIV or AIDS, or AIDS-related complex~~ would  
 5 help provide a level of information necessary for effective  
 6 disease control within these institutions and would help  
 7 preserve the health of public employees, inmates, and  
 8 persons in custody, as well as that of the public at large.  
 9 This testing is not intended to be, and shall not be  
 10 construed as, a prototypical method of disease control for  
 11 the public at large.

12 *SEC. 2. Section 7501 of the Penal Code is amended to*  
 13 *read:*

14 7501. In order to address the public health crisis  
 15 described in Section 7500, it is the intent of the  
 16 Legislature to do all of the following:

17 (a) Establish a procedure through which custodial and  
 18 law enforcement personnel are required to report certain  
 19 situations and may request and be granted a confidential  
 20 HIV test of an inmate convicted of a crime, or a person  
 21 arrested or taken into custody, if the custodial or law  
 22 enforcement officer has reason to believe he or she has  
 23 come into contact with the blood or semen of an inmate  
 24 or in any other manner has come into contact with the  
 25 inmate in a way that could result in HIV infection, based  
 26 on the latest determinations and conclusions by the  
 27 federal Centers for Disease Control and the State  
 28 Department of Health Services on means for the  
 29 transmission of AIDS, and if appropriate medical  
 30 authorities, as provided for in this title, reasonably believe  
 31 there is good medical reason for the test.

32 (b) Permit inmates to file similar requests stemming  
 33 from contacts with other inmates.

34 (c) Require that probation and parole officers be  
 35 notified when an inmate being released from  
 36 incarceration is infected with AIDS, and permit these  
 37 officers to notify certain persons who will come into  
 38 contact with the parolee or probationer, if authorized by  
 39 law.



1 (d) Authorize prison medical staff authorities to  
2 require tests of a jail or prison inmate under certain  
3 circumstances, if they reasonably believe, based upon the  
4 existence of supporting evidence, that the inmate may be  
5 suffering from *HIV infection or AIDS* or ~~AIDS-related~~  
6 ~~diseases~~ and is a danger to other inmates or staff.

7 (e) Require supervisory and medical personnel of  
8 correctional institutions to which this title applies to  
9 notify staff if they are coming into close and direct contact  
10 with persons in custody who have tested positive or who  
11 have AIDS, and provide appropriate counseling and  
12 safety equipment.

13 *SEC. 3. Section 7503 of the Penal Code is amended to*  
14 *read:*

15 ~~7503. The State Department of Health Services~~  
16 *Department of Corrections, the Department of the*  
17 *Youth Authority, and county health officers shall adopt*  
18 *guidelines permitting a chief medical officer to delegate*  
19 *his or her medical responsibilities under this title to other*  
20 *qualified physicians and surgeons, and his or her*  
21 *nonmedical responsibilities to other qualified persons, as*  
22 *appropriate. The chief medical officer shall not, however,*  
23 *delegate the duty to determine whether mandatory*  
24 *testing is required as provided for in Chapter 2*  
25 *(commencing with Section 7510).*

26 *SEC. 4. Section 7505 of the Penal Code is amended to*  
27 *read:*

28 *7505. This title is intended to provide the authority for*  
29 *state and local correctional, custodial, and law*  
30 *enforcement agencies to perform medical testing of*  
31 *inmates and prisoners for the purposes specified herein.*  
32 *However, notwithstanding any other provision of this*  
33 *title, this title shall only be operative in a city, county, or*  
34 *city and county serve as authority for the HIV testing of*  
35 *prisoners in only those local facilities where the*  
36 *governing body of which adopts has adopted a resolution*  
37 *affirming that it shall be operative in that city, county, or*  
38 *city and county. Testing within state correctional*  
39 *facilities under the jurisdiction of the Department of*  
40 *Corrections and state juvenile facilities under the*



1 *jurisdiction of the Department of the Youth Authority*  
2 *shall not be affected by this requirement.*

3 *SEC. 5. Section 7512.5 of the Penal Code is amended*  
4 *to read:*

5 7512.5. In the absence of the filing of a report  
6 pursuant to Section 7510 or a request pursuant to Section  
7 7512, the chief medical officer, may order a test of an  
8 inmate if he or she concludes there are clinical symptoms  
9 of *HIV infection or AIDS or ~~AIDS-related complex~~*, as  
10 recognized by the Centers for Disease Control; *and*  
11 *Prevention.*

12 A copy of the decision shall be provided to the inmate,  
13 and where the inmate is a minor, to the parents or  
14 guardian of the minor, unless the parent or guardian of  
15 the minor cannot be located. Any decision made pursuant  
16 to this section shall not be appealable to a three-member  
17 panel provided for under Section 7515.

