

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 65

101ST GENERAL ASSEMBLY

0507S.04C

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 191.677, 545.940, 575.155, and 575.157, RSMo, and to enact in lieu thereof four new sections relating to actions by persons knowingly infected with communicable diseases, with penalty provisions.

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

Section A. Sections 191.677, 545.940, 575.155, and  
2 575.157, RSMo, are repealed and four new sections enacted in  
3 lieu thereof, to be known as sections 191.677, 545.940, 575.155,  
4 and 575.157, to read as follows:

191.677. 1. **For purposes of this section, the term**  
2 **"serious infectious or communicable disease" means a**  
3 **nonairborne disease spread from person to person that is**  
4 **fatal or causes disabling long-term consequences in the**  
5 **absence of lifelong treatment and management.**

6 2. It shall be unlawful for any individual knowingly  
7 infected with [HIV] **a serious infectious or communicable**  
8 **disease** to:

9 (1) Be or attempt to be a blood, blood products,  
10 organ, sperm, or tissue donor except as deemed necessary for  
11 medical research **or as deemed medically appropriate by a**  
12 **licensed physician;**

13 (2) [Act in a reckless manner by exposing] **Knowingly**  
14 **expose** another person to [HIV without the knowledge and

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

15 consent of that person to be exposed to HIV, in one of the  
16 following manners:

17 (a) Through contact with blood, semen or vaginal  
18 secretions in the course of oral, anal or vaginal sexual  
19 intercourse; or

20 (b) By the sharing of needles; or

21 (c) By biting another person or purposely acting in  
22 any other manner which causes the HIV-infected person's  
23 semen, vaginal secretions, or blood to come into contact  
24 with the mucous membranes or nonintact skin of another  
25 person.

26 Evidence that a person has acted recklessly in creating a  
27 risk of infecting another individual with HIV shall include,  
28 but is not limited to, the following:

29 a. The HIV-infected person knew of such infection  
30 before engaging in sexual activity with another person,  
31 sharing needles with another person, biting another person,  
32 or purposely causing his or her semen, vaginal secretions,  
33 or blood to come into contact with the mucous membranes or  
34 nonintact skin of another person, and such other person is  
35 unaware of the HIV-infected person's condition or does not  
36 consent to contact with blood, semen or vaginal fluid in the  
37 course of such activities;

38 b. The HIV-infected person has subsequently been  
39 infected with and tested positive to primary and secondary  
40 syphilis, or gonorrhea, or chlamydia; or

41 c. Another person provides evidence of sexual contact  
42 with the HIV-infected person after a diagnosis of an HIV  
43 status] **such serious infectious or communicable disease**  
44 **through an activity that creates a substantial risk of**

45 **disease transmission as determined by competent medical or**  
46 **epidemiological evidence; or**

47 **(3) Act in a reckless manner by exposing another**  
48 **person to such serious infectious or communicable disease**  
49 **through an activity that creates a substantial risk of**  
50 **disease transmission as determined by competent medical or**  
51 **epidemiological evidence.**

52 [2.] **3. (1)** Violation of the provisions of  
53 subdivision (1) or (2) of subsection **2 [1]** of this section  
54 is a class **[B] D** felony unless the victim contracts **[HIV] a**  
55 **serious infectious or communicable disease** from the contact,  
56 in which case it is a class **[A] C** felony.

57 **(2) Violation of the provisions of subdivision (3) of**  
58 **subsection 2 of this section is a class A misdemeanor.**

59 [3. The department of health and senior services or  
60 local law enforcement agency, victim or others may file a  
61 complaint with the prosecuting attorney or circuit attorney  
62 of a court of competent jurisdiction alleging that a person  
63 has violated a provision of subsection 1 of this section.  
64 The department of health and senior services shall assist  
65 the prosecutor or circuit attorney in preparing such case,  
66 and upon request, turn over to peace officers, police  
67 officers, the prosecuting attorney or circuit attorney, or  
68 the attorney general records concerning that person's HIV-  
69 infected status, testing information, counseling received,  
70 and the identity and available contact information for  
71 individuals with whom that person had sexual intercourse or  
72 deviate sexual intercourse and those individuals' test  
73 results.

