

62 AIDS-related bills have lobbyists stalking halls of the Capitol

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SACRAMENTO — In the waning weeks of the 1987 legislative session, lawmakers are considering as many as 62 bills to change California's AIDS laws.

The bills range from mandatory testing for certain high-risk groups to relaxation of confidentiality laws and strong criminal penalties for AIDS-infected persons who give blood or commit sex crimes.

Some of the measures are seen as sensible approaches to dealing with the AIDS epidemic by mandating improved education and prevention programs. Others are believed to be infringements on individual civil liberties and doctor-patient confidentiality that could create a colony of segregated victims.

As the bills plod through the legislative process before the session ends Sept. 11, lobbyists on all sides of the issues are stalking the halls of the Capitol.

It is an odd assemblage of special interests in this epidemic, a collection of activists that crosses cultural, economic and sexual lines. Physicians and lawyers line up to testify, as do social workers and public health experts, gay rights activists, law enforcement and correctional officials — all with newfound expertise in this increasingly deadly battle.

On the third floor of the Capitol, just below two major hearing rooms where many of the bills are being heard in committee this week, is another stark reminder of the AIDS epidemic, an exhibit of black and white portraits entitled "Faces with AIDS" by photographer Jim Wigler.

Row upon row of photos of men and women with AIDS, most in their 30s and 40s, are identified by name and age and include a brief quote about how the disease has affected each.

The exhibit is sponsored by Senate President Pro Tem David A. Roberti, D-Hollywood, who sponsored some of the early 1980s AIDS legislation aimed at prevention and education.

Stanley Hadden, a consultant to Roberti who chairs the California AIDS Advisory Committee, notes that many of the bills mandate various forms of testing to detect the incidence of the AIDS virus — an approach he said would be of questionable value in stemming the AIDS epidemic.

Some of the most controversial bills are part of a 10-bill package introduced early in the session by Sen. John Doolittle, R-Roseville, who calls his package the "1987 AIDS Prevention Program" and would require everything from mandatory testing of state prison inmates and prostitutes to criminal penalties for any AIDS-infected person who gives blood or commits certain sex crimes.

"It's time to put the public's health first," Doolittle said. "It's important to feel compassion for the victims and at the same time to take all reasonable and necessary measures to prevent the spread of the disease to other potential victims."

Several of the Doolittle AIDS bills were being heard by various committees Tuesday.

"Sen. Doolittle is to be commended for his keen interest in AIDS," said Hadden, who is gay and tested positive for AIDS antibodies more than a year ago. "The problem with the Doolittle proposals is that they are not really what we need. They are not the measures that are recommended by medical and public health experts. It's a punitive package."

"People are looking at testing as an end in itself," he said. "Testing is a big part, but it has to be included along with counseling and education.

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None of the testing legislation is coordinated with existing testing."

Many legislators have been critical of the more punitive aspects of the package. Some have confirmed privately that they are concerned about being perceived as "pro-gay" if they vote against mandatory testing.

Assemblyman Richard Floyd, D-Gardena, said the debate "is based on political, not medical reasoning" and suggested that the bills be put "in the garbage can where they belong."

Hadden said portions of the Doolittle package, such as criminal penalty enhancements, will probably move to the next committee or to the floor, but other portions will be killed in committee.

"Part of his [Doolittle's] strategy was to have 10 different bills, and a few would get through," Hadden said.

Hadden and other experts in the AIDS wars said more testing in existing overburdened testing facilities must be made available and those tests evaluated before further testing of certain high-risk groups is mandated. He said 12,000 Californians are being tested every month in 53 voluntary testing centers in 31 counties — up from 3,000 a month in December 1986.

"People are standing in line to get appointments," he said.

"By the end of August, we will have 10,000 AIDS cases in California," Hadden

said. "That number is expected to go to 50,000 in just a few years. We do not have any bills gearing up to deal with 50,000 people with AIDS in this state, and we need to begin planning for that right now."

Rand Martin, a lobbyist for a statewide coalition of gay, civil liberties, medical and other groups, said individual bills in the Doolittle package "at first blush don't look all that unreasonable."

"The problem is that, looked at in a package, it is draconian," he said. "It focuses on mandatory testing and criminalizing AIDS."

More important in stemming the AIDS tide, he said, is "massive education, and encouraging voluntary testing for those who are at risk."

"It's not a well-thought-out package," Martin said. "It's full of quick fixes."

He said a better approach can be found in legislation by Assemblyman Art Agnos, D-San Francisco, which is supported by established medical, educational and public health groups throughout the state. The bill, AB 87, emphasizes education and prevention and requires the establishment of a California Commission on AIDS.

At a hearing of the Assembly Health Committee this week, legal and medical experts urged more medical care for AIDS victims and better prevention and education — not mandatory testing, "criminalization" or relaxation of existing confidentiality laws, which many experts believe will drive AIDS victims underground and

make identification and treatment more difficult.

State Deputy Attorney General Ann Jennings, who is an attorney in the civil rights section of the attorney general's office, said the criminal justice system is not the system to deal effectively with the AIDS epidemic and that existing criminal penalties are sufficient.

"The ability of the criminal justice and public health systems to deal with this epidemic is limited," she said. "Essentially the best public health officials can do is coerce people into taking action. It doesn't make sense to find and isolate 300,000 to 500,000 people. It would be extremely expensive and would essentially turn us into a police state."

"Isolation should be used only in very extreme cases," Jennings said. She also urged the Legislature not to relax confidentiality requirements.

"People from high-risk groups would hesitate to come forward," thus hampering prevention and treatment, she said.

"With any testing program it is very important to think things through," she added. "It's necessary to ask very carefully what is going to be done with this information and will it reduce AIDS transmission?"

Jennings also questioned efforts to prosecute AIDS-infected persons who give blood. "Knowing whether the person who donated knew what he or she was doing is [less important] than making certain blood

is screened," she said, adding that "forcible sex crimes, of course, are a different story."

Existing law provides adequate criminal penalty enhancements that would apply to sex crimes committed by AIDS-infected persons. "Under existing law, there is a three-year or a five-year enhancement for great bodily injury in the commission of sex crimes," she noted. "A court would very likely find that AIDS transmission is great bodily injury under [the Penal Code], as they have found pregnancy or transmission of herpes to be."

David Schulman, who heads the AIDS discrimination unit in the Los Angeles City Attorney's Office, said his unit has investigated more than 200 cases of AIDS-related discrimination.

"We came to understand very early in the game that AIDS discrimination is a very different kind of discrimination," he said. Schulman has worked successfully within existing law to mediate discrimination cases to the benefit of AIDS victims — often meeting with employers' attorneys and mediating a settlement within seven days of the original complaint.

"Once we get past the phobic judgments, the law has proven to be an ameliorative field," Schulman observed.

Schulman urged legislators not to adopt an unduly punitive stance in legislating AIDS testing and criminal sanctions, lest "we lose that civility which is at the core of our civil rights policy."