18 *SEC. 6. Section 7513 of the Penal Code is amended to*  
19 *read:*

20 7513. ~~A~~*An inmate who is the subject of an HIV test*  
21 *report filed pursuant to Section 7510 or an HIV test report*  
22 *filed pursuant to Section 7512 shall receive, in conjunction*  
23 *with the decision of the chief medical officer to order a*  
24 *test, a copy of this title, a written description of the right*  
25 *to appeal a the chief medical officer's decision shall*  
26 ~~accompany the copies of the decision required to be~~  
27 ~~provided by Sections 7511, 7512, and 7512.5 which~~  
28 *includes the applicable timelines, and notification of his*  
29 *or her right to receive pretest and posttest counseling by*  
30 *staff that have been certified as HIV test counselors.*

31 *SEC. 7. Section 7515 of the Penal Code is amended to*  
32 *read:*

33 7515. (a) A decision of the chief medical officer made  
34 pursuant to Section 7511, 7512, or 7516 may be appealed,  
35 within three calendar days of receipt of the decision, to  
36 a three-person panel, either by the person required to be  
37 tested, or his or her parent or guardian when the subject  
38 is a minor, the law enforcement employee filing a report  
39 pursuant to either Section 7510 or 7516, or the person  
40 requesting testing pursuant to Section 7512, whichever is



1 applicable, or the chief medical officer, upon his or her  
2 own motion. If no request for appeal is filed under this  
3 subdivision, the chief medical officer's decision shall be  
4 final.

5 (b) *Depending upon which entity has jurisdiction*  
6 *over the person requesting or appealing a test, the*  
7 *Department of Corrections, the Department of the*  
8 *Youth Authority, the county, the city, or the county and*  
9 *city shall convene the appeal panel and shall ensure that*  
10 *the appeal is heard within 30 calendar days from the date*  
11 *an appeal request is filed pursuant to subdivision (a).*

12 (c) A panel required pursuant to subdivision (a) shall  
13 consist of three members, as follows:

14 (1) The chief medical officer making the original  
15 decision.

16 ~~(2) When the decision arises out of a report filed~~  
17 ~~pursuant to Section 7510, a supervisory representative~~  
18 ~~from the law enforcement agency employing the person~~  
19 ~~who filed the report. When a decision arises out of a chief~~  
20 ~~medical officer's decision made pursuant to Section~~  
21 ~~7512.5, a supervisory representative of the correctional~~  
22 ~~institution appointed by the institution's superintendent.~~  
23 ~~When the decision arises out of a request filed pursuant~~  
24 ~~to Section 7512, a supervisory representative of the law~~  
25 ~~enforcement agency with jurisdiction over the facility. A~~  
26 ~~physician and surgeon who has knowledge in the~~  
27 ~~diagnosis, treatment, and transmission of HIV selected by~~  
28 ~~the Department of Corrections, Department of the~~  
29 ~~Youth Authority, county, city, or county and city. The~~  
30 ~~physician and surgeon appointed pursuant to this~~  
31 ~~paragraph shall preside at the hearing and serve as~~  
32 ~~chairperson.~~

33 (3) A physician and surgeon not on the staff of, or  
34 under contract with, a state, county, ~~or~~ city, *or county and*  
35 *city* correctional institution or with an employer of a law  
36 enforcement employee as defined in subdivision (b) of  
37 Section 7502, and who has knowledge of the diagnosis ~~and,~~  
38 *treatment, and transmission* of ~~AIDS~~ *HIV*. The physician  
39 and surgeon appointed pursuant to this paragraph shall  
40 be selected by the State Department of Health Services



1 from among a list of persons to be compiled by that  
2 department. The State Department of Health Services  
3 shall adopt standards for selecting persons for the list  
4 required by this paragraph, as well as for their  
5 reimbursement, and shall, to the extent possible, utilize  
6 its normal process for selecting consultants in compiling  
7 this list. ~~The physician and surgeon appointed pursuant~~  
8 ~~to this paragraph shall preside at the hearing and serve as~~  
9 ~~chairperson.~~

10 ~~A correctional institution or a county may create an~~

11 *The Legislature finds and declares that the presence of*  
12 *a physician and surgeon on the panel who is selected by*  
13 *the State Department of Health Services enhances the*  
14 *objectivity of the panel and it is the intent of the*  
15 *Legislature that the State Department of Health Services*  
16 *make every attempt to comply with this subdivision.*