74 **4.** The use of condoms is not a defense to a violation  
75 of paragraph (a) of subdivision (2) of subsection 1 of this  
76 section]

77           4. It is an affirmative defense to a charge under this  
78 section if the person exposed to the serious infectious or  
79 communicable disease knew that the infected person was  
80 infected with the serious infectious or communicable disease  
81 at the time of the exposure and consented to the exposure  
82 with such knowledge.

83           5. (1) For purposes of this subsection, the term  
84 "identifying characteristics" includes, but is not limited  
85 to, the name or any part of the name, address or any part of  
86 the address, city or unincorporated area of residence, age,  
87 marital status, place of employment, or race or ethnic  
88 background of the defendant or the person exposed, or the  
89 relationship between the defendant and the person exposed.

90           (2) When alleging a violation of this section, the  
91 prosecuting attorney, the circuit attorney, or the grand  
92 jury shall substitute a pseudonym for the actual name of the  
93 person exposed to a serious infectious or communicable  
94 disease. The actual name and other identifying  
95 characteristics of the person exposed shall be revealed to  
96 the court only in camera unless the person exposed requests  
97 otherwise, and the court shall seal the information from  
98 further disclosure, except by counsel as part of discovery.

99           (3) Unless the person exposed requests otherwise, all  
100 court decisions, orders, pleadings, and other documents,  
101 including motions and papers filed by the parties, shall be  
102 worded so as to protect from public disclosure the name or  
103 other identifying characteristics of the exposed person.

104           (4) Unless the person exposed requests otherwise, a  
105 court in which a violation of this section is filed shall  
106 issue an order that prohibits counsel and their agents, law  
107 enforcement personnel, and court staff from making a public

108 disclosure of the name or any other identifying  
109 characteristics of the person exposed.

110 (5) Unless the defendant requests otherwise, a court  
111 in which a violation of this section is filed shall issue an  
112 order that prohibits counsel and their agents, law  
113 enforcement personnel, and court staff, before a finding of  
114 guilt, from making a public disclosure of the name or any  
115 other identifying characteristics of the defendant. In any  
116 public disclosure before a finding of guilt, a pseudonym  
117 shall be substituted for the actual name of the defendant.

118 (6) Before sentencing, a defendant shall be assessed  
119 for placement in one or more community-based programs that  
120 provide counseling, supervision, and education and that  
121 offer reasonable opportunity for the defendant to provide  
122 redress to the exposed person.

545.940. 1. Pursuant to a motion filed by the  
2 prosecuting attorney or circuit attorney with notice given  
3 to the defense attorney and for good cause shown, in any  
4 criminal case in which a defendant has been charged by the  
5 prosecuting attorney's office or circuit attorney's office  
6 with any offense under chapter 566 or section 565.050,  
7 assault in the first degree; section 565.052 or 565.060,  
8 assault in the second degree; section 565.054 or 565.070,  
9 assault in the third degree; section 565.056, assault in the  
10 fourth degree; section 565.072, domestic assault in the  
11 first degree; section 565.073, domestic assault in the  
12 second degree; section 565.074, domestic assault in the  
13 third degree; section 565.075, assault while on school  
14 property; section 565.076, domestic assault in the fourth  
15 degree; section 565.081, 565.082, or 565.083, assault of a  
16 law enforcement officer, corrections officer, emergency  
17 personnel, highway worker in a construction zone or work

18 zone, utility worker, cable worker, or probation and parole  
19 officer in the first, second, or third degree; section  
20 567.020, prostitution; section 568.045, endangering the  
21 welfare of a child in the first degree; section 568.050,  
22 endangering the welfare of a child in the second degree;  
23 section 568.060, abuse of a child; section 575.150,  
24 resisting or interfering with an arrest; or [paragraph (a),  
25 (b), or (c), of] subdivision (2) **or (3)** of subsection [1] **2**  
26 of section 191.677, **knowingly or** recklessly exposing a  
27 person to [HIV] **a serious infectious or communicable**  
28 **disease**, the court may order that the defendant be conveyed  
29 to a state-, city-, or county-operated HIV clinic for  
30 testing for HIV, hepatitis B, hepatitis C, syphilis,  
31 gonorrhea, and chlamydia. The results of such tests shall  
32 be released to the victim and his or her parent or legal  
33 guardian if the victim is a minor. The results of such  
34 tests shall also be released to the prosecuting attorney or  
35 circuit attorney and the defendant's attorney. The state's  
36 motion to obtain said testing, the court's order of the  
37 same, and the test results shall be sealed in the court file.

