

SB 367 STAFF MEASURE SUMMARY

Senate Committee On Health Care

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Meeting Dates: 3/7, 3/23

WHAT THE MEASURE DOES:

Allows a health care provider to disclose an inmate's health information without authorization from the individual when an employee of a Department of Corrections facility is exposed to the inmate's bodily fluids. Limits disclosure of protected health information to communicable diseases.

REVENUE: No revenue impact.

FISCAL: No fiscal impact.

ISSUES DISCUSSED:

- Current treatment protocol for individuals exposed to an inmate's bodily fluids often make an individual ill; results in extended absence from work
- Interest to expand the bill to include all law enforcement in Oregon
- Concerns about disclosure of an inmate's PHI and potential violation of their civil rights

EFFECT OF AMENDMENT:

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- Specifies an inmate's personal health information (PHI) can only be shared provider to provider.

BACKGROUND:

Individuals at correctional facilities are disproportionately ill, with rates of chronic and infectious diseases significantly higher than the general population. Inmates released from secure correctional facilities represent 17% of the total AIDS population, 13% to 19% of those with HIV, 12% to 16% of those with hepatitis B, 20% to 32% of those with hepatitis C, and 35% of those with tuberculosis. State and federal laws protect an individual's health information including their disease status specifically HIV, mental health conditions, and substance use. Such laws encourage greater participation and trust in the health care system through protection of a patient's personally sensitive health information (PHI) including individuals involved with the criminal justice system.

Privacy and security laws require health care providers and correctional facilities to protect an inmate's PHI. Correctional facilities may not use or disclose PHI without an inmate's authorization unless it is permitted or required by federal or state law. Federal law does permit certain disclosures without an inmate's authorization under limited circumstances. For example, a correction facility may disclose a patient's PHI without their authorization for the purpose of providing health care to the inmate or for the health and safety of the inmate, other inmates, or employees of the facility. In Oregon, a correctional facility can disclose an inmate's PHI for the limited purpose of providing health care or ensuring the health or safety of the person or other inmates (OAR 943-014).

Senate Bill 367 allows for a health care provider to disclosure an inmate's protected health information to an employee of the Department of Corrections without authorization under limited circumstances.