17 *(d) The Department of Corrections, county, city, or*  
18 *county and city shall notify the Office of AIDS in the State*  
19 *Department of Health Services when a panel must be*  
20 *convened under subdivision (a). Within 10 calendar days*  
21 *of the notification, a physician and surgeon appointed*  
22 *under paragraph (3) of subdivision (c) shall reach*  
23 *agreement with the Department of Corrections, the*  
24 *county, the city, or the county and city on a date for the*  
25 *hearing that complies with subdivision (b).*

26 *(e) If the Office of AIDS in the State Department of*  
27 *Health Services fails to comply with subdivision (d) or the*  
28 *physician and surgeon appointed under paragraph (3) of*  
29 *subdivision (c) fails to attend the scheduled hearing, the*  
30 *Department of Corrections, county, city, or county and*  
31 *city shall appoint a physician or surgeon who has*  
32 *knowledge of the diagnosis, treatment, and transmission*  
33 *of HIV to serve on the appeals panel to replace the*  
34 *physician and surgeon required under paragraph (3) of*  
35 *subdivision (c). The Department of Corrections, county,*  
36 *city, or county and city shall have standards for selecting*  
37 *persons under this subdivision and for their*  
38 *reimbursement.*

39 *The Department of Corrections, the Department of*  
40 *the Youth Authority, the county, the city, or the county*



1 *and city shall, whenever feasible, create, and utilize*  
 2 ~~ongoing panel or panels to hear appeals under this~~  
 3 ~~section, except that one member each. The membership~~  
 4 *of the panel shall meet the requirements of paragraphs*  
 5 *(1), (2), and (3) of subdivision (c).*

6 ~~No panel shall be created under this paragraph by a~~  
 7 ~~state correctional institution except with the prior~~  
 8 ~~approval of the State Department of Health Services, and~~  
 9 ~~no panel shall be created pursuant to this paragraph by~~  
 10 ~~a county or city, or county and city correctional~~  
 11 ~~institution except with the prior approval of the county~~  
 12 *local health officer.*

13 ~~(e)~~

14 (f) A hearing conducted pursuant to this section shall  
 15 be closed, except that each of the following persons shall  
 16 have the right to attend the hearing, speak on the issues  
 17 presented at the hearing, and call witnesses to testify at  
 18 the hearing:

19 (1) The chief medical officer, who may also bring staff  
 20 essential to the hearing, as well as the other two members  
 21 of the panel.

22 (2) The subject of the chief medical officer's decision,  
 23 except that a subject who is a minor may attend only with  
 24 the consent of his or her parent or guardian, and if the  
 25 subject is a minor, his or her parent or guardian.

26 (3) The law enforcement employee filing the report  
 27 pursuant to Section 7510, or the person requesting HIV  
 28 testing pursuant to Section 7512, whichever is applicable,  
 29 and if the person is a minor, his or her parent or guardian.

30 ~~(d)~~

31 (g) The subject of the test, or the person requesting  
 32 the test pursuant to Section 7512, or who filed the report  
 33 pursuant to Section 7510, whichever is applicable, may  
 34 appoint a representative to attend the hearing in order to  
 35 assist him or her.

36 ~~(e)~~

37 (h) When a hearing is sought pursuant to this section,  
 38 the decision shall be rendered within 10 days of the date  
 39 upon which the appeal is filed pursuant to subdivision (a).  
 40 A unanimous vote of all the panel shall be necessary in



1 order to require that the subject of the hearing undergo  
2 HIV testing.

3 The criteria specified in Section 7511 for use by the  
4 chief medical officer shall also be utilized by the panel in  
5 making its decision.

6 The decision shall be in writing, stating reasons for the  
7 decision, and shall be signed by the members. A copy shall  
8 be provided by the chief medical officer to the person  
9 requesting the test, or filing the report, whichever is  
10 applicable, to the subject of the test, and, when the  
11 subject is in a correctional institution, to the  
12 superintendent of the institution, except that when the  
13 subject of the test or the person upon whose behalf the  
14 request for the test was made is a minor, copies shall also  
15 be provided to the parent or guardian of the person,  
16 unless the parent or guardian cannot be located.

