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Acquired Immune Deficiency Syndrome (AIDS).

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Official Title and Summary Prepared by the Attorney General

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS). INITIATIVE STATUTE. Declares that AIDS is an infectious, contagious and communicable disease and that the condition of being a carrier of the HTLV-III virus is an infectious, contagious and communicable condition. Requires both be placed on the list of reportable diseases and conditions maintained by the director of the Department of Health Services. Provides that both are subject to quarantine and isolation statutes and regulations. Provides that Department of Health Services personnel and all health officers shall fulfill the duties and obligations set forth in specified statutory provisions to preserve the public health from AIDS. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: The fiscal effect of the measure could vary greatly depending upon how it would be interpreted by public health officers and the courts. If only existing discretionary communicable disease controls were applied to the AIDS disease, given the current state of medical knowledge, there would be no substantial change in state and local costs as a direct result of this measure. If the measure were interpreted to require added control measures, depending upon the level of activity taken, the cost of implementing these measures could range to hundreds of millions of dollars per year.

Analysis by the Legislative Analyst

Background

Acquired immune deficiency syndrome (AIDS) is a disease that impairs the body's normal ability to resist harmful diseases and infections. The disease is caused by a virus that is spread through intimate sexual contact or exposure to the blood of an infected person. As of the preparation of this analysis, there was no readily available method to detect whether a person actually *has* the AIDS virus. A test does exist to detect whether a person has ever been *infected* with the AIDS virus and as a result has developed antibodies to it. A person infected with the AIDS virus may or may not develop the AIDS disease after a period of several years. There is no known cure for AIDS, which is ultimately fatal.

As of June 30, 1986, there were 5,188 cases of AIDS and 2,406 deaths from the disease in California. The State Department of Health Services estimates that up to 500,000 persons in California are infected with the AIDS virus, and that by 1990 there will be approximately 30,000 cases of AIDS in the state.

Existing Laws Covering Communicable Diseases. Local health officers have broad authority to take measures they believe are necessary to protect public health and prevent the spread of disease-causing organisms. However, this broad authority is limited to situations where there is a reasonable belief that the individual affected has or may have the disease and poses a danger to the public. The kind of measure taken by health officers varies, depending on how easily an organism is spread from one person to another. For example, to prevent the spread of a disease, local health officers may require isolation of infected or diseased persons and quarantine of exposed persons. In addition, persons infected with a disease-causing organism may be excluded from schools for the duration of the infection and excluded from food handling jobs. In some cases, these measures may be applied to persons suspected of having the infection or the disease.

Current AIDS Reporting Requirements. Physicians and other health care providers are now required to re-

port cases of certain listed communicable diseases to local health officers who, in turn, report the cases to the State Department of Health Services. At the time this analysis was prepared, AIDS was not on the list of communicable diseases that must be reported to local health officers. However, AIDS is being reported under a regulation which requires an unusual disease, not listed as a communicable disease, to be reported by local health officers.

Under other provisions of law, hospitals are required to report cases of AIDS to local health officers who, in turn, report the cases to the State Department of Health Services. Counties also report to the state the number of cases in which blood tests performed at certain facilities reveal the presence of antibodies to the AIDS virus, indicating that a person has been infected with the virus. Existing law does not allow the release of the names or other identifying information for persons who take the AIDS antibody test.

According to the State Department of Health Services, persons who have AIDS and persons who are capable of spreading the AIDS virus are subject to existing communicable disease laws. However, no health officer has ever taken any official action to require persons infected with the AIDS virus to be isolated or quarantined, because there is no medical evidence which demonstrates that the AIDS virus is transmitted by casual contact with an infected person. In addition, no health officer has recommended excluding persons with AIDS, or those who are capable of spreading AIDS, from schools or jobs.

Proposal

This measure declares that AIDS and the "condition of being a carrier" of the virus that causes AIDS are communicable diseases. The measure also requires the State Department of Health Services to add these conditions to the list of diseases that must be reported. Because AIDS cases are already being reported, the measure would require the reporting of those who are "carriers of the AIDS virus." Currently, no test to make this determination is readily available.

The measure also states that the Department of Health Services and all health officers "shall fulfill all of the duties and obligations specified" under the applicable laws "in a manner consistent with the intent of this act." Although the meaning of this language could be subject to two different interpretations, it most likely means that the laws and regulations which currently apply to other communicable diseases shall also apply to AIDS and the "condition of being a carrier" of the AIDS virus. Thus, health officers would continue to exercise their discretion in taking actions necessary to control this disease. Based on existing medical knowledge and health department practices, few, if any, AIDS patients and carriers of the AIDS virus would be placed in isolation or under quarantine. Similarly, few, if any, persons would be excluded from schools or food handling jobs. If, however, the language is interpreted as placing new requirements on health officers, it could result in new actions such as expanding testing programs for the AIDS virus, imposing isolation or quarantine of persons who have the disease, and excluding persons infected with the AIDS virus from schools and food handling positions.

