

term of imprisonment for a Federal offense, or ordered detained before trial under section 3142(e), may have intentionally or unintentionally transmitted the human immunodeficiency virus to any officer or employee of the United States, or to any person lawfully present in a correctional facility who is not incarcerated there, the Attorney General shall—

(1) cause the person who may have transmitted the virus to be tested promptly for the presence of such virus and communicate the test results to the person tested; and

(2) consistent with the guidelines issued by the Bureau of Prisons relating to infectious disease management, inform any person (in, as appropriate, confidential consultation with the person's physician) who may have been exposed to such virus, of the potential risk involved and, if warranted by the circumstances, that prophylactic or other treatment should be considered.

(c) If the results of a test under subsection (a) or (b) indicate the presence of the human immunodeficiency virus, the Attorney General shall provide appropriate access for counselling, health care, and support services to the affected officer, employee, or other person, and to the person tested.

(d) The results of a test under this section are inadmissible against the person tested in any Federal or State civil or criminal case or proceeding.

(e) Not later than 1 year after the date of the enactment of this section, the Attorney General shall issue rules to implement this section. Such rules shall require that the results of any test are communicated only to the person tested, and, if the results of the test indicate the presence of the virus, to correctional facility personnel consistent with guidelines issued by the Bureau of Prisons. Such rules shall also provide for procedures designed to protect the privacy of a person requesting that the test be performed and the privacy of the person tested.

(Added Pub. L. 105-370, §2(a), Nov. 12, 1998, 112 Stat. 3374.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 105-370, which was approved Nov. 12, 1998.

CHAPTER 303—BUREAU OF PRISONS

Sec.	
4041.	Bureau of Prisons; director and employees.
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AMENDMENTS

2016—Pub. L. 114-133, §2(b), Mar. 9, 2016, 130 Stat. 297, added item 4049.

2000—Pub. L. 106-294, §2(b), Oct. 12, 2000, 114 Stat. 1040, added item 4048.

1994—Pub. L. 103-322, title II, §20402(b), Sept. 13, 1994, 108 Stat. 1825, added item 4047.

1990—Pub. L. 101-647, title XXX, §3001(b), Nov. 29, 1990, 104 Stat. 4915, added item 4046.

1986—Pub. L. 99-646, §67(b), Nov. 10, 1986, 100 Stat. 3616, added items 4044 and 4045.

1982—Pub. L. 97-258, §2(d)(4)(A), Sept. 13, 1982, 96 Stat. 1059, added item 4043.

§ 4041. Bureau of Prisons; director and employees

The Bureau of Prisons shall be in charge of a director appointed by and serving directly under the Attorney General. The Attorney General may appoint such additional officers and employees as he deems necessary.

(June 25, 1948, ch. 645, 62 Stat. 849; Pub. L. 107-273, div. A, title III, §302(1), Nov. 2, 2002, 116 Stat. 1781.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §753 (May 14, 1930, ch. 274, §1, 46 Stat. 325).

The entire second sentence was omitted as executed. All powers and authority originally vested in the former Superintendent of Prisons are now possessed by the Bureau of Prisons.

Minor changes of phraseology were made.

AMENDMENTS

2002—Pub. L. 107-273 struck out “at a salary of \$10,000 a year” after “under the Attorney General”.

COMPENSATION OF DIRECTOR

Compensation of Director, see section 5315 of Title 5, Government Organization and Employees.

§ 4042. Duties of Bureau of Prisons

(a) IN GENERAL.—The Bureau of Prisons, under the direction of the Attorney General, shall—

(1) have charge of the management and regulation of all Federal penal and correctional institutions;

(2) provide suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise;

(3) provide for the protection, instruction, and discipline of all persons charged with or convicted of offenses against the United States;

(4) provide technical assistance to State, tribal, and local governments in the improvement of their correctional systems;

(5) provide notice of release of prisoners in accordance with subsections (b) and (c);

(D)¹ establish prerelease planning procedures that help prisoners—

(i) apply for Federal and State benefits upon release (including Social Security Cards, Social Security benefits, and veterans' benefits); and

(ii) secure such identification and benefits prior to release, subject to any limitations in law; and

(E)² establish reentry planning procedures that include providing Federal prisoners with information in the following areas:

¹ So in original. Probably should be “(6)”.