17 *SEC. 8. Section 7518 of the Penal Code is amended to*  
18 *read:*

19 7518. (a) The ~~State Department of Health Services~~  
20 *Corrections, the Department of the Youth Authority, and*  
21 *local health officers shall, in consultation with local and*  
22 *state law enforcement agencies, county health officers,*  
23 *and federal health authorities, adopt guidelines for the*  
24 *making of decisions pursuant to this chapter in*  
25 *consultation with the Office of AIDS in the State*  
26 *Department of Health Services. The guidelines shall be*  
27 *based on the latest written guidelines of HIV transmission*  
28 *and infection established by the federal Centers for*  
29 *Disease Control and Prevention.*

30 (b) Oversight responsibility for implementation of  
31 ~~Section 7515 in the applicable provisions of this title,~~  
32 *including the oversight of reports involving parole*  
33 *officers and the staff of state prisons shall be vested with*  
34 *the Chief of Medical Services in the Department of*  
35 *Corrections. Oversight responsibility for implementation*  
36 *of Section 7515 in California Youth Authority the facilities*  
37 *of the Department of the Youth Authority shall be vested*  
38 *with the Chief of Medical Services in the Department of*  
39 *the Youth Authority. Oversight responsibility for*  
40 *implementation of Section 7515 with respect to reports*



1 involving parole or probation officers shall be vested with  
2 the Chief of Parole and Community Services Division in  
3 the Department of Corrections.

4 Oversight responsibility at the county, *the city, or the*  
5 *county and city* level shall rest with the ~~county~~ local  
6 health officer.

7 *SEC. 9. Section 7520 of the Penal Code is amended to*  
8 *read:*

9 7520. Upon the release of an inmate from a  
10 correctional institution, a medical representative of the  
11 institution shall notify the inmate's parole or probation  
12 officer, where it is the case, that the inmate has tested  
13 positive for infection with HIV, or has been diagnosed as  
14 having AIDS—~~or AIDS-related conditions~~. The  
15 representative of the correctional institution shall obtain  
16 the latest available medical information concerning any  
17 precautions which should be taken under the  
18 circumstances, and shall convey that information to the  
19 parole or probation officer.

20 When a parole or probation officer learns from  
21 responsible medical authorities that a parolee or  
22 probationer under his or her jurisdiction has AIDS,~~or~~  
23 ~~AIDS-related conditions~~, or has tested positive for HIV  
24 infection, the parole or probation officer shall be  
25 responsible for ensuring that the parolee or probationer  
26 contacts the county health department in order to be, or  
27 through his or her own physician and surgeon is, made  
28 aware of counseling and treatment for AIDS  
29 commensurate with that available to the general  
30 population of that county.

31 *SEC. 10. Section 7521 of the Penal Code is amended*  
32 *to read:*

33 7521. (a) When a parole or probation officer learns  
34 from responsible medical authorities that a parolee or  
35 probationer in his or her custody has any of the conditions  
36 listed in Section 7520, but that the parolee or probationer  
37 has not properly informed his or her spouse, the officer  
38 may ensure that this information is relayed to the spouse  
39 only through either the chief medical officer of the  
40 institution from which the person was released or the



1 physician and surgeon treating the spouse or the parolee  
2 or probationer. The parole or probation officer shall seek  
3 to ensure that proper counseling accompanies release of  
4 this information to the spouse, through the person  
5 providing the information to the inmate's spouse.

6 (b) If a parole or probation officer has received  
7 information from appropriate medical authorities that  
8 one of his or her parolees or probationers *is HIV infected*  
9 *or has AIDS*—~~or AIDS-related conditions~~, and the parolee  
10 or probationer has a record of assault on a peace officer,  
11 and the officer seeks the aid of local law enforcement  
12 officers to apprehend or take into custody the parolee or  
13 probationer, he or she shall inform the officers assisting  
14 him or her in apprehending or taking into custody the  
15 parolee or probationer, of the person's condition, to aid  
16 them in protecting themselves from contracting AIDS.

17 (c) Local law enforcement officers receiving  
18 information pursuant to this subdivision shall maintain  
19 confidentiality of information received pursuant to  
20 subdivision (b). Willful use or disclosure of this  
21 information is a misdemeanor. Parole or probation  
22 officers who willfully or negligently disclose information  
23 about AIDS infection, other than as prescribed under this  
24 title or any other provision of law, shall also be guilty of  
25 a misdemeanor.

26 *SEC. 11. Section 7522 of the Penal Code is amended*  
27 *to read:*

28 7522. (a) Supervisory and medical personnel in  
29 correctional institutions shall notify all law enforcement  
30 employees when those employees have had direct  
31 contact with the bodily fluids of, inmates or persons  
32 charged or in custody who either have tested positive for  
33 infection with HIV, or been diagnosed as having AIDS—~~or~~  
34 ~~AIDS-related conditions~~.

