

Assembly Bill No. 74—Committee on
Corrections, Parole, and Probation

CHAPTER.....

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:

Existing law requires offenders committed to the Department of Corrections for imprisonment to submit to certain initial and supplemental tests to detect exposure to the human immunodeficiency virus. If the results of a supplemental test are positive for exposure to the human immunodeficiency virus, the name of the offender is required to be disclosed to certain persons within the Department. (NRS 209.385) **Section 5** of this bill authorizes, rather than requires, the disclosure of the name of the offender when the results of a supplemental test are positive.

The remaining sections of this bill make conforming changes.

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

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

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

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

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

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

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

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

2. Unless otherwise ordered by a court, upon a request for access to records of an offender pursuant to subsection 1, the Division of Public and Behavioral Health of the Department of



Health and Human Services shall provide access to any such records, including, without limitation, relevant medical and mental health records, for the limited purpose of allowing the Director or the ~~{designated medical director}~~ **Medical Director** to evaluate, care for and provide treatment to the offender.

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

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

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

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

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

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

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

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

- (a) The appropriate approved tests must be administered; and
 - (b) The offender must receive counseling regarding the virus.
2. If the results of an initial test are positive, the offender shall submit to such supplemental tests as the **Medical Director**



determines appropriate. Each such test must be approved for the purpose by regulation of the State Board of Health.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