² So in original. Probably should be “(7)”.

- (i) Health and nutrition.
- (ii) Employment.
- (iii) Literacy and education.
- (iv) Personal finance and consumer skills.
- (v) Community resources.
- (vi) Personal growth and development.
- (vii) Release requirements and procedures.

(b) NOTICE OF RELEASE OF PRISONERS.—(1) At least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, written notice of the release or change of residence shall be provided to the chief law enforcement officers of each State, tribal, and local jurisdiction in which the prisoner will reside. Notice prior to release shall be provided by the Director of the Bureau of Prisons. Notice concerning a change of residence following release shall be provided by the probation officer responsible for the supervision of the released prisoner, or in a manner specified by the Director of the Administrative Office of the United States Courts. The notice requirements under this subsection do not apply in relation to a prisoner being protected under chapter 224.

(2) A notice under paragraph (1) shall disclose—

- (A) the prisoner's name;
- (B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and
- (C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

(3) A prisoner is described in this paragraph if the prisoner was convicted of—

- (A) a drug trafficking crime, as that term is defined in section 924(c)(2); or
- (B) a crime of violence (as defined in section 924(c)(3)).

(c) NOTICE OF SEX OFFENDER RELEASE.—(1) In the case of a person described in paragraph (3), or any other person in a category specified by the Attorney General, who is released from prison or sentenced to probation, notice shall be provided to—

- (A) the chief law enforcement officer of each State, tribal, and local jurisdiction in which the person will reside; and
- (B) a State, tribal, or local agency responsible for the receipt or maintenance of sex offender registration information in the State, tribal, or local jurisdiction in which the person will reside.

The notice requirements under this subsection do not apply in relation to a person being protected under chapter 224.

(2) Notice provided under paragraph (1) shall include the information described in subsection (b)(2), the place where the person will reside, and the information that the person shall register as required by the Sex Offender Registration and Notification Act. For a person who is released from the custody of the Bureau of Prisons whose

expected place of residence following release is known to the Bureau of Prisons, notice shall be provided at least 5 days prior to release by the Director of the Bureau of Prisons. For a person who is sentenced to probation, notice shall be provided promptly by the probation officer responsible for the supervision of the person, or in a manner specified by the Director of the Administrative Office of the United States Courts. Notice concerning a subsequent change of residence by a person described in paragraph (3) during any period of probation, supervised release, or parole shall also be provided to the agencies and officers specified in paragraph (1) by the probation officer responsible for the supervision of the person, or in a manner specified by the Director of the Administrative Office of the United States Courts.

(3) The Director of the Bureau of Prisons shall inform a person who is released from prison and required to register under the Sex Offender Registration and Notification Act of the requirements of that Act as they apply to that person and the same information shall be provided to a person sentenced to probation by the probation officer responsible for supervision of that person.

[4] Repealed. Pub. L. 109-248, title I, §141(h), July 27, 2006, 120 Stat. 604.]

(5) The United States and its agencies, officers, and employees shall be immune from liability based on good faith conduct in carrying out this subsection and subsection (b).

(d) APPLICATION OF SECTION.—This section shall not apply to military or naval penal or correctional institutions or the persons confined therein.

(June 25, 1948, ch. 645, 62 Stat. 849; Pub. L. 90-371, July 1, 1968, 82 Stat. 280; Pub. L. 103-322, title II, §20417, Sept. 13, 1994, 108 Stat. 1834; Pub. L. 105-119, title I, §115(a)(8)(A), Nov. 26, 1997, 111 Stat. 2464; Pub. L. 109-248, title I, §141(f)-(h), July 27, 2006, 120 Stat. 603, 604; Pub. L. 110-199, title II, §231(d)(1), Apr. 9, 2008, 122 Stat. 685; Pub. L. 111-211, title II, §261(a), July 29, 2010, 124 Stat. 2299.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§753a, 753b, (May 14, 1930, ch. 274, §§2, 3, 46 Stat. 325).

