I

112TH CONGRESS
1ST SESSION

H. R. 2704

To reduce the spread of sexually transmitted infections in correctional facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2011

Ms. LEE of California introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To reduce the spread of sexually transmitted infections in correctional facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Justice for the Unprotected Against Sexually Transmitted Infections among the Confined and Exposed Act'' or the ''JUSTICE Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) According to the Bureau of Justice Statistics (BJS), 2,292,133 persons were incarcerated in the United States as of the end of 2009. Between 1998 and 2008, the number of persons incarcerated in Federal or State correctional facilities increased by an average of 2.4 percent per year. One in every 32 United States residents was on probation, in jail or prison, or on parole at the end of 2009.

(2) As of 2009, 66.8 percent of incarcerated persons were racial or ethnic minorities. Based on current incarceration rates, BJS estimates that African-American males are 6 times more likely to be held in custody than White males, while Hispanic males are a little more than 2 times more likely to be held in custody. Across all age categories, African-American males were incarcerated at higher rates than Hispanic or White males.

(3) There is a disproportionately high rate of HIV/AIDS among incarcerated persons, especially among minorities. Approximately 25 percent of the HIV-positive population of the United States passes through correctional facilities each year. BJS has determined that the rate of confirmed AIDS cases is 2.4 times higher among incarcerated persons than in the general population. Minorities account for the

majority of AIDS-related deaths among incarcerated persons, with African-American incarcerated persons 2.8 times more likely than White incarcerated persons and 1.4 times more likely than Hispanic incarcerated persons to die from AIDS-related causes. Nearly two-thirds of AIDS-related deaths are among Black, non-Hispanic males.

(4) Studies suggest that other sexually transmitted infections (STIs), such as gonorrhea, chlamydia, syphilis, genital herpes, viral hepatitis, and human papillomavirus, also exist at a higher rate among incarcerated persons than in the general population. For instance, researchers have estimated that the rate of hepatitis C (HCV) infection among incarcerated persons is somewhere between 8 and 20 times higher than that of the general population.

(5) Correctional facilities lack a uniform system of STI testing and reporting. Establishing a uniform data collection system would assist in developing and targeting counseling and treatment programs for incarcerated persons. Better developed and targeted programs may reduce the spread of STIs.

(6) Although Congress has acted to reduce the spread of sexual violence in correctional facilities by enacting the National Prison Rape Elimination Act

(PREA) of 2003, BJS reported that approximately 4.4 percent of incarcerated persons in prisons and 3.1 percent of persons in jail reported experiencing one or more incidents of sexual victimization by another incarcerated person or correctional facility staff in the previous year.

(7) Approximately 95 percent of all incarcerated persons eventually return to society. According to one study, every year approximately 100,000 persons infected with both HIV and HCV are released from correctional facilities. These individuals comprise approximately 50 percent of all persons with both infections in the United States.

(8) According to the Centers for Disease Control and Prevention (CDC), latex condoms, when used consistently and correctly, are highly effective in preventing the transmission of HIV. Latex condoms also reduce the risk of other STIs. Despite the effectiveness of condoms in reducing the spread of STIs, the Bureau of Prisons does not recommend their use in correctional facilities.

(9) The distribution of condoms in correctional facilities is currently legal in certain parts of the United States and the world. The States of Vermont and Mississippi and the District of Columbia allow

condom distribution programs in their correctional facilities. The cities of New York, San Francisco, Los Angeles, Washington DC, and Philadelphia also allow condom distribution in their correctional facilities. However, these States and cities operate fewer than 1 percent of all correctional facilities.

(10) A 2007 report by the Massachusetts General Hospital Division of Infectious Diseases and the University of California, San Francisco, found that the proportion of European prison systems allowing condoms rose from 53 percent in 1989 to 81 percent in 1997. The same report also found that no prison system allowing the distribution of condoms had reversed their decision, and no prison system reported an increase in sexual activity among incarcerated persons as a result of a decision to allow condom distribution.

