

112TH CONGRESS
1ST SESSION

H. R. 3547

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2011

Ms. WATERS (for herself, Mr. CONYERS, Mr. SCOTT of Virginia, Ms. LEE of California, Mrs. CHRISTENSEN, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. TOWNS, Ms. SPEIER, Ms. WILSON of Florida, Mr. CLARKE of Michigan, Ms. NORTON, Mr. CLAY, Ms. BROWN of Florida, Mr. RANGEL, Mr. DAVIS of Illinois, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Ms. RICHARDSON, Mr. JOHNSON of Georgia, Mrs. MALONEY, Mr. LEWIS of Georgia, Mr. CLEAVER, Ms. WOOLSEY, Mr. AL GREEN of Texas, Mr. PAYNE, Mr. ELLISON, Mr. FILNER, Mr. GUTIERREZ, Mr. HONDA, Ms. SCHAKOWSKY, Mr. BLUMENAUER, Mr. WATT, and Mr. SERRANO) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop AIDS in Prison
5 Act of 2011”.

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

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

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

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

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

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

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

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

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

22 (c) CONSULTATION.—The Bureau shall consult with
23 appropriate officials of the Department of Health and
24 Human Services, the Office of National Drug Control Pol-
25 icy, the Office of National AIDS Policy, and the Centers

1 for Disease Control regarding the development of this pol-
2 icy.

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

6 **SEC. 3. REQUIREMENTS FOR POLICY.**

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

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

11 (A) Health care personnel shall provide
12 routine HIV testing to all inmates as a part of
13 a comprehensive medical examination imme-
14 diately following admission to a facility. (Health
15 care personnel need not provide routine HIV
16 testing to an inmate who is transferred to a fa-
17 cility from another facility if the inmate's med-
18 ical records are transferred with the inmate and
19 indicate that the inmate has been tested pre-
20 viously.)

21 (B) To all inmates admitted to a facility
22 prior to the effective date of this policy, health
23 care 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 health care personnel.

3 (C) All HIV tests under this paragraph
4 shall comply with the opt-out provision.

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

11 (3) HIV/AIDS PREVENTION EDUCATION.—

12 (A) Health care personnel shall improve
13 HIV/AIDS awareness through frequent edu-
14 cational programs for all inmates. HIV/AIDS
15 educational programs may be provided by com-
16 munity based organizations, local health depart-
17 ments, and inmate peer educators.

18 (B) HIV/AIDS educational materials shall
19 be made available to all inmates at orientation,
20 at health care clinics, at regular educational
21 programs, and prior to release. Both written
22 and audio-visual materials shall be made avail-
23 able to all inmates.

1 (C)(i) The HIV/AIDS educational pro-
2 grams and materials under this paragraph shall
3 include information on—

4 (I) modes of transmission, including
5 transmission through tattooing, sexual con-
6 tact, and intravenous drug use;

7 (II) prevention methods;

8 (III) treatment; and

9 (IV) disease progression.

10 (ii) The programs and materials shall be
11 culturally sensitive, written or designed for low
12 literacy levels, available in a variety of lan-
13 guages, and present scientifically accurate in-
14 formation in a clear and understandable man-
15 ner.

16 (4) HIV TESTING UPON REQUEST.—

17 (A) Health care personnel shall allow in-
18 mates to obtain HIV tests upon request once
19 per year or whenever an inmate has a reason to
20 believe the inmate may have been exposed to
21 HIV. Health care personnel shall, both orally
22 and in writing, inform inmates, during orienta-
23 tion and periodically throughout incarceration,
24 of their right to obtain HIV tests.

1 (B) Health care personnel shall encourage
2 inmates to request HIV tests if the inmate is
3 sexually active, has been raped, uses intra-
4 venous drugs, receives a tattoo, or if the inmate
5 is concerned that the inmate may have been ex-
6 posed to HIV/AIDS.

