



2011 SENATE BILL 105

May 24, 2011 - Introduced by Senators HOPPER, WANGGAARD, LEIBHAM, OLSEN, LAZICH, SCHULTZ and HANSEN, cosponsored by Representatives NYGREN, BALLWEG, BERNIER, BIES, BROOKS, ENDSLEY, JACQUE, KAUFERT, KESTELL, KLEEFISCH, KRUG, LEMAHIEU, LITJENS, MOLEPSKE JR, MURSAU, NERISON, A. OTT, PETERSEN, PETRYK, RIPP, SHILLING, STASKUNAS, STEINEKE and TRANEL. Referred to Committee on Labor, Public Safety, and Urban Affairs.

- 1 **AN ACT** *to renumber* 302.388 (3); and *to create* 146.82 (2) (a) 22., 252.15 (3m)
2 (d) 17., 302.388 (2) (g) and 302.388 (3) (b) of the statutes; **relating to:** informing
3 correctional officers about inmates with contagious diseases.

Analysis by the Legislative Reference Bureau

Under current law, with some specific exceptions, a patient's health care records, as well as the results of a test for the presence of HIV, are released only with the patient's or test subject's consent. One exception is the release of a prisoner's health care records to the prisoner's health care provider, the medical staff in the prison or jail, or a person maintaining prisoner medical records. This bill permits health care disclosures about a prisoner to persons designated to have custodial authority over the prisoner or who are responsible for transferring a prisoner to or from a prison or jail if both of the following apply: 1) the prisoner is found to have a communicable disease or an HIV test conducted on the prisoner was positive for the presence of HIV; and 2) the disclosure is necessary for the health and safety of the prisoner, other prisoners, the person having custodial authority, the person responsible for transferring the prisoner, or an employee of the prison or jail.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 105

1 **SECTION 1.** 146.82 (2) (a) 22. of the statutes is created to read:

2 146.82 **(2)** (a) 22. By a person specified in subd. 21. to a correctional officer of
3 the department of corrections who has custody of or is responsible for the supervision
4 of a prisoner, to a person designated by a jailer to have custodial authority over a
5 prisoner, or to a law enforcement officer or other person who is responsible for
6 transferring a prisoner to or from a prison or jail, if the patient health care record
7 indicates that the prisoner has a communicable disease and disclosure of that
8 information is necessary for the health and safety of the prisoner or of other
9 prisoners, of the person whom the information is disclosed, or of any employee of the
10 prison or jail.

11 **SECTION 2.** 252.15 (3m) (d) 17. of the statutes is created to read:

12 252.15 **(3m)** (d) 17. If the subject of the HIV test is a prisoner, by a person
13 specified in subd. 16. to a correctional officer of the department of corrections who
14 has custody of or is responsible for the supervision of the test subject, to a person
15 designated by a jailer to have custodial authority over the test subject, or to a law
16 enforcement officer or other person who is responsible for transferring the test
17 subject to or from a prison or jail, if the HIV test result is positive and disclosure of
18 that information is necessary for the health and safety of the test subject or of other
19 prisoners, of the person to whom the information is disclosed, or of any employee of
20 the prison or jail.

21 **SECTION 3.** 302.388 (2) (g) of the statutes is created to read:

22 302.388 **(2)** (g) If a prisoner's health summary form or complete medical file
23 indicates that the prisoner has a communicable disease and if disclosure of that
24 information is necessary for the health and safety of the prisoner or of other
25 prisoners, of a correctional officer who has custody of or is responsible for the

SENATE BILL 105

1 supervision of the prisoner, of a person designated by a jailer to have custodial
2 authority over the prisoner, of any other employee of the prison or jail, or of a law
3 enforcement officer or other person who is responsible for transferring the prisoner
4 to or from a prison or jail, receiving institution intake staff shall disclose that
5 information to the persons specified in par. (f) 1. to 4. and to that correctional officer,
6 person with custodial authority, law enforcement officer, or other person.

7 **SECTION 4.** 302.388 (3) of the statutes is renumbered 302.388 (3) (a).

8 **SECTION 5.** 302.388 (3) (b) of the statutes is created to read:

9 302.388 (3) (b) If a prisoner's treatment summary indicates that the prisoner
10 has a communicable disease and if disclosure of that information is necessary for the
11 health and safety of the prisoner or of other prisoners, of a correctional officer who
12 has custody of or is responsible for the supervision of the prisoner, of a person
13 designated by a jailer to have custodial authority over the prisoner, of any employee
14 of the prison or jail, or of a law enforcement officer or other person who is responsible
15 for transferring the prisoner to or from a prison or jail, the department or jailer shall
16 disclose that information to the persons to whom a treatment summary may be made
17 available under par. (a) and to that correctional officer, person with custodial
18 authority, law enforcement officer, or other person.

19 (END)