(11) In 2000 and 2001, researchers surveyed 300 incarcerated persons and 100 correctional officers at the Central Detention Facility, a correctional facility operated by the District of Columbia at which condoms are available. Researchers found that both incarcerated persons and correctional officers generally supported the condom distribution program and considered it to be important. Further-

more, the researchers determined that the program had not caused any major security infractions. In Canada, the Expert Committee on AIDS and Prisons surveyed more than 400 correctional officers in the Federal prison system of Canada in 1995 and reported that 82 percent of those responding indicated that the availability of condoms had created no problems at their facility.

(12) The American Public Health Association, the United Nations Joint Program on HIV/AIDS, and the World Health Organization have endorsed the effectiveness of condom distribution programs in correctional facilities.

(13) Many correctional facilities in the United States do not provide comprehensive testing and treatment programs to reduce the spread of STIs. According to BJS surveys from 2005, only 996 of the 1,821 Federal and State correctional facilities (i.e. 54.7 percent) provided HIV/AIDS counseling programs.

(14) Individuals who are enrolled in Medicaid prior to incarceration face a suspension of their benefits upon incarceration, and in some States a termination of their Medicaid eligibility. The Federal Government encourages States to automatically re-enroll

incarcerated persons on Medicaid upon their release from a correctional facility, unless the State reaches a determination that the individual is no longer eligible for reasons other than their prior incarceration.

(15) Formerly incarcerated individuals who are newly released from correctional facilities often face delays in the resumption of their Medicaid benefits which may exacerbate any health issues which they face.

(16) Incarcerated individuals living with HIV/AIDS who are eligible for Medicaid would benefit from prompt and automatic enrollment upon their release in order to ensure their continued ability to access health services, including antiretroviral treatment.

SEC. 3. AUTHORITY TO ALLOW COMMUNITY ORGANIZATIONS TO PROVIDE STI COUNSELING, STI PREVENTION EDUCATION, AND SEXUAL BARRIER PROTECTION DEVICES IN FEDERAL CORRECTIONAL FACILITIES.

(a) DIRECTIVE TO ATTORNEY GENERAL.—Not later than 30 days after the date of enactment of this Act, the Attorney General shall direct the Bureau of Prisons to allow community organizations to distribute sexual barrier protection devices and to engage in STI counseling and

STI prevention education in Federal correctional facilities. These activities shall be subject to all relevant Federal laws and regulations which govern visitation in correctional facilities.

(b) INFORMATION REQUIREMENT.—Any community organization permitted to distribute sexual barrier protection devices under subsection (a) must ensure that the persons to whom the devices are distributed are informed about the proper use and disposal of sexual barrier protection devices in accordance with established public health practices. Any community organization conducting STI counseling or STI prevention education under subsection (a) must offer comprehensive sexuality education.

(c) POSSESSION OF DEVICE PROTECTED.—No Federal correctional facility may, because of the possession or use of a sexual barrier protection device—

(1) take adverse action against an incarcerated person; or

(2) consider possession or use as evidence of prohibited activity for the purpose of any Federal correctional facility administrative proceeding.

(d) IMPLEMENTATION.—The Attorney General and Bureau of Prisons shall implement this section according to established public health practices in a manner that

protects the health, safety, and privacy of incarcerated persons and of correctional facility staff.

SEC. 4. SENSE OF CONGRESS REGARDING DISTRIBUTION OF SEXUAL BARRIER PROTECTION DEVICES IN STATE PRISON SYSTEMS.

It is the sense of Congress that States should allow for the legal distribution of sexual barrier protection devices in State correctional facilities to reduce the prevalence and spread of STIs in those facilities.

SEC. 5. AUTOMATIC REINSTATEMENT OF MEDICAID BENEFITS.

(a) IN GENERAL.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

''(15) ENROLLMENT OF EX-OFFENDERS.—

''(A) AUTOMATIC ENROLLMENT OR REINSTATEMENT.—

''(i) IN GENERAL.—The State plan shall provide for the automatic enrollment or reinstatement of enrollment of an eligible individual—

''(I) if such individual is scheduled to be released from a public institution due to the completion of sen-

tence, not less than 30 days prior to the scheduled date of the release; and

"(II) if such individual is to be released from a public institution on parole or on probation, as soon as possible after the date on which the determination to release such individual was made, and before the date such individual is released.