Fiscal Effect

The fiscal effect of this measure could vary greatly, depending on how it would be interpreted by state and local health officers and the courts. If existing *discretionary*

communicable disease controls were applied to the AIDS disease, there would be *no* substantial net change in state and local costs as a *direct* result of this measure. Thus, the primary effect of this measure would be to require the reporting of persons who are carriers of the virus which causes AIDS. Very few cases would be reported because no test to confirm that a person carries the virus is readily available. If such a test becomes widely available in the future, more cases would be reported.

The fiscal impact could be very substantial if the measure were interpreted to require changes in AIDS control measures by state and local health officers, either voluntarily or as a result of a change in medical knowledge on how the disease is spread, or as a result of court decisions which mandate certain control measures. Ultimately, the fiscal impact would depend on the level of activity that state and local health officers might undertake with respect to: (1) identifying, isolating and quarantining persons infected with the virus, or having the disease, and (2) excluding those persons from schools or food handling positions. The cost of implementing these actions could range from millions of dollars to hundreds of millions of dollars per year.

In summary, the net fiscal impact of this measure is unknown—and could vary greatly, depending on what actions are taken by health officers and the courts to implement this measure.

Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure proposes to add new provisions to the law; therefore, the new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

Section 1.

The purpose of this Act is to:

A. Enforce and confirm the declaration of the California Legislature set forth in Health and Safety Code Section 195 that acquired immune deficiency syndrome (AIDS) is serious and life threatening to men and women from all segments of society, that AIDS is usually lethal and that it is caused by an infectious agent with a high concentration of cases in California;

B. Protect victims of acquired immune deficiency syndrome (AIDS), members of their families and local communities, and the public health at large; and

C. Utilize the existing structure of the State Department of Health Services and local health officers and the statutes and regulations under which they serve to preserve the public health from acquired immune deficiency syndrome (AIDS).

Section 2.

Acquired immune deficiency syndrome (AIDS) is an infectious, contagious and communicable disease and the condition of being a carrier of the HTLV-III virus is an infectious, contagious and communicable condition and both shall be placed and maintained by the director of the Department of Health Services on the list of reportable diseases and conditions mandated by Health and Safety Code Section 3123, and both shall be included within the provisions of Division 4 of such code and the rules and regulations set forth in Administrative Code Title 17, Part 1, Chapter 4, Subchapter 1, and all personnel of the Department of Health Services and all health officers shall fulfill all of the duties and obligations specified in each and all of the sections of said statutory division and administrative code subchapter in a manner consistent with the intent of this Act, as shall all other persons identified in said provisions.

Section 3.

In the event that any section, subsection or portion thereof of this Act is deemed unconstitutional by a proper court of law, then that section, subsection or portion thereof shall be stricken from the Act and all other sections, subsections and portions thereof shall remain in force, alterable only by the people, according to process.

Arguments in Favor of Proposition 64

Proposition 64 extends existing public health codes for communicable diseases to AIDS and AIDS virus carriers. This means that the same public health codes that already protect you and your family from other dangerous diseases will also protect you from AIDS. Proposition 64 will keep AIDS out of our schools, out of commercial food establishments, and will give health officials the power to test and quarantine where needed. These measures are not new; they are the same health measures applied, *by law*, every day, to every other dangerous contagious disease.

Today AIDS is out of control. There are at least 300,000 AIDS carriers in California, and the number of cases of this highly contagious disease is doubling every 6 to 12 months. The number of "unexplained" AIDS cases—cases not in "high-risk" groups, such as homosexuals and intravenous drug users—continues to grow at alarming rates. Indeed, the majority of cases worldwide fall into no identifiable "risk group" whatsoever. The AIDS virus has been found living in many bodily fluids, including blood, saliva, respiratory fluids, sweat, and tears, and it can survive upwards of seven days outside the body. There presently exist no cure for the sick and no vaccination for the healthy. It is 100% lethal.

AIDS is the gravest public health threat our nation has ever faced. The existing law of California clearly states that certain proven public health measures *must* be taken to protect the public from *any* communicable disease, and no competent medical professional denies that AIDS is "communicable." Despite these facts, politicians and special interest groups have circumvented the public health laws. For the first time in our history, a deadly disease is being treated as a "civil rights" issue, rather than as a public health issue.

The medical facts are clear. The law is clear. Common sense agrees. You and your family have the right to be protected from *all* contagious diseases, including AIDS—the deadliest of them all. If you agree, vote YES on Proposition 64.

KHUSHRO CHANDHI

California Director, National Democratic Policy Committee (NDPC), and Member-elect, Los Angeles County Democratic Party Central Committee

JOHN GRAUERHOLZ, M.D., FCAP

(Fellow, College of American Pathologists)

California law today makes it illegal for public health authorities to be informed of a large number of those (about 385,000) who can spread the deadly AIDS virus to others. How can they take the necessary steps to slow its spread as long as this is true?

Under existing law, a physician who encounters any of 58 reportable diseases is required to report to health officials. Included are several venereal diseases, such as syphilis and gonorrhea. Contact tracing is conducted. But, for those with the AIDS virus, not yet developed into AIDS, a special state law passed at the request of the male homosexual lobby prohibits contact tracing. Proposition 64 will require that those with the AIDS virus be reported as other communicable diseases. It does not require quarantine.