Because of similarity in the provisions, the first sentence of section 753b of title 18, U.S.C., 1940 ed., was consolidated with section 753a of title 18, U.S.C., 1940 ed., to form this section.

Minor changes were made in phraseology.

The remainder of said section 753b of title 18, U.S.C., 1940 ed., is incorporated in section 4002 of this title.

REFERENCES IN TEXT

The Sex Offender Registration and Notification Act, referred to in subsec. (c)(2), (3), is title I of Pub. L. 109-248, July 27, 2006, 120 Stat. 590, which was classified principally to subchapter I (§16901 et seq.) of chapter 151 of Title 42, The Public Health and Welfare, prior to editorial reclassification as chapter 209 (§20901 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 2006 Act note set out under section 10101 of Title 34 and Tables.

AMENDMENTS

2010—Subsec. (a)(4). Pub. L. 111-211, §261(a)(1), inserted “, tribal,” after “State”.

Subsec. (b)(1). Pub. L. 111-211, §261(a)(2), substituted “officers of each State, tribal, and local jurisdiction” for “officer of the State and of the local jurisdiction”.

Subsec. (c)(1)(A). Pub. L. 111-211, §261(a)(3)(A), substituted “officer of each State, tribal, and local jurisdiction” for “officer of the State and of the local jurisdiction”.

Subsec. (c)(1)(B). Pub. L. 111-211, §261(a)(3)(B), inserted “, tribal,” after “State” in two places.

2008—Subsec. (a)(D), (E). Pub. L. 110-199 added pars. (D) and (E).

2006—Subsec. (c)(1). Pub. L. 109-248, §141(g)(1), substituted “paragraph (3), or any other person in a category specified by the Attorney General,” for “paragraph (4)” in introductory provisions.

Subsec. (c)(2). Pub. L. 109-248, §141(g)(2), substituted “shall register as required by the Sex Offender Registration and Notification Act” for “shall be subject to a registration requirement as a sex offender” in first sentence and “paragraph (3)” for “paragraph (4)” in fourth sentence.

Subsec. (c)(3). Pub. L. 109-248, §141(f), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The Director of the Bureau of Prisons shall inform a person described in paragraph (4) who is released from prison that the person shall be subject to a registration requirement as a sex offender in any State in which the person resides, is employed, carries on a vocation, or is a student (as such terms are defined for purposes of section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994), and the same information shall be provided to a person described in paragraph (4) who is sentenced to probation by the probation officer responsible for supervision of the person or in a manner specified by the Director of the Administrative Office of the United States Courts.”

Subsec. (c)(4). Pub. L. 109-248, §141(h), struck out par. (4) which read as follows: “A person is described in this paragraph if the person was convicted of any of the following offenses (including such an offense prosecuted pursuant to section 1152 or 1153):

“(A) An offense under section 1201 involving a minor victim.

“(B) An offense under chapter 109A.

“(C) An offense under chapter 110.

“(D) An offense under chapter 117.

“(E) Any other offense designated by the Attorney General as a sexual offense for purposes of this subsection.”

1997—Subsec. (a)(5). Pub. L. 105-119, §115(a)(8)(A)(i), substituted “subsections (b) and (c)” for “subsection (b)”.

Subsec. (b)(4). Pub. L. 105-119, §115(a)(8)(A)(ii), struck out par. (4) which read as follows: “The notice provided under this section shall be used solely for law enforcement purposes.”

Subsecs. (c), (d). Pub. L. 105-119, §115(a)(8)(A)(iv), added subsec. (c) and redesignated former subsec. (c) as (d).

1994—Pub. L. 103-322 designated first par. of existing provisions as subsec. (a) and inserted heading, substituted “provide” for “Provide” and “; and” for period at end of par. (4), added par. (5) and subsec. (b), and designated second sentence of existing provisions as subsec. (c) and inserted heading.

1968—Pub. L. 90-371 added cl. (4).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-119 effective 1 year after Nov. 26, 1997, see section 115(c)(1) of Pub. L. 105-119, set out as a note under section 3521 of this title.

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments by Pub. L. 110-199 and requirements for grants made under such amendments, see section 60504 of Title 34, Crime Control and Law Enforcement.