"(ii) EXCEPTION.—If a State makes a determination that an individual is not eligible to be enrolled under the State plan—

"(I) on or before the date by which the individual would be enrolled under clause (i), such clause shall not apply to such individual; or

"(II) after such date, the State may terminate the enrollment of such individual.

"(B) RELATIONSHIP OF ENROLLMENT TO PAYMENT FOR SERVICES.—

"(i) IN GENERAL.—Subject to subparagraph (A)(ii), an eligible individual who is enrolled, or whose enrollment is reinstated, under subparagraph (A) shall be

eligible for medical assistance that is provided after the date that the eligible individual is released from the public institution

"(ii) RELATIONSHIP TO PAYMENT PROHIBITION FOR INMATES.—No provision of this paragraph may be construed to permit payment for care or services for which payment is excluded under subparagraph (A), following paragraph (29), in section 1905(a).

"(C) TREATMENT OF CONTINUOUS ELIGIBILITY.—

"(i) SUSPENSION FOR INMATES.—Any period of continuous eligibility under this title shall be suspended on the date an individual enrolled under this title becomes an inmate of a public institution (except as a patient of a medical institution).

"(ii) DETERMINATION OF REMAINING PERIOD.—Notwithstanding any changes to State law related to continuous eligibility during the time that an individual is an inmate of a public institution (except as a patient of a medical institution), subject to

clause (iii), with respect to an eligible individual who was subject to a suspension under subclause (I), on the date that such individual is released from a public institution the suspension of continuous eligibility under such subclause shall be lifted for a period that is equal to the time remaining in the period of continuous eligibility for such individual on the date that such period was suspended under such subclause.

''(iii) EXCEPTION.—If a State makes a determination that an individual is not eligible to be enrolled under the State plan—

''(I) on or before the date that the suspension of continuous eligibility is lifted under clause (ii), such clause shall not apply to such individual; or

''(II) after such date, the State may terminate the enrollment of such individual.

''(D) AUTOMATIC ENROLLMENT OR REINSTATEMENT OF ENROLLMENT DEFINED.—For purposes of this paragraph, the term 'automatic enrollment or reinstatement of enrollment'

means that the State determines eligibility for medical assistance under the State plan without a program application from, or on behalf of, the eligible individual, but an individual can only be automatically enrolled in the State Medicaid plan if the individual affirmatively consents to being enrolled through affirmation in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary.

''(E) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this paragraph, the term 'eligible individual' means an individual who is an inmate of a public institution (except as a patient in a medical institution)—

''(i) who was enrolled under the State plan for medical assistance immediately before becoming an inmate of such an institution; or

''(ii) is diagnosed with human immunodeficiency virus.''.

(b) SUPPLEMENTAL FUNDING FOR STATE IMPLEMENTATION OF AUTOMATIC REINSTATEMENT OF MEDICAID BENEFITS.—

(1) IN GENERAL.—Subject to paragraph (6), for each State for which the Secretary of Health and Human Services has approved an application under paragraph (3), the Federal matching payments (including payments based on the Federal medical assistance percentage) made to such State under section 1903 of the Social Security Act (42 U.S.C. 1396b) (excluding any increase resulting from the application of section 5001 of Public Law 111–5) shall be increased by 5.0 percentage points for payments to the State for the activities permitted under paragraph (2) for a period of one year.

(2) USE OF FUNDS.—A State may only use increased matching payments authorized under paragraph (1)—

(A) to strengthen the State's enrollment and administrative resources for the purpose of improving processes for enrolling (or reinstating the enrollment of) eligible individuals (as such term is defined in section 1902(e)(15)(E) of the Social Security Act); and

(B) for medical assistance (as such term is defined in section 1905(a) of the Social Security Act) provided to such eligible individuals.

