

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 197

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SATER, SCHAAF, LAMPING AND BROWN.

Read 1st time January 23, 2013, and ordered printed.

Read 2nd time January 31, 2013, and referred to the Committee on Veterans' Affairs and Health.

Reported from the Committee February 12, 2013, with recommendation that the bill do pass.

Taken up for Perfection February 13, 2013. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

1051S.01P

AN ACT

To repeal sections 199.170, 199.180, 199.190, 199.200, 199.210, 199.240, 199.250, 199.260, and 199.270, RSMo, and to enact in lieu thereof twelve new sections relating to tuberculosis testing, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 199.170, 199.180, 199.190, 199.200, 199.210, 199.240, 199.250, 199.260, and 199.270, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 199.170, 199.180, 199.190, 199.200, 199.210, 199.240, 199.250, 199.260, 199.270, 199.275, 199.280, and 199.290, to read as follows:

199.170. The following terms, as used in sections 199.170 to [199.270] **199.350**, mean:

(1) "Active tuberculosis", tuberculosis disease **caused by the mycobacterium tuberculosis complex** that is demonstrated to be contagious by clinical, bacteriological, or radiological evidence. Tuberculosis is considered active until cured;

(2) "Cure" or "treatment to cure", the completion of a recommended course of therapy as defined in subdivision [(5)] **(11)** of this section and as determined by the attending physician **in conjunction with the local public health authority or the department of health and senior services;**

(3) "Department", the department of health and senior services;

(4) "Directly observed therapy" or "DOT", a strategy in which a

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 health care provider or other trained person watches a patient swallow
14 each dose of prescribed antituberculosis medication;

15 (5) "Facility", any hospital licensed under chapter 197, any public
16 nonlicensed hospital, any long-term care facility licensed under chapter
17 198, any health care institution, any correctional or detention facility,
18 or any mental health facility approved by the local public health
19 authority or the department;

20 (6) "Immediate threat", a rebuttable presumption that a person
21 has active tuberculosis and:

22 (a) Is not taking medications as prescribed;

23 (b) Is not following the recommendations of the treating
24 physician, local public health authority, or the department;

25 (c) Is not seeking treatment for signs and symptoms compatible
26 with tuberculosis; or

27 (d) Evidences a disregard for the health of the public;

28 (7) "Isolation", the physical separation in a single-occupancy
29 room to isolate persons with suspected or confirmed infectious
30 tuberculosis disease. An isolation should provide negative pressure in
31 the room, an airflow rate of six to twelve air changes per hour, and
32 direct exhaust of air from the room to the outside of the building or
33 recirculation of the air through a high efficiency particulate air (HEPA)
34 filter;

35 (8) "Latent tuberculosis infection", infection with mycobacterium
36 tuberculosis without symptoms or signs of disease. Patients with such
37 infection do not have tuberculosis disease, are not infectious and
38 cannot spread tuberculosis infection to others;

39 (9) "Local [board] public health authority", any legally constituted
40 local city or county board of health or health center board of trustees or the
41 director of health of the city of Kansas City, the director of the Springfield-Greene
42 County health department, the director of health of St. Louis County or the
43 commissioner of health of the City of St. Louis, or in the absence of such board,
44 the county commission or the county board of tuberculosis hospital commissioners
45 of any county;

46 [(4)] (10) "Potential transmitter", any person who has the diagnosis of
47 pulmonary or laryngeal tuberculosis but has not begun a recommended course
48 of therapy, or who has the diagnosis of pulmonary tuberculosis and has started
49 a recommended course of therapy but has not completed the therapy. This status

50 applies to any individual with tuberculosis, regardless of his or her current
51 bacteriologic status;

52 [(5)] **(11) "Recommended course of therapy", a regimen of**
53 **antituberculosis chemotherapy in accordance with medical standards of the**
54 **American Thoracic Society [and], the Centers for Disease Control and Prevention,**
55 **the Infectious Diseases Society of America, or the American Academy**
56 **of Pediatrics;**

57 **(12) "Targeted testing program", a program that screens all**
58 **faculty and students to identify those at high risk for latent**
59 **tuberculosis infection and persons at high risk for developing**
60 **tuberculosis disease, and includes testing of identified high risk**
61 **populations to determine those that would benefit from**
62 **treatment. Screening shall require the completion of a tuberculosis**
63 **risk assessment questionnaire form recommended by the American**
64 **College of Health Association or the Centers for Disease Control and**
65 **Prevention. High risk populations include students from countries**
66 **where tuberculosis is endemic or students with other risk factors for**
67 **tuberculosis as identified by the Centers for Disease Control and**
68 **Prevention.**

199.180. 1. A person found to have tuberculosis shall follow the
2 instructions of the local [board] **public health authority or the department,**
3 shall obtain the required treatment, and shall minimize the risk of infecting
4 others with tuberculosis.