AMENITIES OR PERSONAL COMFORTS

Pub. L. 107-77, title VI, §611, Nov. 28, 2001, 115 Stat. 800, provided that: “Hereafter, none of the funds appro-

priated or otherwise made available to the Bureau of Prisons shall be used to provide the following amenities or personal comforts in the Federal prison system—

“(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

“(2) the viewing of R, X, and NC-17 rated movies, through whatever medium presented;

“(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

“(4) possession of in-cell coffee pots, hot plates or heating elements; or

“(5) the use or possession of any electric or electronic musical instrument.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 106-553, §1(a)(2) [title VI, §611], Dec. 21, 2000, 114 Stat. 2762, 2762A-105.

Pub. L. 106-113, div. B, §1000(a)(1) [title VI, §612], Nov. 29, 1999, 113 Stat. 1535, 1501A-54.

Pub. L. 105-277, div. A, §101(b) [title VI, §611], Oct. 21, 1998, 112 Stat. 2681-50, 2681-113.

Pub. L. 105-119, title VI, §611, Nov. 26, 1997, 111 Stat. 2517.

Pub. L. 104-208, div. A, title I, §101(a) [title VI, §611], Sept. 30, 1996, 110 Stat. 3009, 3009-66.

Pub. L. 104-134, title I, §101(a) [title VI, §611], Apr. 26, 1996, 110 Stat. 1321, 1321-64; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

SEXUALLY EXPLICIT COMMERCIALY PUBLISHED MATERIAL

Pub. L. 107-77, title VI, §614, Nov. 28, 2001, 115 Stat. 801, provided that: “Hereafter, none of the funds appropriated or otherwise made available to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 106-553, §1(a)(2) [title VI, §614], Dec. 21, 2000, 114 Stat. 2762, 2762A-106.

Pub. L. 106-113, div. B, §1000(a)(1) [title VI, §615], Nov. 29, 1999, 113 Stat. 1535, 1501A-54.

Pub. L. 105-277, div. A, §101(b) [title VI, §614], Oct. 21, 1998, 112 Stat. 2681-50, 2681-113.

Pub. L. 105-119, title VI, §614, Nov. 26, 1997, 111 Stat. 2518.

Pub. L. 104-208, div. A, title I, §101(a) [title VI, §614], Sept. 30, 1996, 110 Stat. 3009, 3009-66.

REIMBURSEMENT FOR CERTAIN EXPENSES OUTSIDE OF FEDERAL INSTITUTIONS

Pub. L. 106-553, §1(a)(2) [title I], Dec. 21, 2000, 114 Stat. 2762, 2762A-55, provided in part: “That hereafter amounts appropriated for Federal Prisoner Detention shall be available to reimburse the Federal Bureau of Prisons for salaries and expenses of transporting, guarding and providing medical care outside of Federal penal and correctional institutions to prisoners awaiting trial or sentencing.”

GUIDELINES FOR STATES REGARDING INFECTIOUS DISEASES IN CORRECTIONAL INSTITUTIONS

Pub. L. 105-370, §2(c), Nov. 12, 1998, 112 Stat. 3375, which required the Attorney General to provide to States proposed guidelines related to infectious diseases in correctional institutions, was editorially reclassified as a note under section 60101 of Title 34, Crime Control and Law Enforcement.

PRISONER ACCESS

Pub. L. 105-314, title VIII, §801, Oct. 30, 1998, 112 Stat. 2990, provided that: “Notwithstanding any other provi-

sion of law, no agency, officer, or employee of the United States shall implement, or provide any financial assistance to, any Federal program or Federal activity in which a Federal prisoner is allowed access to any electronic communication service or remote computing service without the supervision of an official of the Federal Government.”

APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES

Pub. L. 103-322, title II, §20404, Sept. 13, 1994, 108 Stat. 1825, provided that: “In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.”

COST SAVINGS MEASURES

Pub. L. 101-647, title XXIX, §2907, Nov. 29, 1990, 104 Stat. 4915, provided that: “The Director of the Federal Bureau of Prisons (referred to as the ‘Director’) shall, to the extent practicable, take such measures as are appropriate to cut costs of construction. Such measures may include reducing expenditures for amenities including, for example, color television or pool tables.”

