

AMENDED IN SENATE APRIL 15, 1998

**SENATE BILL**

**No. 1827**

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**Introduced by Senator Monteith**

February 19, 1998

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An act to amend Section 4501.1 of, and to repeal Section 7555 of, the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

SB 1827, as amended, Monteith. Prisoners: medical testing.

*Under existing law, if there is probable cause to believe that an inmate has committed a battery upon the person of any officer or employee of the state prison by gassing, as defined, the chief medical officer of the state prison may, when he or she deems it medically necessary to protect the health of an officer or employee who may have been subject to a battery by gassing, order the inmate to receive an examination or test for hepatitis and tuberculosis immediately after the event, and periodically thereafter as determined to be necessary by the medical officer. The results of any examination or test are required to be provided to the officer or employee who was the target of the aggravated battery.*

*This bill would instead provide that the chief medical officer of the state prison may order the inmate to receive an examination or test for hepatitis or tuberculosis or both hepatitis and tuberculosis.*

Existing law authorizes medical testing of prisoners for acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV), according to specified

procedures and conditions. Existing law also requires reporting and notification by *any* custodial or law enforcement personnel who ~~have~~ *has* reason to believe he or she has come into contact with an inmate in a manner that could result in infection from these diseases. These provisions are operative until July 1, 1999, and as of January 1, 2000, are repealed.

This bill would repeal the July 1, 1999, sunset date, thereby authorizing the continuation of the above testing, reporting, and notification provisions. By continuing to impose increased duties on local officials, 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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. *Section 4501.1 of the Penal Code is*  
 2 *amended to read:*

3 4501.1. (a) Every person confined in the state prison  
 4 who commits a battery upon the person of any officer or  
 5 employee of the state prison by gassing is guilty of  
 6 aggravated battery and shall be punished as specified in  
 7 Section 4501.5.

8 (b) For purposes of this section, “gassing” means  
 9 intentionally placing or throwing, or causing to be placed  
 10 or thrown, upon the person of another, any mixture of  
 11 human excrement or other bodily fluids or substances.



1 (c) The warden or other person in charge of the state  
2 prison shall use every available means to immediately  
3 investigate all reported or suspected violations of  
4 subdivision (a). If there is probable cause to believe that  
5 the inmate has violated subdivision (a), the chief medical  
6 officer of the state prison, or his or her designee, may,  
7 when he or she deems it medically necessary to protect  
8 the health of an officer or employee who may have been  
9 subject to a violation of this section, order the inmate to  
10 receive an examination or test for hepatitis~~—and~~ *or*  
11 tuberculosis *or both hepatitis and tuberculosis*  
12 immediately after the event, and periodically thereafter  
13 as determined to be necessary by the medical officer. The  
14 results of any examination or test shall be provided to the  
15 officer or employee who was the target of the aggravated  
16 battery. Nothing in this subdivision shall be construed to  
17 otherwise supersede the operation of Title 8  
18 (commencing with Section 7500).

19 (d) The warden or other person in charge of the state  
20 prison shall refer all reports of aggravated battery by  
21 gassing to the local district attorney for prosecution.

22 (e) The Department of Corrections shall report to the  
23 Legislature, by January 1, 2000, its findings and  
24 recommendations on gassing incidents at the state prison  
25 and the medical testing authorized by this section. The  
26 report shall include, but not be limited to, all of the  
27 following:

28 (1) The total number of gassing incidents at each state  
29 prison facility up to the date of the report.

30 (2) The disposition of each gassing incident, including  
31 the administrative penalties imposed and the number of  
32 incidents that are prosecuted and the result of those  
33 prosecutions, including any penalties imposed.

34 (3) A profile of the inmates who commit the  
35 aggravated batteries, including the number of inmates  
36 who have one or more prior serious or violent felony  
37 convictions.

38 (4) Efforts that the department has taken to limit  
39 these incidents, including staff training and the use of  
40 protective clothing and goggles.

1 (5) The results and costs of the medical testing  
2 authorized by this section.

3 (f) This section shall remain in effect only until  
4 January 1, 2001, and as of that date is repealed, unless a  
5 later enacted statute, that is enacted before January 1,  
6 2001, deletes or extends that date.

7 *SEC. 2.* Section 7555 of the Penal Code is repealed.

8 ~~*SEC. 2.*~~

9 *SEC. 3.* Notwithstanding Section 17610 of the  
10 Government Code, if the Commission on State Mandates  
11 determines that this act contains costs mandated by the  
12 state, reimbursement to local agencies and school  
13 districts for those costs shall be made pursuant to Part 7  
14 (commencing with Section 17500) of Division 4 of Title  
15 2 of the Government Code. If the statewide cost of the  
16 claim for reimbursement does not exceed one million  
17 dollars (\$1,000,000), reimbursement shall be made from  
18 the State Mandates Claims Fund.

19 Notwithstanding Section 17580 of the Government  
20 Code, unless otherwise specified, the provisions of this act  
21 shall become operative on the same date that the act  
22 takes effect pursuant to the California Constitution.