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

11 (5) HIV TESTING OF PREGNANT WOMAN.—

12 (A) Health care personnel shall provide
13 routine HIV testing to all inmates who become
14 pregnant.

15 (B) All HIV tests under this paragraph
16 shall comply with the opt-out provision.

17 (6) COMPREHENSIVE TREATMENT.—

18 (A) Health care personnel shall provide all
19 inmates who test positive for HIV—

20 (i) timely, comprehensive medical
21 treatment;

22 (ii) confidential counseling on man-
23 aging their medical condition and pre-
24 venting its transmission to other persons;
25 and

1 (iii) voluntary partner notification
2 services.

3 (B) Health care provided under this para-
4 graph shall be consistent with current Depart-
5 ment of Health and Human Services guidelines
6 and standard medical practice. Health care per-
7 sonnel shall discuss treatment options, the im-
8 portance of adherence to antiretroviral therapy,
9 and the side effects of medications with inmates
10 receiving treatment.

11 (C) Health care personnel and pharmacy
12 personnel shall ensure that the facility for-
13 mulary contains all Food and Drug Administra-
14 tion-approved medications necessary to provide
15 comprehensive treatment for inmates living with
16 HIV/AIDS, and that the facility maintains ade-
17 quate supplies of such medications to meet in-
18 mates' medical needs. Health care personnel
19 and pharmacy personnel shall also develop and
20 implement automatic renewal systems for these
21 medications to prevent interruptions in care.

22 (D) Correctional staff, health care per-
23 sonnel, and pharmacy personnel shall develop
24 and implement distribution procedures to en-

1 sure timely and confidential access to medica-
2 tions.

3 (7) PROTECTION OF CONFIDENTIALITY.—

4 (A) Health care personnel shall develop
5 and implement procedures to ensure the con-
6 fidentiality of inmate tests, diagnoses, and
7 treatment. Health care personnel and correc-
8 tional staff shall receive regular training on the
9 implementation of these procedures. Penalties
10 for violations of inmate confidentiality by health
11 care personnel or correctional staff shall be
12 specified and strictly enforced.

13 (B) HIV testing, counseling, and treat-
14 ment shall be provided in a confidential setting
15 where other routine health services are provided
16 and in a manner that allows the inmate to re-
17 quest and obtain these services as routine med-
18 ical services.

19 (8) TESTING, COUNSELING, AND REFERRAL
20 PRIOR TO REENTRY.—

21 (A) Health care personnel shall provide
22 routine HIV testing to all inmates no more
23 than 3 months prior to their release and re-
24 entry into the community. (Inmates who are al-
25 ready known to be infected need not be tested

1 again.) This requirement may be waived if an
2 inmate's release occurs without sufficient notice
3 to the Bureau to allow health care personnel to
4 perform a routine HIV test and notify the in-
5 mate of the results.

6 (B) All HIV tests under this paragraph
7 shall comply with the opt-out provision.

8 (C) To all inmates who test positive for
9 HIV and all inmates who already are known to
10 have HIV/AIDS, health care personnel shall
11 provide—

12 (i) confidential prerelease counseling
13 on managing their medical condition in the
14 community, accessing appropriate treat-
15 ment and services in the community, and
16 preventing the transmission of their condi-
17 tion to family members and other persons
18 in the community;

19 (ii) referrals to appropriate health
20 care providers and social service agencies
21 in the community that meet the inmate's
22 individual needs, including voluntary part-
23 ner notification services and prevention
24 counseling services for people living with
25 HIV/AIDS; and

1 (iii) a 30-day supply of any medically
2 necessary medications the inmate is cur-
3 rently receiving.