The cost of the AIDS epidemic in California, it is estimated, will be at least 59,400 lives by 1991 and almost \$6 billion to be paid by insurance and/or taxpayers. Let's reduce those statistics by voting YES on Proposition 64.

WILLIAM E. DANNEMEYER

Member of Congress, 39th District

Rebuttal to Arguments in Favor of Proposition 64

Would you let a stranger with no medical training or medical background diagnose a disease or illness that you have? Would you let a political extremist dictate medical policy? **OF COURSE NOT.**

The followers of Lyndon LaRouche suggest that the hands of the medical community have been tied. **THIS IS NOT TRUE!** In fact, the California Medical Association, the California Nurses Association, the California Hospital Association and other health professionals believe that Proposition 64 *would seriously hurt* their ability to treat and find a cure for AIDS. These health professionals are seriously concerned that years of research will be undermined by fear generated by this irrational proposition.

NO ONE has contracted AIDS from casual contact at a

restaurant, grocery store, or in the workplace. Think for a moment. If it were true that AIDS is casually transmitted, clearly many more men, women and children would be ill. **This is just not the fact.**

The followers of Lyndon LaRouche are at it again! Using partial truths and falsehoods, they are attempting to create panic in California. Say NO to PANIC. Vote NO on Proposition 64.

HELEN MIRAMONTES, R.N., M.S., CCRN

President, California Nurses Association

C. DUANE DAUNER

President, California Hospital Association

GLADDEN V. ELLIOTT, M.D.

President, California Medical Association

Acquired Immune Deficiency Syndrome (AIDS). Initiative Statute

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Argument Against Proposition 64

Proposition 64 must be defeated for the *safety* and *public health* of all Californians. It is an irrational, inappropriate and misguided approach to a serious public health problem. The proponents of this measure are followers of extremist Lyndon LaRouche. They want to create an atmosphere of *fear*, *misunderstanding*, *inadequate health care* and *panic*. In fact, the acronym of their campaign committee is PANIC.

Public health decisions must be left in the hands of the medical profession and public health officials or we will endanger the lives of Californians. The California Medical Association and county public health officials recognize the danger of allowing political extremists to dictate state public health and medical policy.

This type of repressive and discriminatory action forced upon Californians by followers of Lyndon LaRouche will not serve to limit the problem, *but rather could prolong the spread of this terrible disease.* The fear of quarantine or other discriminatory measures, including loss of jobs, will make people reluctant to be tested. Fearing social isolation, individuals at risk will avoid early medical intervention, or even infection testing, driving AIDS underground.

Enforcement of this measure *could cost the taxpayers*

billions of dollars to quarantine and isolate AIDS carriers and could require public health officials to do so. Quarantine would serve no medical purpose because *there are no documented cases of AIDS ever being transmitted by casual contact.*

Californians from all walks of life know they must unite to end this dreadful epidemic. Californians can be proud that doctors and public health officials have acted in a professional, rational and responsible manner to protect the health of Californians and have taken all appropriate precautions as they are needed. *This kind of initiative can only divide, create panic and force thousands not to get tested or treated because of fear.*

Join us, the *Los Angeles Times*, *The Los Angeles Herald Examiner*, *San Francisco Examiner*, *the California Medical Association*, and many others in opposing the extremes of followers of Lyndon LaRouche. Vote NO on *Proposition 64!*

GLADDEN V. ELLIOTT, M.D.
President, California Medical Association

ED ZSCHAU
Member of Congress, 12th District

ALAN CRANSTON
United States Senator

Rebuttal to Argument Against Proposition 64

Opponents of Proposition 64 have spent a great deal of rhetoric, while avoiding medical issues.

The facts:

- Health officials' failure to implement existing public health laws has resulted in nearly 500,000 people infected in California, each capable of infecting others.

- AIDS is the most rapidly spreading lethal disease in the country.

- Of those infected, between 40% and 99% will probably die—between 200,000 and 500,000 deaths in California—and AIDS is doubling every year.

- The vast majority of AIDS cases worldwide lie *outside* "high risk" groups. The victims are *not* homosexuals, and are *not* intravenous drug users. In Haiti, three years ago, 70% of AIDS cases were in "high risk" groups. Today, over 70% are *not* in "high risk" groups. Could this happen here? It can and it will, unless we stop it.

- Do we know with certainty how AIDS spreads? We do

not. The majority of cases have *never been studied.*

- Many health officials are demanding public health measures. Dr. Kizer, California's top health official, has called for more reporting and testing powers.

- The AIDS virus exists in many bodily effluents and survives outside the body.

Proposition 64 implements the *existing* health laws; laws scientifically designed to protect your health; laws which have been ruled constitutional by courts for decades.

Don't gamble with human life. Vote YES on Proposition 64.

GUS S. SERMOS
*Former Centers for Disease Control Public Health Adviser
with AIDS Program in Florida*

NANCY T. MULLAN, M.D.
Burbank

JOHN GRAUERHOLZ, M.D., FCAP
(Fellow, College of American Pathologists)