

HEPATITIS C VIRUS – TESTING AND INFORMATION

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Senate Bills 1128, 1129, 1130, and 1137

Sponsors: Senator Roger Kahn; Senator John Pappageorge; Senator John Proos

Senate Committee: Appropriations

House Committee: Appropriations

A SUMMARY OF SENATE BILLS 1128-1130 AND SENATE BILL 1137 AS PASSED THE SENATE (Date Completed 12-15-14)

THE CONTENT OF THE BILLS:

Senate Bill 1128 amends the Corrections Code to require the Department of Corrections to test prisoners for the Hepatitis C Virus (HCV) prior to releasing them on parole or discharging them upon completion of their maximum sentences, unless the prisoners have already been diagnosed as having the virus. Also, the bill requires the department to comply with the reporting requirements contained in the Public Health Code for prisoners who have the virus and are scheduled to be released. The bill is tie-barred to Senate Bill 1130.

Senate Bill 1129 amends the Code of Criminal Procedure to include, in the sentencing guidelines, as a felony, engaging in sexual penetration with another individual without informing the other individual of having HCV. The bill is tie-barred to Senate Bill 1130.

Senate Bill 1130 amends the Public Health Code to add “Hepatitis C Virus” to the definition of “serious communicable disease or infection”. Also, the bill makes it a felony for an individual to engage in sexual penetration with another individual knowing they are infected with HCV and not informing the other individual of the infection.

Senate Bill 1137 amends the Corrections Code to do all of the following:

- Requires the Department of Corrections to test all incoming prisoners for HCV, unless courts notify the department that the prisoners have already been tested for the virus sometime within the three months prior to arriving at the reception correctional facility.
- Requires the department to house prisoners having HCV in administrative segregation, an inpatient health care unit, or in a unit separate from the general prison population if they test positive for HCV and are subject to discipline by the department for sexual misconduct, illegal intravenous drug use, or assaultive or predatory behavior that could transmit the infection.
- Requires the department to report positive HCV test results in compliance with the Public Health Code.
- Requires the department to provide or arrange for a test for HCV, free of charge, for any employee requesting a test.

- Requires the department to provide an employee with equipment necessary to implement universal precautions to prevent transmission of HCV, if requested by the employee.
- Prohibits prisoners testing positive for HCV from working in a health facility operated by the department.
- Requires the department to conduct a seroprevalence study of all prisoners housed in state facilities to determine the percentage of prisoners who are infected.
- Requires results of a test for HCV to be disclosed by the department.
- Requires the Deputy Director of Correctional Facilities Administration to take steps to ensure that all prisoners who receive HCV testing also receive counseling regarding the virus.
- Requires the department to develop a comprehensive education program, in conjunction with the Department of Community Health, designed specifically for correctional environments.
- Authorizes employees who sustain percutaneous, mucous membrane, or open wound exposure to blood or bodily fluids of prisoners, to request that the prisoner be tested for HCV infection.

The bill is tie-barred to Senate Bill 1130.

FISCAL INFORMATION:

There would be an indeterminate increase in costs to the state under this package of bills.

Senate Bill 1128 would increase costs for the department, but minimally because of current practice. Michigan Department of Corrections Policy Directive 03.04.120 states that all newly committed prisoners and those returned to a reception facility or other institution from community status are to be screened for HCV risk factors by a qualified health professional within 14 calendar days after arrival unless the prisoner has a prior documented positive HCV test result. Each prisoner identified with HCV risk factors is tested. Also, the policy states that all prisoners are to be screened for HCV risk factors prior to release on parole or discharge unless the prisoner was previously tested and/or screened, or was not required to be tested and/or screened. The approximate cost to test for the virus is \$15 per test.

Senate Bill 1129 would have no fiscal impact on the state.

Senate Bill 1130 would increase costs on state and local correctional systems. Information is not available on the number of individuals that might be convicted under the provisions of the bill. New felony convictions would result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility in FY 2014 was roughly \$34,800 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision in FY 2014 averaged about \$3,800 per supervised offender per year. Also, the bill would increase costs on the judiciary and local court funding units. The fiscal impact would depend on how the provisions of the bill affected caseloads and related administrative costs.

Senate Bill 1137 would increase costs for the department. Requiring the department to house prisoners who have HCV and are subject to discipline by the department for sexual misconduct, illegal intravenous drug use, or assaultive or predatory behavior, in administrative segregation, in an inpatient health care unit, or in a unit separate from the general prison population would have a significant fiscal impact on the state. Information is not available on the cost of housing prisoners in administrative segregation. However, comparable costs would be the costs of housing Level V prisoners, though administrative segregation is more costly to the state. In FY 2014, the average annual cost of housing a Level V prisoner was \$47,800. In FY 2014, there were 4,393 prisoners in correctional facilities who had HCV. That number was 4,445 in FY 2013. That equates to roughly 10% of the total prisoner population.

Regarding the reporting provisions in Senate Bill 1128, and all of the other provisions in Senate Bill 1137 mentioned above, with the exception of the special housing provision, these are current practices in the department and are required by either boilerplate included in the appropriations act for the Department of Corrections or in the Michigan Department of Corrections Policy Directives, 03.04.110 and 03.04.120.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.