
OLR Bill Analysis

sSB 448

AN ACT CONCERNING THE DELIVERY OF HEALTH CARE AND MENTAL HEALTH CARE SERVICES TO INMATES OF CORRECTIONAL INSTITUTIONS.

SUMMARY

This bill sets various requirements related to health care for people who are incarcerated. Among other things, it:

1. requires the Department of Correction (DOC) commissioner to ensure that there are enough licensed mental health care providers at each correctional institution, and specifies when they may prescribe or administer psychotropic medication to inmates;
2. requires that each inmate get a routine physical exam when entering the institution, an annual physical exam, and an exit health interview done by a physician, physician assistant (PA), or advanced practice registered nurse (APRN);
3. requires these providers to administer an HIV test to each inmate who requests it, and to offer this test to inmates identified as high risk;
4. requires that each inmate get a dental exam from a dentist within 10 weeks of entry and dental care, as set forth in a dental care plan, throughout their sentence;
5. requires a mental health provider to interview each inmate, at entry, on their drug and alcohol use history;
6. generally, requires correctional institutions to transfer inmates to a medical unit if they are in alcohol or drug withdrawal;
7. requires the York Correctional Institution to immediately

transfer to a hospital or outpatient clinic any inmate who is pregnant and seeks an abortion before the viability of the fetus; and

8. establishes an advisory committee to (a) advise the DOC commissioner on correctional institution health care and (b) evaluate whether the Department of Public Health (DPH) should have oversight over health care services at these facilities.

The bill also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2022, except the advisory committee provisions are effective upon passage.

§ 1 — MENTAL HEALTH CARE PROVIDERS AT CORRECTIONAL FACILITIES

The bill requires the DOC commissioner to ensure that there are enough licensed mental health care providers at each DOC correctional institution to give inmates mental health care services. This must include at least four providers at each institution with experience in substance use disorder diagnosis and treatment. DOC may employ or contract with providers for these purposes.

Under the bill, when an inmate requests, or correctional staff refer an inmate to, mental health services the provider must do an in-person assessment to determine if the services are needed, before providing them.

The bill requires mental health care providers' services to align with (1) the security needs of all inmates and correctional staff and (2) the institution's overall operation, as the warden determines in consultation with the DOC commissioner.

Psychotropic Medication (§ 1(b))

The bill prohibits mental health care providers at correctional institutions from prescribing or administering psychotropic medication to an inmate unless several conditions are met. (Another provision of the bill allows only physicians, PAs, or APRNs to administer medication

to inmates; see section 2(g) below.) Under the bill, a “psychotropic medication” is one used to treat a mental health disorder and that affects behavior, mood, thoughts, or perception.

The required conditions are as follows.

Mental Health and Medical History. The provider must have reviewed the inmate’s full medical and mental health history, including the inmate’s current medications.

Physical Examination Review. The inmate must have had a physical examination by a licensed health care provider within 30 days before the mental health care provider first prescribes or administers the psychotropic medication. The mental health care provider must review the exam record and find that the medication would be safe for the inmate.

Mental Health Assessment and Diagnosis. The mental health care provider must have performed a mental health assessment of the inmate within seven days before first prescribing or administering the medication. The provider also must diagnose the inmate with a mental health disorder (unless the inmate already has a diagnosis), and the medication must be used to treat that disorder.

Medication Approval Under Treatment Plan. The provider must approve the medication as part of the inmate’s mental health treatment plan.

Recordkeeping. The provider must keep a record of (1) each psychotropic medication they prescribe or administer to the inmate and (2) all other medications the inmate is taking.

§§ 2 & 3 — HEALTH CARE SERVICES GENERALLY AT CORRECTIONAL FACILITIES

The bill sets requirements for several health care services for inmates, such as physical and dental exams, exit health interviews, and vaccine availability. Under the bill, any of the providers referenced in these provisions must be a DOC employee or under contract with the

department.

Entry and Annual Physical Exams (§ 2(b)-(d))

Under the bill, an inmate entering a correctional institution to serve a sentence must receive a routine physical exam within 48 hours of entry. The bill requires anyone else detained at a correctional institution to receive a routine physical examination within 96 hours of entry. In either case, the exam must be conducted by a physician, PA, or APRN.