(3) APPLICATION AND AGREEMENT.—The Secretary may only make payments to a State in the increased amount if—

(A) the State has amended the State plan under section 1902 of the Social Security Act to incorporate the requirements of subsection (e)(15) of such section;

(B) the State has submitted an application to the Secretary that includes a plan for implementing the requirements of section 1902(e)(15) of the Social Security Act under the State's amended State plan before the end of the 90-day period beginning on the date that the State receives increased matching payments under paragraph (1);

(C) the State's application meets the satisfaction of the Secretary; and

(D) the State enters an agreement with the Secretary that states that—

(i) the State will only use the increased matching funds for the uses permitted under paragraph (2); and

(ii) at the end of the period under paragraph (1), the State will submit to the Secretary, and make publicly available, a

report that contains the information required under paragraph (4).

(4) REQUIRED REPORT INFORMATION.—The information that is required in the report under paragraph (3)(D)(ii) includes—

(A) the results of an evaluation of the impact of the implementation of the requirements of section 1902(e)(15) of the Social Security Act on improving the State's processes for enrolling of individuals who are released for public institutions into the Medicaid program;

(B) the number of individuals who were automatically enrolled (or whose enrollment is reinstated) under such section 1902(e)(15) during the period under paragraph (1); and

(C) any other information that is required by the Secretary.

(5) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to paragraph (6), the amounts otherwise determined for Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 6 U.S.C. 1308) shall each be increased by the necessary amount to allow for the in-

crease in the Federal matching payments under paragraph (1), but only for the period under such paragraph for such State. In the case of such an increase for a territory, subsection (a)(1) of such section 1108 shall be applied without regard to any increase in payment made to the territory under part E of title IV of such Act that is attributable to the increase in Federal medical assistance percentage effected under paragraph (1) for the territory.

(6) LIMITATIONS.—

(A) TIMING.—With respect to a State, at the end of the period under paragraph (1), no increased matching payments may be made to such State under this subsection.

(B) MAINTENANCE OF ELIGIBILITY.—

(i) IN GENERAL.—Subject to clause (ii), a State is not eligible for an increase in its Federal matching payments under paragraph (1), or an increase in a cap amount under paragraph (5), if eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) are more re-

strictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on the date of enactment of this Act.

(ii) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after the date of enactment of this Act, is no longer ineligible under clause (i) beginning with the first calendar quarter in which the State has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on such date.

(C) NO WAIVER AUTHORITY.—The Secretary may not waive the application of this subsection under section 1115 of the Social Security Act or otherwise.

(D) LIMITATION OF MATCHING PAYMENTS TO 100 PERCENT.—In no case shall an increase in Federal matching payments under this subsection result in Federal matching payments that exceed 100 percent.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect 180 days after the date of the enactment of this Act and shall apply to services furnished on or after such date.

(2) RULE FOR CHANGES REQUIRING STATE LEGISLATION.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the en-

actment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6. SURVEY OF AND REPORT ON CORRECTIONAL FACILITY PROGRAMS AIMED AT REDUCING THE SPREAD OF STIS.

(a) SURVEY.—The Attorney General, after consulting with the Secretary of Health and Human Services, State officials, and community organizations, shall, to the maximum extent practicable, conduct a survey of all Federal and State correctional facilities, no later than 180 days after the date of enactment of this Act and annually thereafter for 5 years, to determine the following:

(1) PREVENTION EDUCATION OFFERED.—The type of prevention education, information, or training offered to incarcerated persons and correctional facility staff regarding sexual violence and the spread of STIs, including whether such education, information, or training—

(A) constitutes comprehensive sexuality education;

(B) is compulsory for new incarcerated persons and for new staff; and

(C) is offered on an ongoing basis.

(2) ACCESS TO SEXUAL BARRIER PROTECTION DEVICES.—Whether incarcerated persons can—

(A) possess sexual barrier protection devices;

(B) purchase sexual barrier protection devices;

(C) purchase sexual barrier protection devices at a reduced cost; and

(D) obtain sexual barrier protection devices without cost.

(3) INCIDENCE OF SEXUAL VIOLENCE.—The incidence of sexual violence and assault committed by incarcerated persons and by correctional facility staff.

(4) COUNSELING, TREATMENT, AND SUPPORTIVE SERVICES.—Whether the correctional facility requires incarcerated persons to participate in counseling, treatment, and supportive services related to STIs, or whether it offers such programs to incarcerated persons.

