

111TH CONGRESS
1ST SESSION

H. R. 1429

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2009

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To provide for an effective HIV/AIDS program in Federal
prisons.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Stop AIDS in Prison
3 Act of 2009”.

4 **SEC. 2. COMPREHENSIVE HIV/AIDS POLICY.**

5 (a) IN GENERAL.—The Bureau of Prisons (herein-
6 after in this Act referred to as the “Bureau”) shall develop
7 a comprehensive policy to provide HIV testing, treatment,
8 and prevention for inmates within the correctional setting
9 and upon reentry.

10 (b) PURPOSE.—The purposes of this policy shall be
11 as follows:

12 (1) To stop the spread of HIV/AIDS among in-
13 mates.

14 (2) To protect prison guards and other per-
15 sonnel from HIV/AIDS infection.

16 (3) To provide comprehensive medical treat-
17 ment to inmates who are living with HIV/AIDS.

18 (4) To promote HIV/AIDS awareness and pre-
19 vention among inmates.

20 (5) To encourage inmates to take personal re-
21 sponsibility for their health.

22 (6) To reduce the risk that inmates will trans-
23 mit HIV/AIDS to other persons in the community
24 following their release from prison.

25 (c) CONSULTATION.—The Bureau shall consult with
26 appropriate officials of the Department of Health and

1 Human Services, the Office of National Drug Control Pol-
2 icy, and the Centers for Disease Control regarding the de-
3 velopment of this policy.

4 (d) TIME LIMIT.—The Bureau shall draft appro-
5 priate regulations to implement this policy not later than
6 1 year after the date of the enactment of this Act.

7 **SEC. 3. REQUIREMENTS FOR POLICY.**

8 The policy created under section 2 shall do the fol-
9 lowing:

10 (1) TESTING AND COUNSELING UPON IN-
11 TAKE.—

12 (A) Medical personnel shall provide routine
13 HIV testing to all inmates as a part of a com-
14 prehensive medical examination immediately fol-
15 lowing admission to a facility. (Medical per-
16 sonnel need not provide routine HIV testing to
17 an inmate who is transferred to a facility from
18 another facility if the inmate's medical records
19 are transferred with the inmate and indicate
20 that the inmate has been tested previously.)

21 (B) To all inmates admitted to a facility
22 prior to the effective date of this policy, medical
23 personnel shall provide routine HIV testing
24 within no more than 6 months. HIV testing for
25 these inmates may be performed in conjunction

1 with other health services provided to these in-
2 mates by medical personnel.

3 (C) All HIV tests under this paragraph
4 shall comply with paragraph (9).

5 (2) PRE-TEST AND POST-TEST COUNSELING.—
6 Medical personnel shall provide confidential pre-test
7 and post-test counseling to all inmates who are test-
8 ed for HIV. Counseling may be included with other
9 general health counseling provided to inmates by
10 medical personnel.

11 (3) HIV/AIDS PREVENTION EDUCATION.—
12 (A) Medical personnel shall improve HIV/
13 AIDS awareness through frequent educational
14 programs for all inmates. HIV/AIDS edu-
15 cational programs may be provided by commu-
16 nity based organizations, local health depart-
17 ments, and inmate peer educators. These HIV/
18 AIDS educational programs shall include infor-
19 mation on modes of transmission, including
20 transmission through tattooing, sexual contact,
21 and intravenous drug use; prevention methods;
22 treatment; and disease progression. HIV/AIDS
23 educational programs shall be culturally sen-
24 sitive, conducted in a variety of languages, and

1 present scientifically accurate information in a
2 clear and understandable manner.

3 (B) HIV/AIDS educational materials shall
4 be made available to all inmates at orientation,
5 at health care clinics, at regular educational
6 programs, and prior to release. Both written
7 and audio-visual materials shall be made avail-
8 able to all inmates. These materials shall be
9 culturally sensitive, written for low literacy lev-
10 els, and available in a variety of languages.

11 (4) HIV TESTING UPON REQUEST.—

12 (A) Medical personnel shall allow inmates
13 to obtain HIV tests upon request once per year
14 or whenever an inmate has a reason to believe
15 the inmate may have been exposed to HIV.
16 Medical personnel shall, both orally and in writ-
17 ing, inform inmates, during orientation and pe-
18 riodically throughout incarceration, of their
19 right to obtain HIV tests.