The bill prohibits inmates or other detained people from being placed in a correctional institution's housing unit until the provider completes the exam and approves the placement. The warden must ensure that the person is placed in a medical or mental health housing unit if the provider recommends it based on the physical exam.

The bill also requires that inmates receive annual physical exams from a physician, PA, or APRN. It specifies that these exams may include (1) a breast and gynecological exam and (2) any test the provider finds appropriate.

The bill requires the provider to perform these physical exams (both entry and annual) in a location at the institution that the provider finds appropriate. Any samples collected during the exam may be sent to an outside laboratory for analysis. If the provider orders x-rays, they must be performed at the institution if it has the necessary equipment.

Exit Interview (§ 2(e))

The bill requires a physician, PA, or APRN to conduct an exit interview of each inmate being discharged, within seven days before the discharge date. During the interview, the provider must discuss their recommendations for any continued medical care or treatment for the inmate back in the community.

Physician On-Call 24/7 (§ 2(f))

The bill requires a physician to be on call 24 hours a day, seven days a week at each correctional institution to give needed medical care to inmates.

Medication Administration (§ 2(g))

The bill allows only a physician, PA, or APRN to administer medication to inmates, and the latter two only with a physician's written order.

Vaccinations (§ 2(h))

The bill requires the DOC commissioner to ensure that inmates have access to all vaccines licensed or authorized under an emergency use authorization by the federal Food and Drug Administration that are recommended by the National Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP). If an inmate requests a vaccine and a physician, PA, or APRN determines that ACIP recommends the vaccine for the inmate, then that provider must administer it to the inmate.

HIV Testing (§ 3)

The bill requires a physician, PA, or APRN to administer an HIV test to each inmate who requests it. These providers also must offer an HIV test to each inmate identified as high risk for infection with HIV (1) when the inmate enters a correctional institution or (2) during the inmate's required annual physical exam.

Dental Examinations (§ 2(i))

The bill requires that inmates receive a dental examination, conducted by a dentist, within 10 weeks of entering the institution. The dentist must (1) develop a dental care plan for the inmate when performing the exam and (2) give the inmate dental care, per the care plan, throughout the inmate's sentence.

Under the bill, the DOC commissioner, in consultation with a dentist, must ensure that each correctional institution has a dental exam room that is fully equipped with all necessary equipment to perform dental exams.

§ 4 — SUBSTANCE USE DISORDER SERVICES

Under the bill, a licensed mental health care provider at each correctional institution must interview inmates about their drug and

alcohol use history when they enter the institution.

Treatment for Drug or Alcohol Withdrawal (§ 4(a)-(b))

If an inmate shows drug or alcohol withdrawal symptoms at entry, (1) a physician, PA, or APRN must give them a physical exam within 24 hours and (2) a licensed mental health care provider must do a mental health evaluation within five days.

The bill generally requires correctional institutions to immediately transfer an inmate to a medical unit for treatment for drug or alcohol withdrawal if (1) the inmate requests that treatment or (2) a physician, PA, or APRN determines the inmate is in withdrawal. The inmate must provide informed consent for this treatment if (1) they are pregnant or (2) the treatment includes methadone.

The bill requires a physician, PA, or APRN to periodically evaluate each inmate who shows signs of or discloses drug or alcohol addiction or who is in withdrawal. The provider must decide how often to do these evaluations.

Under the bill, a physician with experience in substance use disorder diagnosis and treatment must oversee the medical treatment of inmates in withdrawal. A physician, PA, APRN, or registered nurse with the same experience must give the treatment in a medical unit at the institution, and such an APRN or a registered nurse must be in the unit whenever inmates get medical treatment.

If a correctional institution's medical unit does not have enough beds for all inmates who need this treatment, the institution must add more beds (in that medical unit or another one), so that all inmates who need this treatment get it.

Under the bill, a licensed mental health care provider with substance use disorder diagnosis and treatment experience must monitor inmates in cocaine or amphetamine withdrawal, on a daily basis for at least five days after the first signs of withdrawal, to try to mitigate the risk of suicide attempts.

The bill also requires a second physician to be on call at all times at each correctional institution to oversee the above treatment, if the physician assigned to oversee it becomes unavailable to do so.

Counseling and Referral (§ 4(c))

For inmates who show signs of or disclosed an addiction to drugs or alcohol, the bill requires a licensed mental health care provider to do the following:

1. offer mental health counseling services, including individual and group sessions, and encourage the inmate to do at least one counseling session; and
2. at discharge, refer the inmate to a substance use disorder treatment program in the community that the provider finds appropriate.

