

Introduced by Senator Pan

February 18, 2016

An act to amend Sections 3500 and 3502 of the Penal Code, relating to prisons.

LEGISLATIVE COUNSEL'S DIGEST

SB 1238, as introduced, Pan. Inmates: biomedical data.

Existing law prohibits biomedical research, as defined, from being conducted on any prisoner in the state.

This bill would specify that biomedical research does not include the accumulation of statistical data in the assessment of the effectiveness of nonexperimental public health programs or treatment programs in which inmates routinely participate. The bill would authorize records-based biomedical research involving inmates that uses existing information, but which does not include prospective interaction with human subjects.

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

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

- 1 SECTION 1. Section 3500 of the Penal Code is amended to
- 2 read:
- 3 3500. For purposes of this title:
- 4 (a) ~~“Behavioral~~ “Behavioral research” means studies involving,
- 5 but not limited to, the investigation of human behavior, emotion,
- 6 adaptation, conditioning, and response in a program designed to
- 7 test certain hypotheses through the collection of objective data.
- 8 Behavioral research does not include the accumulation of statistical

1 data in the assessment of the effectiveness of programs to which
2 inmates are routinely assigned, ~~such as,~~ *including*, but not limited
3 to, education, vocational training, productive work, counseling,
4 recognized therapies, and programs ~~which~~ *that* are not experimental
5 in nature.

6 (b) “Biomedical research” means research relating to or
7 involving biological, medical, or physical science. *Biomedical*
8 *research does not include the accumulation of statistical data in*
9 *the assessment of the effectiveness of nonexperimental public health*
10 *programs or treatment programs in which inmates routinely*
11 *participate.*

12 (c) “Psychotropic drug” means ~~any~~ *a* drug that has the capability
13 of changing or controlling mental functioning or behavior through
14 direct pharmacological action. ~~Such~~ *These* drugs include, but are
15 not limited to, antipsychotic, antianxiety, sedative, antidepressant,
16 and stimulant drugs. Psychotropic drugs also include mind-altering
17 and behavior-altering drugs ~~which,~~ *that*, in specified dosages, are
18 used to alleviate certain physical disorders, and drugs ~~which~~ *that*
19 are ordinarily used to alleviate certain physical disorders but may,
20 in specified dosages, have mind-altering or behavior-altering
21 effects.

22 (d) “Research” means a class of activities designed to develop
23 or contribute to generalizable ~~knowledge~~ ~~such as~~ *knowledge,*
24 *including* theories, principles, or relationships, or the accumulation
25 of data on which they may be based, that can be corroborated by
26 accepted scientific observation and inferences.

27 (e) “Research protocol” means a formal document setting forth
28 the explicit objectives of a research project and the procedures of
29 investigation designed to reach those objectives.

30 (f) “Phase I drug” means ~~any~~ *a* drug ~~which~~ *that* is designated
31 as a phase I drug for testing purposes under the federal Food and
32 Drug Administration criteria in ~~Section 312.1~~ *Part 312 of*
33 *Subchapter D of Chapter I* of Title 21 of the Code of Federal
34 Regulations.

35 SEC. 2. Section 3502 of the Penal Code is amended to read:

36 3502. (a) Biomedical research shall not be conducted on any
37 prisoner in this state.

- 1 *(b) Notwithstanding subdivision (a), records-based biomedical*
- 2 *research using existing information, without prospective interaction*
- 3 *with human subjects, may be conducted consistent with this title.*

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