20 (B) Medical personnel shall encourage in-
21 mates to request HIV tests if the inmate is sex-
22 ually active, has been raped, uses intravenous
23 drugs, receives a tattoo, or if the inmate is con-
24 cerned that the inmate may have been exposed
25 to HIV/AIDS.

1 (C) An inmate's request for an HIV test
2 shall not be considered an indication that the
3 inmate has put him/herself at risk of infection
4 and/or committed a violation of prison rules.

5 (5) HIV TESTING OF PREGNANT WOMAN.—

6 (A) Medical personnel shall provide routine
7 HIV testing to all inmates who become preg-
8 nant.

9 (B) All HIV tests under this paragraph
10 shall comply with paragraph (9).

11 (6) COMPREHENSIVE TREATMENT.—

12 (A) Medical personnel shall provide all in-
13 mates who test positive for HIV—

14 (i) timely, comprehensive medical
15 treatment;

16 (ii) confidential counseling on man-
17 aging their medical condition and pre-
18 venting its transmission to other persons;
19 and

20 (iii) voluntary partner notification
21 services.

22 (B) Medical care provided under this para-
23 graph shall be consistent with current Depart-
24 ment of Health and Human Services guidelines
25 and standard medical practice. Medical per-

sonnel shall discuss treatment options, the importance of adherence to antiretroviral therapy, and the side effects of medications with inmates receiving treatment.

(C) Medical and pharmacy personnel shall ensure that the facility formulary contains all Food and Drug Administration-approved medications necessary to provide comprehensive treatment for inmates living with HIV/AIDS, and that the facility maintains adequate supplies of such medications to meet inmates' medical needs. Medical and pharmacy personnel shall also develop and implement automatic renewal systems for these medications to prevent interruptions in care.

(D) Correctional staff and medical and pharmacy personnel shall develop and implement distribution procedures to ensure timely and confidential access to medications.

(7) PROTECTION OF CONFIDENTIALITY.—

(A) Medical personnel shall develop and implement procedures to ensure the confidentiality of inmate tests, diagnoses, and treatment. Medical personnel and correctional staff shall receive regular training on the implemen-

1 tation of these procedures. Penalties for viola-
2 tions of inmate confidentiality by medical per-
3 sonnel or correctional staff shall be specified
4 and strictly enforced.

5 (B) HIV testing, counseling, and treat-
6 ment shall be provided in a confidential setting
7 where other routine health services are provided
8 and in a manner that allows the inmate to re-
9 quest and obtain these services as routine med-
10 ical services.

11 (8) TESTING, COUNSELING, AND REFERRAL
12 PRIOR TO REENTRY.—

13 (A) Medical personnel shall provide routine
14 HIV testing to all inmates no more than 3
15 months prior to their release and reentry into
16 the community. (Inmates who are already
17 known to be infected need not be tested again.)
18 This requirement may be waived if an inmate's
19 release occurs without sufficient notice to the
20 Bureau to allow medical personnel to perform a
21 routine HIV test and notify the inmate of the
22 results.

23 (B) All HIV tests under this paragraph
24 shall comply with paragraph (9).

1 (C) To all inmates who test positive for
2 HIV and all inmates who already are known to
3 have HIV/AIDS, medical personnel shall pro-
4 vide—

5 (i) confidential prerelease counseling
6 on managing their medical condition in the
7 community, accessing appropriate treat-
8 ment and services in the community, and
9 preventing the transmission of their condi-
10 tion to family members and other persons
11 in the community;

12 (ii) referrals to appropriate health
13 care providers and social service agencies
14 in the community that meet the inmate's
15 individual needs, including voluntary part-
16 ner notification services and prevention
17 counseling services for people living with
18 HIV/AIDS; and

19 (iii) a 30-day supply of any medically
20 necessary medications the inmate is cur-
21 rently receiving.

22 (9) OPT-OUT PROVISION.—Inmates shall have
23 the right to refuse routine HIV testing. Inmates
24 shall be informed both orally and in writing of this
25 right. Oral and written disclosure of this right may

1 be included with other general health information
2 and counseling provided to inmates by medical per-
3 sonnel. If an inmate refuses a routine test for HIV,
4 medical personnel shall make a note of the inmate's
5 refusal in the inmate's confidential medical records.
6 However, the inmate's refusal shall not be consid-
7 ered a violation of prison rules or result in discipli-
8 nary action.

