



2009 ASSEMBLY BILL 762

February 19, 2010 – Introduced by Representatives SUDER, SPANBAUER, RIPP, HRAYCHUCK, J. FITZGERALD, MONTGOMERY, BROOKS, MURTHA, VOS, BALLWEG, KNODL, GUNDERSON, BIES and NERISON, cosponsored by Senators HOPPER, COWLES, SCHULTZ, A. LASEE, DARLING, LEIBHAM and OLSEN. Referred to Committee on Corrections and the Courts.

1 **AN ACT** *to renumber* 302.388 (3); and *to create* 146.82 (2) (a) 22., 252.15 (5) (a)
2 21., 302.388 (2) (g) and 302.388 (3) (b) of the statutes; **relating to:** informing
3 correctional officers about inmates with contagious diseases.

Analysis by the Legislative Reference Bureau

Under current law, with some specific exceptions, a patient's health care records, as well as the results of a test for the presence of HIV, are released only with the patient's or test subject's consent. One exception is the release of a prisoner's health care records to the prisoner's health care provider, the medical staff in the prison or jail, or a person maintaining prisoner medical records. This bill permits health care disclosures about a prisoner to persons designated to have custodial authority over the prisoner or who are responsible for transferring a prisoner to or from a prison or jail if both of the following apply: 1) the prisoner is found to have a communicable disease or an HIV test conducted on the prisoner was positive for the presence of HIV; and 2) the disclosure is necessary for the health and safety of the prisoner, other prisoners, the person having custodial authority, the person responsible for transferring the prisoner, or an employee of the prison or jail.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 **SECTION 1.** 146.82 (2) (a) 22. of the statutes is created to read:

2 146.82 **(2)** (a) 22. By a person specified in subd. 21. to a correctional officer of
3 the department of corrections who has custody of or is responsible for the supervision
4 of a prisoner, to a person designated by a jailer to have custodial authority over a
5 prisoner, or to a law enforcement officer or other person who is responsible for
6 transferring a prisoner to or from a prison or jail, if the patient health care record
7 indicates that the prisoner has a communicable disease and disclosure of that
8 information is necessary for the health and safety of the prisoner or of other
9 prisoners, of the person whom the information is disclosed, or of any employee of the
10 prison or jail.

11 **SECTION 2.** 252.15 (5) (a) 21. of the statutes is created to read:

12 252.15 **(5)** (a) 21. By a person specified in subd. 20. to a correctional officer of
13 the department of corrections who has custody of or is responsible for the supervision
14 of a prisoner, to a person designated by a jailer to have custodial authority over a
15 prisoner, or to a law enforcement officer or other person who is responsible for
16 transferring a prisoner to or from a prison or jail, if the test results indicate that the
17 prisoner has tested positive for the presence of HIV, as defined in s. 252.01 (1m),
18 antigen or nonantigenic products of HIV, or an antibody to HIV and disclosure of that
19 information is necessary for the health and safety of the prisoner or of other
20 prisoners, of the person to whom the information is disclosed, or of any employee of
21 the prison or jail.

22 **SECTION 3.** 302.388 (2) (g) of the statutes is created to read:

23 302.388 **(2)** (g) If a prisoner's health summary form or complete medical file
24 indicates that the prisoner has a communicable disease and if disclosure of that
25 information is necessary for the health and safety of the prisoner or of other

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1 prisoners, of a correctional officer who has custody of or is responsible for the
2 supervision of the prisoner, of a person designated by a jailer to have custodial
3 authority over the prisoner, of any other employee of the prison or jail, or of a law
4 enforcement officer or other person who is responsible for transferring the prisoner
5 to or from a prison or jail, receiving institution intake staff shall disclose that
6 information to the persons specified in par. (f) 1. to 4. and to that correctional officer,
7 person with custodial authority, law enforcement officer, or other person.

8 **SECTION 4.** 302.388 (3) of the statutes is renumbered 302.388 (3) (a).

9 **SECTION 5.** 302.388 (3) (b) of the statutes is created to read:

10 302.388 **(3)** (b) If a prisoner's treatment summary indicates that the prisoner
11 has a communicable disease and if disclosure of that information is necessary for the
12 health and safety of the prisoner or of other prisoners, of a correctional officer who
13 has custody of or is responsible for the supervision of the prisoner, of a person
14 designated by a jailer to have custodial authority over the prisoner, of any employee
15 of the prison or jail, or of a law enforcement officer or other person who is responsible
16 for transferring the prisoner to or from a prison or jail, the department or jailer shall
17 disclose that information to the persons to whom a treatment summary may be made
18 available under par. (a) and to that correctional officer, person with custodial
19 authority, law enforcement officer, or other person.

20 **(END)**