35 (b) Supervisory and medical personnel at correctional  
36 institutions shall provide to employees covered by this  
37 section the latest medical information regarding  
38 precautions to be taken under the circumstances, and  
39 shall furnish proper protective clothing and other



1 necessary protective devices or equipment, and instruct  
2 staff on the applicability of this title.

3 *SEC. 12. Notwithstanding Section 17610 of the*  
4 *Government Code, if the Commission on State Mandates*  
5 *determines that this act contains costs mandated by the*  
6 *state, reimbursement to local agencies and school*  
7 *districts for those costs shall be made pursuant to Part 7*  
8 *(commencing with Section 17500) of Division 4 of Title*  
9 *2 of the Government Code. If the statewide cost of the*  
10 *claim for reimbursement does not exceed one million*  
11 *dollars (\$1,000,000), reimbursement shall be made from*  
12 *the State Mandates Claims Fund.*

13 *Notwithstanding Section 17580 of the Government*  
14 *Code, unless otherwise specified, the provisions of this act*  
15 *shall become operative on the same date that the act*  
16 *takes effect pursuant to the California Constitution.*

17 ~~amended to read:~~

18 ~~7512.5. In the absence of the filing of a report~~  
19 ~~pursuant to Section 7510 or a request pursuant to Section~~  
20 ~~7512, the chief medical officer, may order a test of an~~  
21 ~~inmate if he or she concludes there are clinical symptoms~~  
22 ~~of AIDS or AIDS related complex, as recognized by the~~  
23 ~~Centers for Disease Control.~~

24 ~~A copy of the decision shall be provided to the inmate,~~  
25 ~~and where the inmate is a minor, to the parents or~~  
26 ~~guardian of the minor, unless the parent or guardian of~~  
27 ~~the minor cannot be located.~~

28 ~~SEC. 2. Section 7513 of the Penal Code is repealed.~~

29 ~~SEC. 3. Section 7515 of the Penal Code is repealed.~~

30 ~~SEC. 4. Section 7516 of the Penal Code is amended to~~  
31 ~~read:~~

32 ~~7516. (a) When a custodial officer or staff person of~~  
33 ~~a correctional institution, observes or is informed of~~  
34 ~~activity in a correctional institution that is classified as~~  
35 ~~causing, or known to cause, the transmission of the AIDS~~  
36 ~~virus, as described in subdivision (b), he or she may file~~  
37 ~~a written report with the facility's chief medical officer~~  
38 ~~which, in the case of city or county jails, shall be the~~  
39 ~~county health officer.~~



1 ~~(b) Reportable activities within a correctional~~  
2 ~~institution for which a report may be filed pursuant to~~  
3 ~~subdivision (a) include, but are not limited to, all of the~~  
4 ~~following activities, if they could result in the transmission~~  
5 ~~of AIDS, according to the standards provided for in this~~  
6 ~~chapter:~~

7 ~~(1) Sexual activity resulting in the exchange of bodily~~  
8 ~~fluids.~~

9 ~~(2) IV drug use.~~

10 ~~(3) Incidents involving injury to inmates or staff in~~  
11 ~~which bodily fluids are exchanged.~~

12 ~~(4) Tampering with medical and food supplies or~~  
13 ~~medical or food equipment.~~

14 ~~(5) Tattooing among inmates.~~

15 ~~(c) The medical officer may investigate the report,~~  
16 ~~conduct interviews, and determine whether the situation~~  
17 ~~reported caused the probable exchange of body fluids in~~  
18 ~~a manner that could result in the transmission of HIV,~~  
19 ~~utilizing the criteria set forth in Section 7511, and pose a~~  
20 ~~danger to the health and safety of the institution's staff~~  
21 ~~and inmate population.~~

22 ~~If the chief medical officer concludes this may have~~  
23 ~~occurred, he or she shall require HIV testing of any~~  
24 ~~inmate which he or she deems necessary pursuant to the~~  
25 ~~investigation.~~

26 ~~(d) This section shall apply to situations involving~~  
27 ~~individual inmates or group situations but shall not be~~  
28 ~~utilized to require testing of all inmates in a correctional~~  
29 ~~institution.~~

30 ~~SEC. 5. Section 7516.5 of the Penal Code is repealed.~~

31 ~~SEC. 6. Section 7516.8 of the Penal Code is repealed.~~

32 ~~SEC. 7. Section 7517 of the Penal Code is amended to~~  
33 ~~read:~~

34 ~~7517. Except as otherwise permitted by this title or~~  
35 ~~any law, any records, including decisions of a chief~~  
36 ~~medical officer, compiled pursuant to this chapter shall~~  
37 ~~be confidential.~~