9 (10) EXCLUSION OF TESTS PERFORMED UNDER
10 SECTION 4014(B) FROM THE DEFINITION OF ROU-
11 TINE HIV TESTING.—HIV testing of an inmate
12 under section 4014(b) of title 18, United States
13 Code, is not routine HIV testing for the purposes of
14 paragraph (9). Medical personnel shall document the
15 reason for testing under section 4014(b) of title 18,
16 United States Code, in the inmate's confidential
17 medical records.

18 (11) TIMELY NOTIFICATION OF TEST RE-
19 SULTS.—Medical personnel shall provide timely noti-
20 fication to inmates of the results of HIV tests.

21 **SEC. 4. CHANGES IN EXISTING LAW.**

22 (a) SCREENING IN GENERAL.—Section 4014(a) of
23 title 18, United States Code, is amended—

24 (1) by striking “for a period of 6 months or
25 more”;

1 (2) by striking “, as appropriate,”; and

2 (3) by striking “if such individual is determined
3 to be at risk for infection with such virus in accord-
4 ance with the guidelines issued by the Bureau of
5 Prisons relating to infectious disease management”
6 and inserting “unless the individual declines. The
7 Attorney General shall also cause such individual to
8 be so tested before release unless the individual de-
9 clines.”.

10 (b) INADMISSIBILITY OF HIV TEST RESULTS IN
11 CIVIL AND CRIMINAL PROCEEDINGS.—Section 4014(d) of
12 title 18, United States Code, is amended by inserting “or
13 under the Stop AIDS in Prison Act of 2009” after “under
14 this section”.

15 (c) SCREENING AS PART OF ROUTINE SCREENING.—
16 Section 4014(e) of title 18, United States Code, is amend-
17 ed by adding at the end the following: “Such rules shall
18 also provide that the initial test under this section be per-
19 formed as part of the routine health screening conducted
20 at intake.”.

21 **SEC. 5. REPORTING REQUIREMENTS.**

22 (a) REPORT ON HEPATITIS AND OTHER DISEASES.—
23 Not later than 1 year after the date of the enactment of
24 this Act, the Bureau shall provide a report to the Congress
25 on Bureau policies and procedures to provide testing,

1 treatment, and prevention education programs for Hepa-
2 titis and other diseases transmitted through sexual activ-
3 ity and intravenous drug use. The Bureau shall consult
4 with appropriate officials of the Department of Health and
5 Human Services, the Office of National Drug Control Pol-
6 icy, and the Centers for Disease Control regarding the de-
7 velopment of this report.

8 (b) ANNUAL REPORTS.—

9 (1) GENERALLY.—Not later than 2 years after
10 the date of the enactment of this Act, and then an-
11 nually thereafter, the Bureau shall report to Con-
12 gress on the incidence among inmates of diseases
13 transmitted through sexual activity and intravenous
14 drug use.

15 (2) MATTERS PERTAINING TO VARIOUS DIS-
16 EASES.—Reports under paragraph (1) shall dis-
17 cuss—

18 (A) the incidence among inmates of HIV/
19 AIDS, Hepatitis, and other diseases trans-
20 mitted through sexual activity and intravenous
21 drug use; and

22 (B) updates on Bureau testing, treatment,
23 and prevention education programs for these
24 diseases.

1 (3) MATTERS PERTAINING TO HIV/AIDS
2 ONLY.—Reports under paragraph (1) shall also in-
3 clude—

4 (A) the number of inmates who tested
5 positive for HIV upon intake;

6 (B) the number of inmates who tested
7 positive prior to reentry;

8 (C) the number of inmates who were not
9 tested prior to reentry because they were re-
10 leased without sufficient notice;

11 (D) the number of inmates who opted-out
12 of taking the test;

13 (E) the number of inmates who were test-
14 ed under section 4014(b) of title 18, United
15 States Code; and

16 (F) the number of inmates under treat-
17 ment for HIV/AIDS.

18 (4) CONSULTATION.—The Bureau shall consult
19 with appropriate officials of the Department of
20 Health and Human Services, the Office of National
21 Drug Control Policy, and the Centers for Disease
22 Control regarding the development of reports under
23 paragraph (1).

1 SEC. 6. APPROPRIATIONS.

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out this Act.

Passed the House of Representatives March 17, 2009.

Attest: LORRAINE C. MILLER,
Clerk.