5 2. When a person with active tuberculosis, or a person who is a potential
6 transmitter, violates the rules, regulations, instructions, or orders promulgated
7 by the department of health and senior services or the local [board] **public**
8 **health authority,** and is thereby conducting himself or herself so as to expose
9 other persons to danger of [infection] **tuberculosis,** after having been directed
10 by the local [board] **public health authority** to comply with such rules,
11 regulations, instructions, or orders, the local [board] **public health authority**
12 may institute proceedings by petition for **DOT or** commitment, returnable to the
13 circuit court of the county in which such person resides, or if the person be a
14 nonresident or has no fixed place of abode, then in the county in which the person
15 is found. Strictness of pleading shall not be required and a general allegation
16 that the public health requires **DOT or** commitment of the person named therein
17 shall be sufficient.

18 3. If the [board] **public health authority** determines that a person with
19 active tuberculosis, or a person who is a potential transmitter, poses an
20 immediate threat by conducting himself or herself so as to expose other persons
21 to an immediate danger of [infection] **tuberculosis**, the [board] **public health**
22 **authority** may file an ex parte petition for emergency temporary commitment
23 pursuant to subsection 5 of section 199.200.

 199.190. No potential transmitter who in his **or her** home or other place
2 obeys the rules and regulations of the **public health authority or the**
3 department of health and senior services, **and the policies of the treating**
4 **facility**, for the control of tuberculosis or who voluntarily accepts care in a
5 tuberculosis institution, [sanatorium,] hospital, [his] home, or other place and
6 obeys the rules and regulations of the **public health authority or the**
7 department of health and senior services for the control of contagious tuberculosis
8 shall be committed under the provisions of sections 199.170 to [199.270] **199.350**.

 199.200. 1. Upon filing of the petition, the court shall set the matter
2 down for a hearing either during term time or in vacation, which time shall be
3 not less than five days nor more than fifteen days subsequent to filing. A copy
4 of the petition together with summons stating the time and place of hearing shall
5 be served upon the person three days or more prior to the time set for the
6 hearing. Any X-ray picture and report of any written report relating to sputum
7 examinations certified by the department of health and senior services or local
8 [board] **public health authority** shall be admissible in evidence without the
9 necessity of the personal testimony of the person or persons making the
10 examination and report.

11 2. The prosecuting attorney or the city attorney shall act as legal counsel
12 for their respective local [boards] **public health authorities** in this proceeding
13 and such authority is hereby granted. The court shall appoint legal counsel for
14 the individual named in the petition if requested to do so if such individual is
15 unable to employ counsel.

16 3. All court costs incurred in proceedings under sections 199.170 to
17 [199.270] **199.350**, including examinations required by order of the court but
18 excluding examinations procured by the person named in the petition, shall be
19 borne by the county in which the proceedings are brought.

20 4. Summons shall be served by the sheriff of the county in which
21 proceedings under sections 199.170 to [199.270] **199.350** are initiated and return
22 thereof shall be made as in other civil cases.

23 5. Upon the filing of an ex parte petition for emergency temporary
24 commitment pursuant to subsection 3 of section 199.180, the court shall hear the
25 matter within ninety-six hours of such filing. The local [board] **public health**
26 **authority** shall have the authority to detain the individual named in the petition
27 pending the court's ruling on the ex parte petition for emergency temporary
28 commitment. If the petition is granted, the individual named in the petition shall
29 be confined in a facility designated by the department of health and senior
30 services in accordance with section 199.230 until a full hearing pursuant to
31 subsections 1 to 4 of this section is held.

199.210. 1. Upon the hearing set in the order, the individual named in
2 the order shall have a right to be represented by counsel, to confront and
3 cross-examine witnesses against him **or her**, and to have compulsory process for
4 the securing of witnesses and evidence in his **or her** own behalf. The court may
5 in its discretion call and examine witnesses and secure the production of evidence
6 in addition to that adduced by the parties; such additional witnesses being
7 subject to cross-examination by either or both parties.

8 2. Upon a consideration of the petition and evidence, if the court finds
9 that the person named in the petition is a potential transmitter and conducts
10 himself **or herself** so as to be a danger to the public health, an order shall be
11 issued committing the individual named in the petition to a facility designated
12 by the department of health and senior services and directing the sheriff to take
13 [him] **such individual** into custody and deliver him **or her** to the facility **or**
14 **designated pickup location**. If the court does not so find, the petition shall
15 be dismissed. The cost of transporting the person to the facility **or pickup**
16 **location** designated by the department of health and senior services shall be
17 paid out of general county funds.

18 3. **The department may contract for the care of any tuberculosis**
19 **patient. Such contracts shall provide that state payment shall be**
20 **available for the treatment and care of such patients only after benefits**
21 **from all third-party payers have been exhausted.**

199.240. No person committed to a facility designated by the department
2 of health and senior services under sections 199.170 to [199.270] **199.350** shall
3 be required to submit to medical or surgical treatment without [his] **such**
4 **person's** consent, or, if incapacitated, without the consent of his **or her** legal
5 guardian, or, if a minor, without the consent of a parent or next of kin, **unless**
6 **authorized by a written order of the circuit court under section 199.200**

7 **or as otherwise permitted by law.**

199.250. 1. The department of health and senior services may contract
2 for such facilities [at the Missouri rehabilitation center] as are necessary to carry
3 out the functions of sections 199.010 to 199.350. Such contracts shall be exempt
4 from the competitive bidding requirements of chapter 34.