(5) STI TESTING.—Whether the correctional facility tests incarcerated persons for STIs or gives them the option to undergo such testing—

(A) at intake;

(B) on a regular basis; and

(C) prior to release.

(6) STI TEST RESULTS.—The number of incarcerated persons who are tested for STIs and the outcome of such tests at each correctional facility, disaggregated to include results for—

(A) the type of sexually transmitted infection tested for;

(B) the race and/or ethnicity of individuals tested;

(C) the age of individuals tested; and

(D) the gender of individuals tested.

(7) PRE-RELEASE REFERRAL POLICY.—Whether incarcerated persons are informed prior to release about STI-related services or other health services in their communities, including free and low-cost counseling and treatment options.

(8) PRE-RELEASE REFERRALS MADE.—The number of referrals to community-based organizations or public health facilities offering STI-related or other health services provided to incarcerated persons prior to release, and the type of counseling or treatment for which the referral was made.

(9) REINSTATEMENT OF MEDICAID BENEFITS.—Whether the correctional facility assists in-

carcerated persons that were enrolled in the State Medicaid program prior to their incarceration, in reinstating their enrollment upon release and whether such individuals receive referrals as provided by paragraph (8) to entities that accept the State Medicaid program, including if applicable—

(A) the number of such individuals, including those diagnosed with the human immunodeficiency virus, that have been reinstated;

(B) a list of obstacles to reinstating enrollment or to making determinations of eligibility for reinstatement, if any; and

(C) the number of individuals denied enrollment.

(10) OTHER ACTIONS TAKEN.—Whether the correctional facility has taken any other action, in conjunction with community organizations or otherwise, to reduce the prevalence and spread of STIs in that facility.

(b) PRIVACY.—In conducting the survey, the Attorney General shall not request or retain the identity of any person who has sought or been offered counseling, treatment, testing, or prevention education information regarding an STI (including information about sexual barrier protection devices), or who has tested positive for an STI.

(c) REPORT.—The Attorney General shall transmit to Congress and make publicly available the results of the survey required under subsection (a), both for the Nation as a whole and disaggregated as to each State and each correctional facility. To the maximum extent possible, the Attorney General shall issue the first report no later than 1 year after the date of enactment of this Act and shall issue reports annually thereafter for 5 years.

SEC. 7. STRATEGY.

(a) DIRECTIVE TO ATTORNEY GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, State officials, and community organizations, shall develop and implement a 5-year strategy to reduce the prevalence and spread of STIs in Federal and State correctional facilities. To the maximum extent possible, the strategy shall be developed, transmitted to Congress, and made publicly available no later than 180 days after the transmission of the first report required under section 6(c) of this Act.

(b) CONTENTS OF STRATEGY.—The strategy shall include the following:

(1) PREVENTION EDUCATION.—A plan for improving prevention education, information, and training offered to incarcerated persons and correctional facility staff, including information and train-

ing on sexual violence and the spread of STIs, and comprehensive sexuality education.

(2) SEXUAL BARRIER PROTECTION DEVICE ACCESS.—A plan for expanding access to sexual barrier protection devices in correctional facilities.

(3) SEXUAL VIOLENCE REDUCTION.—A plan for reducing the incidence of sexual violence among incarcerated persons and correctional facility staff, developed in consultation with the National Prison Rape Elimination Commission.

(4) COUNSELING AND SUPPORTIVE SERVICES.—A plan for expanding access to counseling and supportive services related to STIs in correctional facilities.

(5) TESTING.—A plan for testing incarcerated persons for STIs during intake, during regular health exams, and prior to release, and that—

(A) is conducted in accordance with guidelines established by the Centers for Disease Control and Prevention;

(B) includes pre-test counseling;

(C) requires that incarcerated persons are notified of their option to decline testing at any time;

(D) requires that incarcerated persons are confidentially notified of their test results in a timely manner; and

(E) ensures that incarcerated persons testing positive for STIs receive post-test counseling, care, treatment, and supportive services.

