

SB 367 B STAFF MEASURE SUMMARY

Carrier: Rep. Hayden

House Committee On Health Care**Action Date:** 05/24/17**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 8-0-1-0**Yeas:** 8 - Alonso Leon, Buehler, Greenlick, Hack, Hayden, Keny-Guyer, Malstrom, Nosse**Exc:** 1 - Kennemer**Fiscal:** No fiscal impact**Revenue:** No revenue impact**Prepared By:** Sandy Thiele-Cirka, LPRO Analyst**WHAT THE MEASURE DOES:**

Requires a health care provider to disclose an inmate's health information to a physician of employee of a Department of Corrections' facility and Oregon Correction Enterprises employee who is directly exposed to an inmate's bodily fluids if the exposure is substantial and the inmate has tested positive for HIV, hepatitis B or C or other communicable disease. Limits disclosure of personal health information (PHI) to communicable diseases.

ISSUES DISCUSSED:

- Streamlines the process for staff to receive appropriate information when exposed to inmate's bodily fluids
- Personal stories from correctional officers
- Importance for Department of Corrections staff to make informed medical decisions
- Concerns about who has access to PHI
- Concerns about the measure being too broad; possible discrimination against inmates
- Explanation and intent of proposed amendment

EFFECT OF AMENDMENT:

Clarifies that the employee must have had direct exposure to the inmate's bodily fluids and requires that the inmate's health care provider disclose the protected information to the employee's health care provider. Adds the Oregon Correction Enterprises employees be included in the process.

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 13 to 19 percent of individuals with human immunodeficiency virus (HIV), 12 to 16 percent of individuals with hepatitis B, 20 to 32 percent of individuals with hepatitis C, and 35 percent of individuals with tuberculosis. State and federal laws protect people's health information including their disease status and 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 sensitive personal 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, under limited circumstances, certain disclosures without an inmate's authorization. For example, a correctional facility may disclose a patient's PHI without his or her 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-B allows for a health care provider, under limited circumstances, to disclose an inmate's personal health information to the employee's physician.