

AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1135

Introduced by Senator Jackson
(Principal coauthors: Senators Anderson and Hancock)
(Principal coauthor: Assembly Member Lowenthal)

February 20, 2014

An act to add Chapter 6 (commencing with Section 3440) to Title 2 of Part 3 of the Penal Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

SB 1135, as amended, Jackson. Inmates: sterilization.

Existing law establishes a state correctional system and provides for the establishment of county jails. Existing law regulates certain aspects of medical care for inmates.

This bill would prohibit sterilization for the purpose of birth control of an individual under the control of the Department of Corrections and Rehabilitation or a county correctional facility, as specified. The bill would also otherwise prohibit any means of sterilization of an inmate, except when required for the immediate preservation of life in an emergency medical situation ~~and~~ *or* when required for the necessary treatment of a physical medical condition if certain requirements are satisfied, including that patient consent is obtained. If a sterilization procedure is performed pursuant to these exceptions, the bill would require psychological consultation and medical followup, as specified. The bill would require the department and all county jails or other institutions of confinement to publish an annual report of sterilizations performed, disaggregated by race, age, medical justification, and method of sterilization, including, but not limited to, hysterectomy and ~~oophorectomy~~: *oophorectomy, and to provide notification to all*

individuals under their custody, and to all employees who are involved in providing health care services, of their rights and responsibilities with regard to the sterilization of inmates.

By imposing additional duties on local correctional facilities in connection with inmate medical care, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to prevent sterilization abuse of vulnerable populations, to
3 ensure safeguards against sterilization abuse within the coercive
4 environment of prison and jail, and to positively affirm *that all*
5 ~~peoples²~~ *people should have the right to fully self-determine their*
6 *reproductive lives free from coercion, violence, or threat of force.*

7 SEC. 2. Chapter 6 (commencing with Section 3440) is added
8 to Title 2 of Part 3 of the Penal Code, to read:

9
10 CHAPTER 6. STERILIZATION OF INMATES

11
12 3440. (a) Sterilization for the purpose of birth control,
13 including, but not limited to, during labor and delivery, of an
14 individual under the control of the department or a county and
15 imprisoned in ~~a the state prison,~~ *prison or a* reentry facility,
16 community correctional facility, county jail, or any other institution
17 in which an individual is involuntarily confined or detained under
18 a civil or criminal statute, is prohibited.

19 (b) Sterilization of an individual under the control of the
20 department or a county and imprisoned in ~~a the state prison,~~ *prison*
21 *or a* reentry facility, community correctional facility, county jail,
22 or any other institution in which an individual is involuntarily

1 confined or detained under a civil or criminal statute, through tubal
2 ligation, hysterectomy, oophorectomy, or any other means
3 rendering an individual permanently incapable of reproducing, is
4 prohibited except in either of the following circumstances:

5 (1) The procedure is required for the immediate preservation
6 of the individual's life in an emergency medical situation.

7 (2) The procedure is required for the necessary treatment of a
8 physical medical condition, excluding birth control, and only if
9 all of the following requirements are satisfied:

10 (A) Less drastic measures to address the medical need are
11 nonexistent, are refused by the individual, or are first attempted
12 and deemed unsuccessful.

13 (B) A second physician independent of, and not employed by,
14 *but authorized to provide services to individuals in the custody of,*
15 *and to receive payment for those services from,* the department or
16 county department overseeing the confinement of the individual
17 ~~is consulted~~ *conducts an in-person consultation* and confirms the
18 need for a medical intervention resulting in sterilization to address
19 the medical need.

20 (C) Patient consent is obtained after the individual is made aware
21 of the full and permanent impact the procedure will have on his
22 or her reproductive capacity, that future medical treatment while
23 under the control of the department or county will not be withheld
24 should the individual refuse consent to the procedure, and the side
25 effects of the procedure.

26 (c) If a sterilization procedure is performed pursuant to
27 paragraph (1) or (2) of subdivision (b), presterilization and
28 poststerilization psychological consultation and medical followup,
29 including providing relevant hormone therapy to address surgical
30 menopause, shall be made available to the individual sterilized
31 while under the control of the department or the county.

32 (d) The department and all county jails or other institutions of
33 confinement shall ~~publish~~ *do both of the following:*

34 (1) *Publish* an annual report of sterilizations performed,
35 disaggregated by race, age, medical justification, and method of
36 sterilization, including, but not limited to, hysterectomy and
37 oophorectomy.

38 (2) *Provide notification to all individuals under their custody*
39 *and to all employees who are involved in providing health care*
40 *services of their rights and responsibilities under this section.*

1 (e) *An employee of the department or of a county jail or other*
 2 *institution of confinement who reports the sterilization of an*
 3 *individual performed in violation of this section is entitled to the*
 4 *protection available under subparagraphs (A) and (B) of*
 5 *paragraph (2) of subdivision (a) of Section 6129, or under the*
 6 *California Whistleblower Protection Act (Article 3 (commencing*
 7 *with Section 8547) of Chapter 6.5 of Division 1 of Title 2 of the*
 8 *Government Code) or the Whistleblower Protection Act (Article*
 9 *10 (commencing with Section 9149.20) of Chapter 1.5 of Part 1*
 10 *of Division 2 of Title 2 of the Government Code).*

11 SEC. 3. If the Commission on State Mandates determines that
 12 this act contains costs mandated by the state, reimbursement to
 13 local agencies and school districts for those costs shall be made
 14 pursuant to Part 7 (commencing with Section 17500) of Division
 15 4 of Title 2 of the Government Code.

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 18 CORRECTIONS: _____

19 Text—Page 3.
 20 _____