[As Reported From the Justice and Law Reform Committee]

House of Representatives, 11 July 1989.

[As REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE] House of Representatives, 10 October 1989.

[Clauses 154 and 155 of this Bill were formerly clauses 154 and 155 of the Law Reform (Miscellaneous Provisions) Bill: 122-2]

Hon. W. P. Jeffries

# PENAL INSTITUTIONS AMENDMENT

#### ANALYSIS

Title 1. Short Title 154. Interpretation 155. New heading and 3 new sections (relating to AIDS, HIV infection, and HIV antibodies) inserted Testing for AIDS, HIV Infection, and HIV Antibodies

36c. Inmates may be required to submit to tests for AIDS or HIV antibodies
36b. Information relating to test for AIDS or HIV antibodies
36e. Regulations relating to tests for AIDS

or HIV antibodies

## A BILL INTITULED

# An Act to amend the Penal Institutions Act 1954

BE IT ENACTED by the Parliament of New Zealand as follows:

 Short Title—(1) This Act may be cited as the Penal
 Institutions Amendment Act 1989, and shall be read together with and deemed part of the Penal Institutions Act 1954 (hereinafter referred to as the principal Act).

154. Interpretation—Section 2 of the principal Act (as substituted by section 2(1) of the Penal Institutions
10 Amendment Act 1985) is hereby amended by inserting, before the definition of the term "inmate", the following definitions: "'AIDS' means the Acquired Immune Deficiency Syndrome:

No. 122-3zj

Price incl. GST \$2.20 "'HIV' means the Human Immunodeficiency Virus:".

Struck Out

155. Three new sections (relating to tests for AIDS and HIV antibodies) inserted—The principal Act is hereby amended by inserting, after section 36B (as inserted by section 5 5 of the Penal Institutions Amendment Act 1979), the following sections:

### New

155. New heading and 3 new sections (relating to AIDS, HIV infection, and HIV antibodies) inserted—The 10 principal Act is hereby amended by inserting, after section 36B (as inserted by section 5 of the Penal Institutions Amendment Act 1979), the following heading and sections:

"Testing for AIDS, HIV Infection, and HIV Antibodies

"36C. Inmates may be required to submit to tests for 15 AIDS or HIV antibodies—(1) The medical officer of any institution may from time to time require an inmate to submit to a test or tests to determine whether or not the inmate (*is* suffering from AIDS or) has AIDS or HIV infection or is carrying HIV antibodies if the officer considers that, having regard to 20 the personal circumstances of the inmate, it is desirable that the inmate have such a test or tests.

### New

"(1A) Before an inmate has such a test, the inmate shall be given appropriate counselling by the medical officer or by some 25 other person believed by the medical officer to be qualified to give that counselling.

"(a) As if he or she (*were suffering from AIDS*) <u>had AIDS or</u> <u>HIV infection</u>, in any case where, in the opinion of the medical officer, the inmate is displaying

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<sup>&</sup>quot;(2) If an inmate refuses to submit to any test when required to do so under this section, the inmate may be dealt with administratively—

(symptoms of AIDS) clinical features indicative of AIDS or HIV infection; or

- "(b) As if he or she were carrying HIV antibodies, in any other case.
- 5 "36D. Information relating to test for AIDS or HIV antibodies—

Struck Out

	(1) Every inmate who submits to a test under section 36c of this Act shall be informed of the result of the test.
10	"(2) If the test indicates that the inmate is suffering from
	AIDS or is carrying HIV antibodies, the inmate shall be
	informed has the modical officers on her service the
	informed by the medical officer or by some other person
	believed by the medical officer to be qualified to give
	appropriate advice and counselling to the inmate.

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New

(1) Every inmate who has a test under section 36c of this Act shall be informed of the result of the test, and shall be given appropriate counselling, by the medical officer or by some other person believed by the medical officer 20 to be qualified to give that counselling.

"(3) Every medical officer shall keep the Secretary for Justice informed of the number of inmates within the institution who (are suffering from AIDS) <u>have AIDS or HIV infection</u> or are carrying HIV antibodies, but shall not disclose to the Secretary 25 the name or other identifying particulars of any such inmate.

"36E. Regulations relating to tests for AIDS or HIV antibodies—Without limiting the general power to make regulations under section 45 of this Act, regulations may be made under that section for the purpose of prescribing the 30 procedures to be followed in carrying out tests to determine

whether any inmate (is suffering from AIDS) has AIDS or HIV infection or is carrying HIV antibodies."