5 2. State payment shall be available for the treatment and care of
6 individuals committed under section 199.210 only after benefits from all
7 third-party payers have been exhausted.

199.260. Any person committed under the provisions of sections 199.170
2 to [199.270] **199.350** who leaves the facility designated by the department of
3 health and senior services without having been discharged by the director of the
4 facility or other officer in charge or by order of court shall be taken into custody
5 and returned thereto by the sheriff of any county where such person may be
6 found, upon an affidavit being filed with the sheriff by the director of the facility,
7 or duly authorized officer in charge thereof, to which the person had been
8 committed. **The action may be prosecuted under section 199.275 if**
9 **appropriate.**

199.270. Any time after commitment, the patient [or any friend or
2 relative] **or, if incapacitated, the patient's legal guardian, or if a minor,**
3 **a parent or next of kin** having reason to believe that such patient no longer
4 has contagious tuberculosis or that his **or her** discharge will not endanger public
5 health, may institute proceedings by petition, in the circuit court of the county
6 [wherein the confinement exists] **that originally issued the order for**
7 **commitment**, whereupon the court shall set the matter down for a hearing
8 before [him] **the court** within fifteen days requiring the [person or persons to
9 whose care the patient was committed] **local public health authority** to show
10 cause on a day certain why the patient should not be released. The court shall
11 also require that the patient be allowed the right to be examined prior to the
12 hearing by a licensed physician of [his] **the patient's** own choice, if so desired,
13 and at [his] **the patient's** own personal expense. Thereafter all proceedings
14 shall be conducted the same as on the proceedings for commitment with the right
15 of appeal by either party as herein provided; provided, however, such petition for
16 discharge shall not be brought or renewed [oftener] **more** than once every six
17 months.

199.275. 1. It shall be unlawful for any person knowingly
2 **infected with active pulmonary or laryngeal tuberculosis to:**

3 (1) Act in a reckless manner by exposing another person to
4 tuberculosis without the knowledge and consent of such person to be
5 exposed to tuberculosis; or

6 (2) Report to work with active contagious tuberculosis. The
7 person may report to work if adhering to his or her prescribed
8 treatment regimen and is deemed noninfectious by the attending
9 physician in conjunction with the department or the local public health
10 authority; or

11 (3) Violate the requirements of a commitment order.

12 2. Any person who violates subdivisions (1), (2), or (3) of
13 subsection 1 of this section is guilty of a class B misdemeanor unless
14 the victim contracts tuberculosis from such contact, in which case it is
15 a class A misdemeanor.

199.280. The department retains all powers granted under
2 section 192.020 in responding to tuberculosis cases, outbreaks, and
3 tuberculosis disease investigations.

199.290. 1. All employees and volunteers of a health care facility
2 shall receive a tuberculin skin test or interferon gamma release assay
3 (IGRA) test upon employment as recommended in the most recent
4 version of the Centers for Disease Control and Prevention (CDC)
5 Guidelines for Preventing Transmission of Mycobacterium Tuberculosis
6 in Health Care Settings. If the screening test is positive, appropriate
7 evaluation and follow-up shall be done in accordance with such CDC
8 guidelines. This provision shall not be construed to prohibit any
9 institution from establishing requirements for employees or volunteers
10 that exceed those stated in the CDC guidelines.

11 2. All institutions of higher education in Missouri shall
12 implement a targeted testing program on their campuses for all on-
13 campus students and faculty upon matriculation. If an institution does
14 not have a student health center or similar facility, such person
15 identified by the targeted testing program to be at high risk for latent
16 tuberculosis infection or for developing tuberculosis disease shall be
17 referred to a local public health agency for a course of action
18 consistent with sections 199.170 to 199.350.

19 3. Any entering student of an institution of higher education in
20 Missouri who does not comply with the targeted testing program shall
21 not be permitted to maintain enrollment in the subsequent semester at

22 such institution.

23 4. Any rule or portion of a rule, as that term is defined in section
24 536.010 that is created under the authority delegated in this section
25 shall become effective only if it complies with and is subject to all of
26 the provisions of chapter 536, and, if applicable, section 536.028. This
27 section and chapter 536 are nonseverable and if any of the powers
28 vested with the general assembly pursuant to chapter 536, to review, to
29 delay the effective date, or to disapprove and annul a rule are
30 subsequently held unconstitutional, then the grant of rulemaking
31 authority and any rule proposed or adopted after August 28, 2013, shall
32 be invalid and void.

✓

Bill

Copy