

Senate Bill No. 107

CHAPTER 1367

An act to amend Section 3502 of the Penal Code, and to add and repeal Section 1706 of the Welfare and Institutions Code, relating to youth, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1989. Filed with Secretary of State October 2, 1989.]

LEGISLATIVE COUNSEL'S DIGEST

SB 107, Presley. Youth: wards: biomedical research.

Existing law prohibits the conduct of any biomedical research on any prisoner in this state.

This bill would allow, until January 1, 1995, research involving the administration of vitamins, minerals, and amino acids to wards, defined to include persons committed to the Department of the Youth Authority, who are 18 years of age or older and analysis of their hair and blood, if the Department of the Youth Authority approves the research after making a specified determination, the research subjects have given informed consent, the substances administered are limited to those which are approved by the federal Food and Drug Administration and which do not require a physician's prescription, and the substances are administered only within 3 times the Recommended Dietary Allowance, as specified, under the supervision of a physician. The bill would require that protocols for the research conducted pursuant to the above provisions be subject to review and approval by a research oversight committee, as created by the bill. It would prohibit the Department of the Youth Authority from conducting any investigation of a new drug as defined, without approval from the federal Food and Drug Administration. The bill would provide that its provisions would be repealed as of January 1, 1995.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 3502 of the Penal Code is amended to read:

3502. Except as provided in Section 1706 of the Welfare and Institutions Code, no biomedical research shall be conducted on any prisoner in this state.

SECTION 2. Section 1706 is added to the Welfare and Institutions Code, to read:

1706. (a) Notwithstanding Section 3502 of the Penal Code, research involving the administration of vitamins, minerals, and amino acids to wards and involving analysis of the subjects' hair and blood may be conducted provided that the following conditions exist:

- 1) The Department of the Youth Authority approves the research after making a determination pursuant to Section 3515 of the Penal Code.
- 2) The research subjects have given informed consent under Section 3521 of the Penal Code.
- 3) The substances administered in the research are limited to those which are approved by the federal Food and Drug Administration and which do not require a physician's prescription.
- 4) The substances are administered only within three times the Recommended Dietary Allowances established by the National Research Council in effect on the effective date of this act under the supervision of a physician.
- 5) The withdrawal of blood shall be performed only before commencement and following the conclusion of the research and shall be withdrawn in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood specimens for the purposes of this section.

(b) Protocols for the research conducted under this section, and its implementation, shall be subject to review and approval by a research oversight committee. Membership of the committee shall include at least two physicians not employed or on contract to the Department of the Youth Authority or the Department of Corrections, the Chief of Medical Services of the Department of the Youth Authority, a representative from the State Department of Health Services, at least two persons with extensive background in research competent to critique the proposal outlined in this section and assist in its implementation, and a person representing the wards to be selected by the State Public Defender's Office.

(c) As used in this section, "ward" means persons who are committed to the Department of the Youth Authority who are 18 years of age or older.

(d) The Department of the Youth Authority shall not conduct any investigation under this section of a new drug, as defined in Section 201 of the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 321) without approval from the federal Food and Drug Administration.

(e) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends that date.

SECTION 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Current law needs to be changed in order to permit a planned research program, authorized by this act, to be implemented at the earliest possible date so that the program may lead to the reduction of violence among incarcerated persons.