(6) TREATMENT.—A plan for ensuring that correctional facilities have the necessary medicine and equipment to treat and monitor STIs and for ensuring that incarcerated persons living with or testing positive for STIs receive and have access to care and treatment services.

(7) STRATEGIES FOR DEMOGRAPHIC GROUPS.—A plan for developing and implementing culturally appropriate, sensitive, and specific strategies to reduce the spread of STIs among demographic groups heavily impacted by STIs.

(8) LINKAGES WITH COMMUNITIES AND FACILITIES.—A plan for establishing and strengthening linkages to local communities and health facilities that—

(A) provide counseling, testing, care, and treatment services;

(B) may receive persons recently released from incarceration who are living with STIs; and

(C) accept payment through the State Medicaid program.

(9) ENROLLMENT IN STATE MEDICAID PROGRAMS.—Plans to ensure that incarcerated persons who were—

(A) enrolled in their State Medicaid program prior to incarceration in a correctional facility are automatically re-enrolled in such program upon their release; and

(B) not enrolled in their State Medicaid program prior to incarceration, but who are diagnosed with the human immunodeficiency virus while incarcerated in a correctional facility, are automatically enrolled in such program upon their release.

(10) OTHER PLANS.—Any other plans developed by the Attorney General for reducing the spread of STIs or improving the quality of health care in correctional facilities.

(11) MONITORING SYSTEM.—A monitoring system that establishes performance goals related to reducing the prevalence and spread of STIs in correc-

tional facilities and which, where feasible, expresses such goals in quantifiable form.

(12) MONITORING SYSTEM PERFORMANCE INDICATORS.—Performance indicators that measure or assess the achievement of the performance goals described in paragraph (9).

(13) COST ESTIMATE.—A detailed estimate of the funding necessary to implement the strategy at the Federal and State levels for all 5 years, including the amount of funds required by community organizations to implement the parts of the strategy in which they take part.

(c) REPORT.—The Attorney General shall transmit to Congress and make publicly available an annual progress report regarding the implementation and effectiveness of the strategy described in subsection (a). The progress report shall include an evaluation of the implementation of the strategy using the monitoring system and performance indicators provided for in paragraphs (9) and (10) of subsection (b).

SEC. 8. APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act for each of the fiscal years 2012 through 2018.

(b) AVAILABILITY OF FUNDS.—Amounts made available under paragraph (1) are authorized to remain available until expended.

SEC. 9. DEFINITIONS.

For the purposes of this Act:

(1) COMMUNITY ORGANIZATION.—The term ''community organization'' means a public health care facility or a nonprofit organization which provides health- or STI-related services according to established public health standards.

(2) COMPREHENSIVE SEXUALITY EDUCATION.—The term ''comprehensive sexuality education'' means sexuality education that includes information about abstinence and about the proper use and disposal of sexual barrier protection devices and which is—

(A) evidence-based;

(B) medically accurate;

(C) age and developmentally appropriate;

(D) gender and identity sensitive;

(E) culturally and linguistically appropriate; and

(F) structured to promote critical thinking, self-esteem, respect for others, and the development of healthy attitudes and relationships.

(3) CORRECTIONAL FACILITY.—The term ''correctional facility'' means any prison, penitentiary, adult detention facility, juvenile detention facility, jail, or other facility to which persons may be sent after conviction of a crime or act of juvenile delinquency within the United States.

(4) INCARCERATED PERSON.—The term ''incarcerated person'' means any person who is serving a sentence in a correctional facility after conviction of a crime.

(5) SEXUALLY TRANSMITTED INFECTION.—The term ''sexually transmitted infection'' or ''STI'' means any disease or infection that is commonly transmitted through sexual activity, including HIV/AIDS, gonorrhea, chlamydia, syphilis, genital herpes, viral hepatitis, and human papillomavirus.

(6) SEXUAL BARRIER PROTECTION DEVICE.—The term ''sexual barrier protection device'' means any FDA-approved physical device which has not been tampered with and which reduces the probability of STI transmission or infection between sexual partners, including female condoms, male condoms, and dental dams.

(7) STATE.—The term ''State'' includes the District of Columbia, American Samoa, the Com-

monwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the United States Virgin Islands.

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