4 (9) OPT-OUT PROVISION.—Inmates shall have
5 the right to refuse routine HIV testing. Inmates
6 shall be informed both orally and in writing of this
7 right. Oral and written disclosure of this right may
8 be included with other general health information
9 and counseling provided to inmates by health care
10 personnel. If an inmate refuses a routine test for
11 HIV, health care personnel shall make a note of the
12 inmate’s refusal in the inmate’s confidential medical
13 records. However, the inmate’s refusal shall not be
14 considered a violation of prison rules or result in dis-
15 disciplinary action. Any reference in this section to the
16 “opt-out provision” shall be deemed a reference to
17 the requirement of this paragraph.

18 (10) EXCLUSION OF TESTS PERFORMED UNDER
19 SECTION 4014(b) FROM THE DEFINITION OF ROU-
20 TINE HIV TESTING.—HIV testing of an inmate
21 under section 4014(b) of title 18, United States
22 Code, is not routine HIV testing for the purposes of
23 the opt-out provision. Health care personnel shall
24 document the reason for testing under section

1 4014(b) of title 18, United States Code, in the in-
2 mate’s confidential medical records.

3 (11) **TIMELY NOTIFICATION OF TEST RE-**
4 **SULTS.**—Health care personnel shall provide timely
5 notification to inmates of the results of HIV tests.

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

7 (a) **SCREENING IN GENERAL.**—Section 4014(a) of
8 title 18, United States Code, is amended—

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

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

12 (3) by striking “if such individual is determined
13 to be at risk for infection with such virus in accord-
14 ance with the guidelines issued by the Bureau of
15 Prisons relating to infectious disease management”
16 and inserting “unless the individual declines. The
17 Attorney General shall also cause such individual to
18 be so tested before release unless the individual de-
19 clines.”.

20 (b) **INADMISSIBILITY OF HIV TEST RESULTS IN**
21 **CIVIL AND CRIMINAL PROCEEDINGS.**—Section 4014(d) of
22 title 18, United States Code, is amended by inserting “or
23 under the Stop AIDS in Prison Act of 2011” after “under
24 this section”.

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

7 **SEC. 5. REPORTING REQUIREMENTS.**

8 (a) REPORT ON HEPATITIS AND OTHER DISEASES.—
9 Not later than 1 year after the date of the enactment of
10 this Act, the Bureau shall provide a report to the Congress
11 on Bureau policies and procedures to provide testing,
12 treatment, and prevention education programs for hepa-
13 titis and other diseases transmitted through sexual activ-
14 ity and intravenous drug use. The Bureau shall consult
15 with appropriate officials of the Department of Health and
16 Human Services, the Office of National Drug Control Pol-
17 icy, the Office of National AIDS Policy, and the Centers
18 for Disease Control regarding the development of this re-
19 port.

20 (b) ANNUAL REPORTS.—

21 (1) GENERALLY.—Not later than 2 years after
22 the date of the enactment of this Act, and then an-
23 nually thereafter, the Bureau shall report to Con-
24 gress on the incidence among inmates of diseases

1 transmitted through sexual activity and intravenous
2 drug use.

3 (2) MATTERS PERTAINING TO VARIOUS DIS-
4 EASES.—Reports under paragraph (1) shall dis-
5 cuss—

6 (A) the incidence among inmates of HIV/
7 AIDS, hepatitis, and other diseases transmitted
8 through sexual activity and intravenous drug
9 use; and

10 (B) updates on Bureau testing, treatment,
11 and prevention education programs for these
12 diseases.

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

16 (A) the number of inmates who tested
17 positive for HIV upon intake;

18 (B) the number of inmates who tested
19 positive prior to reentry;

20 (C) the number of inmates who were not
21 tested prior to reentry because they were re-
22 leased without sufficient notice;

23 (D) the number of inmates who opted-out
24 of taking the test;

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

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

6 (4) CONSULTATION.—The Bureau shall consult
7 with appropriate officials of the Department of
8 Health and Human Services, the Office of National
9 Drug Control Policy, the Office of National AIDS
10 Policy, and the Centers for Disease Control regard-
11 ing the development of reports under paragraph (1).

○