§ 5 — PREGNANT INMATES

Counseling and Written Materials (§ 5(c))

By law, the York Correctional Institution (the state’s only correctional facility for female inmates) must provide each pregnant inmate with counseling and written materials on various topics, in a form the inmate can reasonably understand. The bill adds the following to the required topics for pregnant inmates who are drug- or alcohol-dependent: the dangers of undergoing withdrawal without medical treatment, the importance of treatment for withdrawal during the second trimester, and the effects of neonatal abstinence syndrome on a newborn.

It also eliminates the specific requirement that the counseling and written materials cover the institution’s policies and practices on inmate care during labor, delivery, and the postpartum period (but continues to require the counseling and materials to cover these topics generally). Under existing law, York must (1) transport pregnant inmates to hospitals for labor and delivery services and (2) place inmates during the postpartum period in a medical or mental health unit until discharged by a licensed provider.

Transfers for Abortion (§ 5(c))

The bill requires the York Correctional Institution to immediately transfer to a hospital or DPH-regulated outpatient clinic any inmate who is pregnant and seeks an abortion, in consultation with a physician, before the viability of the fetus.

§ 6 — ADVISORY COMMITTEE

The bill establishes a 15-member advisory committee to (1) advise the DOC commissioner on the provision of health care services at DOC correctional institutions (all services under the bill and existing law’s provisions for inmates who are pregnant) and (2) evaluate whether DPH should have oversight over these services or license the facilities in correctional institutions where inmates get these services.

Membership and Procedure

Under the bill, the committee includes 11 appointed members as shown in the following table.

Table 1: DOC Health Services Advisory Committee Appointed Members

<i>Appointing Authority</i>	<i>Appointee Qualifications</i>
House speaker (2)	Primary care physician Formerly incarcerated female
Senate president pro tempore (2)	Physician with expertise in infectious disease prevention and control Formerly incarcerated male
House majority leader (1)	Health care provider with expertise in reproductive health care
Senate majority leader (1)	An advocacy organization’s representative with knowledge and an understanding of issues concerning gender-affirming care
House minority leader (1)	Current or former employee of a correctional institution
Senate minority leader (1)	Mental health care provider
Governor (2)	Health care provider with expertise in substance use disorder treatment Racial justice advocate
Department of Developmental Services commissioner (1)	Professional with experience in communicating the needs of people with disabilities, including an intellectual disability

In addition, the committee's membership includes the (1) DOC, DPH, and Department of Mental Health and Addiction Services (DMHAS) commissioners or their designees and (2) Office of Health Strategy executive director or her designee.

The bill requires the DPH commissioner to appoint a member to the committee if any appointment is vacant for at least a year. The commissioner must notify the appointing authority of her appointee's identity at least 30 days before making the appointment.

The bill requires the committee to meet at least quarterly and allows DPH to give administrative support for committee activities.

Reporting Requirement

Starting by January 1, 2023, the bill requires the committee to periodically report on its recommendations for health care services at DOC correctional institutions. It must report as follows: (1) to DOC, every six months and (2) to the Public Health and Education committees, annually.

The bill also requires the advisory committee, by January 1, 2023, to report to the Public Health and Education committees on its evaluation of the need for DPH oversight of health care services at DOC facilities.

BACKGROUND

DOC Policies

DOC Administrative Directive 8.1 requires DOC, either directly or through agents, to provide inmates with health care services that meet community standards. The directive lists several categories of services that DOC's contracted health services provider must provide (e.g., sick call and emergency services, pharmacy services, dental care, mental health services, and discharge planning). Among various other provisions, the directive requires that (1) before placing a newly admitted inmate into the general population, staff conduct a comprehensive health screening and (2) inmates receive periodic health assessments as determined by the responsible physician (specific types of assessments or examinations are required in certain situations).

Other DOC directives give more detail about certain types of medical services for inmates, such as dental services, mental health services, and psychoactive medication.

Related Bill

sSB 458, reported favorably by the Judiciary Committee, requires the DOC commissioner, in consultation with DMHAS and the Judicial Department, to annually evaluate substance use disorder and mental health screening, diagnostic, and treatment services available to inmates.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 26 Nay 3 (03/25/2022)