

AMENDED IN SENATE APRIL 21, 1997

**SENATE BILL**

**No. 362**

**Introduced by Senator Maddy**

February 13, 1997

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An act to amend Section 121361 of the Health and Safety Code, relating to communicable diseases.

LEGISLATIVE COUNSEL'S DIGEST

SB 362, as amended, Maddy. Tuberculosis: health facility.

Existing law prohibits a health facility, local detention facility, or state correctional institution from discharging, releasing, or transferring any person known to have or when the facility or institutional medical staff have reasonable grounds to believe the person has active tuberculosis, unless notification and a written treatment plan have been received by the local health officer, except as specified.

This bill would provide that no health facility that declines to discharge, release, or transfer a person pursuant to ~~this~~ *that* provision shall be civilly or criminally liable or subject to administrative sanction as a result, *if the health facility complies with that provision and acts in good faith.*

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

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

- 1 SECTION 1. Section 121361 of the Health and Safety
- 2 Code is amended to read:

1 121361. (a) (1) A health facility, local detention  
2 facility, or state correctional institution shall not  
3 discharge or release any of the following persons unless  
4 subdivision (e) is complied with:

5 (A) A person known to have active tuberculosis  
6 disease.

7 (B) A person who the medical staff of the health  
8 facility or of the penal institution has reasonable grounds  
9 to believe has active tuberculosis disease.

10 (2) In addition, persons specified in this subdivision  
11 may be discharged from a health facility only after a  
12 written treatment plan described in Section 121362 is  
13 approved by a local health officer of the jurisdiction in  
14 which the health facility is located. Treatment plans  
15 submitted for approval pursuant to this paragraph shall  
16 be reviewed by the local health officer within 24 hours of  
17 receipt of the plans.

18 (3) The approval requirement of paragraph (2) shall  
19 not apply to any transfer to a general acute care hospital  
20 when the transfer is due to an immediate need for a  
21 higher level of care, nor to any transfer from any health  
22 facility to a correctional institution. Transfers or  
23 discharges described in this paragraph shall occur only  
24 after the notification and treatment plan required by  
25 Section 121362 have been received by the local health  
26 officer.

27 (4) This subdivision shall not apply to transfers within  
28 the state correctional system or to interfacility transfers  
29 occurring within a local detention facility system.

30 (b) No health facility shall transfer a person described  
31 in subparagraph (A) or (B) of paragraph (1) of  
32 subdivision (a) to another health facility unless  
33 subdivision (e) is complied with. This subdivision shall  
34 not apply to transfers within the state correctional system  
35 or to interfacility transfers occurring within a local  
36 detention facility system.

37 (c) No state correctional institution or local detention  
38 facility shall transfer a person described in subparagraph  
39 (A) or (B) of paragraph (1) of subdivision (a) from a state  
40 to a local, or from a local to a state, penal institution unless



1 notification and a written treatment plan are received by  
2 the chief medical officer of the penal institution receiving  
3 the person.

4 (d) No local detention facility shall transfer a person  
5 described in subparagraph (A) or (B) of paragraph (1)  
6 of subdivision (a) to a local detention facility in another  
7 jurisdiction unless subdivision (e) is complied with and  
8 notification and a written treatment plan are received by  
9 the chief medical officer of the local detention facility  
10 receiving the person.

11 (e) All discharges, releases, or transfers described in  
12 subdivisions (a), (b), (c), and (d) may occur only after  
13 notification and a written treatment plan pursuant to  
14 Section 121362 has been received by the local health  
15 officer. When prior notification would jeopardize the  
16 person's health, the public safety, or the safety and  
17 security of the penal institution, then the notification and  
18 treatment plan shall be submitted within 24 hours of  
19 discharge, release, or transfer.

20 (f) No health facility that declines to discharge,  
21 release, or transfer a person pursuant to this section shall  
22 be civilly or criminally liable or subject to administrative  
23 sanction therefor. *This subdivision shall apply only if the*  
24 *health facility complies with this section and acts in good*  
25 *faith.*

