

HIV & Nevada State Prisons

NRS 209.385 was repealed with the passage of Senate Bill 275 of 2021. This statute related to testing offenders for HIV and consequent treatment of inmates with HIV. In the report submitted in 2020, the Advisory Task Force on HIV Exposure Modernization recommended that this statute be repealed for several reasons. Primarily, Task Force members were concerned that inmates who tested positive for HIV “must be segregated from every other offender whose test results are negative” according to the statute. Task Force members believed that this requirement was not medically necessary due to the ways in which HIV can be transmitted. Additionally, members worried that inmates living with HIV could have been subjected to inferior treatment after being segregated from inmates without HIV. In fact, the US Justice Department shared similar concerns regarding this statute. The Justice Department found that this practice by the Nevada Department of Corrections was in violation of the Americans with Disabilities Act, and the two parties reached an agreement in 2021 to stop this illegal segregation.¹

Although this current Task Force is happy to see this provision be repealed, there were certain parts of NRS 209.385 that we believe are important to keep in practice, such as testing inmates for HIV and establishing an education program for inmates and employees regarding HIV. To find out more about HIV in Nevada prisons, the Task Force reached out to the Nevada Department of Corrections and requested for a representative to attend one of our meetings.

On August 18, 2022, Russ Alfano, Medical Administrator for the Nevada Department of Corrections, attended our Task Force meeting and answered our questions. First, he told us that, to his knowledge, the Department of Corrections is no longer segregating inmates based on HIV status. Mr. Alfano also confirmed that HIV testing is still available in Nevada prisons along with other medical tests. He stated that inmates are offered testing when entering the Department of Corrections and may also be tested if deemed medically warranted. Mr. Alfano told us that inmates still receive counseling regarding HIV if they test positive while in prison, and information about HIV is still provided to staff and inmates along with other medical information.

Overall, it seems as though the repeal of NRS 209.385 has not had a detrimental effect on the Nevada Department of Corrections’ ability or mandates to offer HIV and other communicable disease testing in prisons. They seem to have no issue with its repeal and have changed their practices to avoid illegal segregation and support inmates and staff in knowing their HIV status. The Task Force is pleased to know that the potentially harmful practice of isolating inmates due to their HIV status is no longer happening while HIV testing and information is still available for inmates and staff.

¹ <https://www.justice.gov/opa/pr/justice-department-reaches-agreement-nevada-end-discriminatory-policies-against-inmates-hiv#:~:text=The%20Justice%20Department%20today%20reached,benefit%20from%20Nevada%20Department%20of>