

By: Anchia

H.B. No. 1868

A BILL TO BE ENTITLED

AN ACT

relating to distribution of sexual barrier protection devices to inmates and state jail defendants confined in facilities operated by or under contract with the Texas Department of Criminal Justice and the testing of certain inmates for HIV.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 501.054(i), Government Code, is amended to read as follows:

(i) The department may test an inmate confined in a facility operated by the correctional institutions division for human immunodeficiency virus at any time, but must test:

(1) during the diagnostic process, an inmate for whom the department does not have a record of a positive test result; ~~and~~

(2) an inmate who is eligible for release before the inmate is released from the division; and

(3) at least annually, an inmate:

(A) for whom the department does not have a record of a positive test result; and

(B) who has not undergone testing under Subdivision (1) or (2) during the last calendar year.

SECTION 2. Subchapter B, Chapter 501, Government Code, is amended by adding Section 501.0541 to read as follows:

Sec. 501.0541. DISTRIBUTION OF SEXUAL BARRIER PROTECTION

1 DEVICES TO INMATES AND STATE JAIL DEFENDANTS. (a) In this section,
2 "sexual barrier protection device" means a device that:

3 (1) is approved by the United States Food and Drug
4 Administration;

5 (2) has not been tampered with; and

6 (3) reduces the probability of the transmission of a
7 sexually transmitted disease or infection between sexual partners.

8 (b) The department shall adopt a policy that:

9 (1) provides for the distribution of condoms, in
10 discreet locations at each unit or through health care providers at
11 each facility, to inmates and state jail defendants confined in
12 facilities operated by or under contract with the department;

13 (2) allows any nonprofit or public health care agency
14 to distribute sexual barrier protection devices to the persons
15 described by Subdivision (1); and

16 (3) provides for the disposal of used sexual barrier
17 protection devices in a manner that protects:

18 (A) the anonymity of inmates and state jail
19 defendants; and

20 (B) the health of department employees, inmates,
21 and state jail defendants.

22 (c) Possession of a sexual barrier protection device
23 distributed in accordance with the policy adopted under Subsection
24 (b) may not be used as evidence of illegal activity for purposes of
25 administrative sanctions against an inmate or state jail defendant.

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.