ADMINISTRATION OF CONFINEMENT FACILITIES LOCATED ON MILITARY INSTALLATIONS BY BUREAU OF PRISONS

Pub. L. 100-690, title VII, §7302, Nov. 18, 1988, 102 Stat. 4463, provided that: “In conjunction with the Department of Defense and the Commission on Alternative Utilization of Military Facilities as established in the National Defense Authorization Act of Fiscal Year 1989 [see section 2819 of Pub. L. 100-456, 104 Stat. 1820, formerly set out as a note under section 2391 of Title 10, Armed Forces], the Bureau of Prisons shall be responsible for—

“(1) administering Bureau of Prisons confinement facilities for civilian nonviolent prisoners located on military installations in cooperation with the Secretary of Defense, with an emphasis on placing women inmates in such facilities, or in similar minimum security confinement facilities not located on military installations, so that the percentage of eligible women equals the percentage of eligible men housed in such or similar minimum security confinement facilities (i.e., prison camps);

“(2) establishing and regulating drug treatment programs for inmates held in such facilities in coordination and cooperation with the National Institute on Drug Abuse; and

“(3) establishing and managing work programs in accordance with guidelines under the Bureau of Prisons for persons held in such facilities and in cooperation with the installation commander.”

LIMITING THE USE OF RESTRICTIVE HOUSING BY THE FEDERAL GOVERNMENT

Memorandum of President of the United States, Mar. 1, 2016, 81 F.R. 11997, provided:

Memorandum for the Heads of Executive Departments and Agencies

A growing body of evidence suggests that the overuse of solitary confinement and other forms of restrictive housing in U.S. correctional systems undermines public safety and is contrary to our Nation’s values.

In July 2015, as part of my Administration’s ongoing efforts to pursue reforms that make the criminal justice system more fair and effective, I directed the Attorney General to undertake a comprehensive review of the overuse of solitary confinement across American prisons. Since that time, senior officials at the Department of Justice (DOJ) have met regularly to study the issue and develop strategies for reducing the use of this practice nationwide.

Those efforts gave rise to a final report transmitted to me on January 25, 2016 (DOJ Report and Recommendations Concerning the Use of Restrictive Housing) (the “DOJ Report”), that sets forth specific policy rec-

ommendations for DOJ with respect to the Federal Bureau of Prisons and other DOJ entities as well as more general guiding principles for all correctional systems.

As the DOJ Report makes clear, although occasions exist when correctional officials have no choice but to segregate inmates from the general population, this action has the potential to cause serious, long-lasting harm. The DOJ Report accordingly emphasizes the responsibility of Government to ensure that this practice is limited, applied with constraints, and used only as a measure of last resort.

Given the urgency and importance of this issue, it is critical that DOJ accelerate efforts to reduce the number of Federal inmates and detainees held in restrictive housing and that Federal correctional and detention systems be models for facilities across the United States. Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and to address the overuse of solitary confinement in correctional and detention systems throughout the United States, I hereby direct as follows:

SECTION 1. *Implementation of the DOJ Report.* (a) DOJ shall promptly undertake to revise its regulations and policies, consistent with the direction of the Attorney General, to implement the policy recommendations in the DOJ Report concerning the use of restrictive housing. DOJ shall provide me with an update on the status of these efforts not later than 180 days after the date of this memorandum.

(b) Other executive departments and agencies (agencies) that impose restrictive housing shall review the DOJ Report to determine whether corresponding changes at their facilities should be made in light of the policy recommendations and guiding principles in the DOJ Report.

These other agencies shall report back to me not later than 180 days after the date of this memorandum on how they plan to address their use of restrictive housing.

SEC. 2. *General Provisions.* (a) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 3. *Publication.* The Attorney General is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 4043. Acceptance of gifts and bequests to the Commissary Funds, Federal Prisons

The Attorney General may accept gifts or bequests of money for credit to the “Commissary Funds, Federal Prisons”. A gift or bequest under this section is a gift or bequest to or for the use of the United States under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(Added Pub. L. 97-258, §2(d)(4)(B), Sept. 13, 1982, 96 Stat. 1059; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)