
ASSEMBLY BILL NO. 74—COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Corrections,
Parole, and Probation

SUMMARY—Revises provisions relating to the testing of
offenders for exposure to human immunodeficiency
virus. (BDR 16-257)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to offenders; revising provisions governing the
disclosure of the name of an offender who tests positive
for exposure to human immunodeficiency virus; and
providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law requires offenders committed to the Department of Corrections for
2 imprisonment to submit to certain initial and supplemental tests to detect exposure
3 to the human immunodeficiency virus. If the results of a supplemental test are
4 positive for exposure to the human immunodeficiency virus, the name of the
5 offender is required to be disclosed to certain persons within the Department. (NRS
6 209.385) **Section 5** of this bill authorizes, rather than requires, the disclosure of the
7 name of the offender when the results of a supplemental test are positive.
8 The remaining sections of this bill make conforming changes.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 209 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 “*Medical Director*” means the designated administrative
4 officer of the Department who is responsible for the medical
5 treatment of offenders.

6 **Sec. 2.** NRS 209.011 is hereby amended to read as follows:

7 209.011 As used in this chapter, unless the context otherwise
8 requires, the terms defined in NRS 209.021 to 209.085, inclusive,
9 and section 1 of this act have the meanings ascribed to them in
10 those sections.

11 **Sec. 3.** NRS 209.3515 is hereby amended to read as follows:

12 209.3515 1. The Director, through the ~~{designated medical~~
13 ~~director,}~~ *Medical Director*, may request from the Division of
14 Public and Behavioral Health of the Department of Health and
15 Human Services access to any records in its possession which
16 contain information that may assist in evaluating, caring for and
17 providing treatment to an offender who previously was committed to
18 the custody of or ordered to report to the Administrator or the
19 Administrator’s designee pursuant to NRS 178.425 or 178.460.

20 2. Unless otherwise ordered by a court, upon a request for
21 access to records of an offender pursuant to subsection 1, the
22 Division of Public and Behavioral Health of the Department of
23 Health and Human Services shall provide access to any such
24 records, including, without limitation, relevant medical and mental
25 health records, for the limited purpose of allowing the Director or
26 the ~~{designated medical director,}~~ *Medical Director* to evaluate, care
27 for and provide treatment to the offender.

28 3. The Director, through the ~~{designated medical director,}~~
29 *Medical Director*, may provide to the Division of Public and
30 Behavioral Health of the Department of Health and Human Services
31 or to other community medical or mental health care providers,
32 relevant medical and mental health records of an offender serving a
33 term of imprisonment under the custody of the Department of
34 Corrections, for the purposes of planning the discharge of the
35 offender and assuring the continuity of evaluation, care and
36 treatment of the offender in the community after release from
37 incarceration.

38 4. No oral or written consent of the offender is required to
39 obtain access to records from the Division of Public and Behavioral
40 Health of the Department of Health and Human Services or the
41 Department of Corrections pursuant to this section.



1 ~~{5. As used in this section, “designated medical director”~~
2 ~~means the designated administrative officer of the Department who~~
3 ~~is responsible for the medical treatment of offenders.}~~

4 **Sec. 4.** NRS 209.3815 is hereby amended to read as follows:

5 209.3815 The Director, in consultation with the ~~{designated~~
6 ~~medical director}~~ **Medical Director** and the Inspector General of the
7 Department, shall request the coroner, or any other person so
8 authorized, to conduct an autopsy of any offender who dies while in
9 the custody of the Department, if the next of kin:

- 10 1. Consents to the autopsy; or
11 2. Does not notify the Director of any objection to the autopsy
12 within 72 hours after the death.

13 **Sec. 5.** NRS 209.385 is hereby amended to read as follows:

14 209.385 1. Each offender committed to the custody of the
15 Department for imprisonment shall submit to such initial tests as the
16 Director determines appropriate to detect exposure to the human
17 immunodeficiency virus. Each such test must be approved by
18 regulation of the State Board of Health. At the time the offender is
19 committed to custody and after an incident involving the offender:

- 20 (a) The appropriate approved tests must be administered; and
21 (b) The offender must receive counseling regarding the virus.
22 2. If the results of an initial test are positive, the offender shall
23 submit to such supplemental tests as the **Medical Director**
24 determines appropriate. Each such test must be approved for the
25 purpose by regulation of the State Board of Health.

26 3. If the results of a supplemental test are positive, the name of
27 the offender ~~{must}~~ **may** be disclosed to:

- 28 (a) The Director;
29 (b) The administrative officers of the Department who are
30 responsible for the classification and medical treatment of offenders;
31 (c) The manager or warden of the facility or institution at which
32 the offender is confined; and
33 (d) ~~{Each}~~ **Any** other employee of the Department whose normal
34 duties involve the employee with the offender or require the
35 employee to come into contact with the blood or bodily fluids of the
36 offender.

37 4. The offender must be segregated from every other offender
38 whose test results are negative if:

- 39 (a) The results of a supplemental test are positive; and
40 (b) The offender engages in behavior that increases the risk of
41 transmitting the virus ~~{, such as battery, sexual activity or illegal~~
42 ~~intravenous injection of a controlled substance or a dangerous drug~~
43 ~~as defined in chapter 454 of NRS.}~~ **as determined by regulation of**
44 **the Department.**

45 5. The Director, with the approval of the Board:



1 (a) Shall establish for inmates and employees of the Department
2 an educational program regarding the virus whose curriculum is
3 provided by the Division of Public and Behavioral Health of the
4 Department of Health and Human Services. A person who provides
5 instruction for this program must be certified to do so by the
6 Division.

7 (b) May adopt such regulations as are necessary to carry out the
8 provisions of this section.

9 6. As used in this section, "incident" means an occurrence, of a
10 kind specified by regulation of the State Board of Health ~~H~~ *or the*
11 *Department*, that entails a significant risk of exposure to the human
12 immunodeficiency virus.

13 **Sec. 6.** NRS 178.453 is hereby amended to read as follows:

14 178.453 1. The Administrator or the Administrator's
15 designee may request from the Department of Corrections access to
16 any records in its possession which contain information that may
17 assist in evaluating and treating a defendant who previously has
18 served a term of imprisonment under the supervision of the
19 Department of Corrections and who is committed to the custody of
20 or ordered to report to the Administrator or the Administrator's
21 designee pursuant to NRS 178.425, 178.460, 178.461 or 178.464.

22 2. Unless otherwise ordered by a court, upon request of the
23 Administrator or the Administrator's designee for access to records
24 of a defendant pursuant to subsection 1, the Department of
25 Corrections, through the ~~{designated medical director,}~~ *Medical*
26 *Director*, shall provide access to any such records, including,
27 without limitation, relevant medical and mental health records, for
28 the limited purpose of allowing the Administrator or the
29 Administrator's designee to evaluate and treat the defendant.

30 3. No oral or written consent of the defendant is required for
31 the Administrator or the Administrator's designee to obtain access
32 to records from the Department of Corrections pursuant to this
33 section.

34 4. As used in this section, ~~{“designated medical director”~~
35 ~~means the designated administrative officer of the Department of~~
36 ~~Corrections who is responsible for the medical treatment of~~
37 ~~offenders.}~~ *“Medical Director” has the meaning ascribed to it in*
38 *section 1 of this act.*

39 **Sec. 7.** This act becomes effective upon passage and approval.

