

## Senate Bill No. 1827

### CHAPTER 843

An act to amend Sections 4501.1, 7516.5, and 7555 of the Penal Code, relating to prisoners.

[Approved by Governor September 24, 1998. Filed  
with Secretary of State September 25, 1998.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1827, 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. The bill also would require that any person performing tests, transmitting test results, or disclosing information pursuant to this section be immune from civil liability.

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 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 These provisions are operative until July 1, 1999, and as of January 1, 2000, are repealed.

This bill would instead provide that these provisions are operative until January 1, 2005, and as of that date are repealed, thereby authorizing the continuation of the above testing, reporting, and notification provisions until January 1, 2005. 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.

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

SECTION 1. Section 4501.1 of the Penal Code is amended to read:

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

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

(c) The warden or other person in charge of the state prison shall use every available means to immediately investigate all reported or suspected violations of subdivision (a). If there is probable cause to believe that the inmate has violated subdivision (a), the chief medical officer of the state prison, or his or her designee, 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 violation of this section, order the inmate to receive an examination or test for hepatitis or tuberculosis or both hepatitis and tuberculosis on either a voluntary or involuntary basis immediately after the event, and periodically thereafter as determined to be necessary by the medical officer in order to ensure that further hepatitis or tuberculosis transmission does not occur. These decisions shall be consistent with an occupational exposure as defined by the Center for Disease Control and Prevention. The results of any examination or test shall be provided to the officer or employee who has been subject to a reported or suspected violation of this section. Nothing in this subdivision shall be construed to otherwise supersede the operation of Title 8 (commencing with Section 7500). Any person performing tests, transmitting test results, or disclosing information pursuant to this section shall be immune from civil liability for any action taken in accordance with this section.

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

(e) The Department of Corrections shall report to the Legislature, by January 1, 2000, its findings and recommendations on



gassing incidents at the state prison and the medical testing authorized by this section. The report shall include, but not be limited to, all of the following:

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

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

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

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

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

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

SEC. 2. Section 7555 of the Penal Code is amended to read:

7555. This title shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

Notwithstanding this section, whenever, prior to January 1, 2005, a law enforcement agency employee has filed a report pursuant to Section 7510, or a request for a human immunodeficiency virus (HIV) test has been filed pursuant to Section 7512, or any other procedure for requiring a test has been commenced pursuant to this title, the proceedings shall be permitted to continue on or after January 1, 2005, until they have been concluded.

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

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

