

AMENDED IN ASSEMBLY AUGUST 11, 2014

AMENDED IN ASSEMBLY JUNE 26, 2014

AMENDED IN ASSEMBLY JUNE 18, 2014

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 or when medically necessary, as determined by contemporary standards of evidence-based medicine, to treat a diagnosed condition and 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, if a sterilization procedure is performed on one or more individuals under its control, to annually publish on its Internet Web site data related to the number of sterilizations performed, disaggregated by race, age, medical justification, and method of sterilization. The bill would require each county jail or other institution of confinement, if a sterilization procedure is performed on one or more individuals under its control, to annually submit to the Board of State and Community Corrections data related to the number of sterilizations performed, disaggregated by race, age, medical justification, and method of sterilization, and would require the board to annually publish that data on its Internet Web site. 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,~~ 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 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:

CHAPTER 6. STERILIZATION OF INMATES

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3 3440. (a) Sterilization for the purpose of birth control,
4 including, but not limited to, during labor and delivery, of an
5 individual under the control of the department or a county and
6 imprisoned in the state prison or a reentry facility, community
7 correctional facility, county jail, or any other institution in which
8 an individual is involuntarily confined or detained under a civil or
9 criminal statute, is prohibited.

10 (b) Sterilization of an individual under the control of the
11 department or a county and imprisoned in the state prison or a
12 reentry facility, community correctional facility, county jail, or
13 any other institution in which an individual is involuntarily
14 confined or detained under a civil or criminal statute, through tubal
15 ligation, hysterectomy, oophorectomy, salpingectomy, or any other
16 means rendering an individual permanently incapable of
17 reproducing, is prohibited except in either of the following
18 circumstances:

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

21 (2) The sterilizing procedure is medically necessary, as
22 determined by contemporary standards of evidence-based medicine,
23 to treat a diagnosed condition, and all of the following requirements
24 are satisfied:

25 (A) Less invasive measures to address the medical need are
26 nonexistent, are refused by the individual, or are first attempted
27 and deemed unsuccessful by the individual, in consultation with
28 his or her medical provider.

29 (B) A second physician independent of, and not employed by,
30 but authorized to provide services to individuals in the custody of,
31 and to receive payment for those services from, the department or
32 county department overseeing the confinement of the individual
33 conducts an in-person consultation with the individual and confirms
34 the need for a medical intervention resulting in sterilization to
35 address the medical need.

36 (C) Patient consent is obtained after the individual is made aware
37 of the full and permanent impact the procedure will have on his
38 or her reproductive capacity, that future medical treatment while
39 under the control of the department or county will not be withheld

1 should the individual refuse consent to the procedure, and the side
2 effects of the procedure.

3 (c) If a sterilization procedure is performed pursuant to
4 paragraph (1) or (2) of subdivision (b), presterilization and
5 poststerilization psychological consultation and medical followup,
6 including providing relevant hormone therapy to address surgical
7 menopause, shall be made available to the individual sterilized
8 while under the control of the department or the county.

9 (d) ~~(1) The department and all county jails or other institutions~~
10 ~~of confinement shall do both of the following:~~ *shall, if a*
11 *sterilization procedure is performed on one or more individuals*
12 *under its control, annually publish on its Internet Web site data*
13 *related to the number of sterilizations performed, disaggregated*
14 *by race, age, medical justification, and method of sterilization.*

15 ~~(1) Publish an annual report of~~

16 (2) (A) *Each county jail or other institution of confinement*
17 *shall, if a sterilization procedure is performed on one or more*
18 *individuals under its control, annually submit to the Board of State*
19 *and Community Corrections data related to the number of*
20 *sterilizations performed, disaggregated by race, age, medical*
21 *justification, and method of sterilization.*

22 ~~(2) Provide~~

23 (B) *The Board of State and Community Corrections shall*
24 *annually publish the data received pursuant to subparagraph (A)*
25 *on its Internet Web site.*

26 (e) *The department and all county jails or other institutions of*
27 *confinement shall provide notification to all individuals under their*
28 *custody and to all employees who are involved in providing health*
29 *care services of their rights and responsibilities under this section.*

30 ~~(e)~~

31 (f) An employee of the department or of a county jail or other
32 institution of confinement who reports the sterilization of an
33 individual performed in violation of this section is entitled to the
34 protection available under subparagraphs (A) and (B) of paragraph
35 (2) of subdivision (a) of Section 6129, or under the California
36 Whistleblower Protection Act (Article 3 (commencing with Section
37 8547) of Chapter 6.5 of Division 1 of Title 2 of the Government
38 Code) or the Whistleblower Protection Act (Article 10
39 (commencing with Section 9149.20) of Chapter 1.5 of Part 1 of
40 Division 2 of Title 2 of the Government Code).

1 SEC. 3. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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