38 2. As used in this section, "HIV" means the human  
39 immunodeficiency virus that causes acquired immunodeficiency  
40 syndrome.

575.155. 1. An offender or prisoner commits the  
2 offense of endangering a corrections employee, a visitor to  
3 a correctional center, county or city jail, or another  
4 offender or prisoner if he or she attempts to cause or  
5 knowingly causes such person to come into contact with  
6 blood, seminal fluid, urine, feces, or saliva.

7 2. For the purposes of this section, the following  
8 terms mean:

9           (1) "Corrections employee", a person who is an  
10 employee, or contracted employee of a subcontractor, of a  
11 department or agency responsible for operating a jail,  
12 prison, correctional facility, or sexual offender treatment  
13 center or a person who is assigned to work in a jail,  
14 prison, correctional facility, or sexual offender treatment  
15 center;

16           (2) "Offender", a person in the custody of the  
17 department of corrections;

18           (3) "Prisoner", a person confined in a county or city  
19 jail;

20           (4) **"Serious infectious or communicable disease", the**  
21 **same meaning given to the term in section 191.677.**

22           3. The offense of endangering a corrections employee,  
23 a visitor to a correctional center, county or city jail, or  
24 another offender or prisoner is a class E felony unless the  
25 substance is unidentified in which case it is a class A  
26 misdemeanor. If an offender or prisoner is knowingly  
27 infected with [the human immunodeficiency virus (HIV),  
28 hepatitis B or hepatitis C] **a serious infectious or**  
29 **communicable disease** and exposes another person to [HIV or  
30 hepatitis B or hepatitis C] **such serious infectious or**  
31 **communicable disease** by committing the offense of  
32 endangering a corrections employee, a visitor to a  
33 correctional center, county or city jail, or another  
34 offender or prisoner, **and the nature of the exposure to the**  
35 **bodily fluid has been scientifically shown to be a means of**  
36 **transmission of the serious infectious or communicable**  
37 **disease**, it is a class D felony.

575.157. 1. An offender commits the offense of  
2 endangering a department of mental health employee, a  
3 visitor or other person at a secure facility, or another

4 offender if he or she attempts to cause or knowingly causes  
5 such individual to come into contact with blood, seminal  
6 fluid, urine, feces, or saliva.

7 2. For purposes of this section, the following terms  
8 mean:

9 (1) "Department of mental health employee", a person  
10 who is an employee of the department of mental health, an  
11 employee or contracted employee of a subcontractor of the  
12 department of mental health, or an employee or contracted  
13 employee of a subcontractor of an entity responsible for  
14 confining offenders as authorized by section 632.495;

15 (2) "Offender", persons ordered to the department of  
16 mental health after a determination by the court that such  
17 persons may meet the definition of a sexually violent  
18 predator, persons ordered to the department of mental health  
19 after a finding of probable cause under section 632.489, and  
20 persons committed for control, care, and treatment by the  
21 department of mental health under sections 632.480 to  
22 632.513;

23 (3) "Secure facility", a facility operated by the  
24 department of mental health or an entity responsible for  
25 confining offenders as authorized by section 632.495;

26 (4) **"Serious infectious or communicable disease", the**  
27 **same meaning given to the term in section 191.677.**

28 3. The offense of endangering a department of mental  
29 health employee, a visitor or other person at a secure  
30 facility, or another offender is a class E felony. If an  
31 offender is knowingly infected with [the human  
32 immunodeficiency virus (HIV), hepatitis B, or hepatitis C] **a**  
33 **serious infectious or communicable disease** and exposes  
34 another individual to [HIV or hepatitis B or hepatitis C]  
35 **such serious infectious or communicable disease** by

36 committing the offense of endangering a department of mental  
37 health employee, a visitor or other person at a mental  
38 health facility, or another offender, **and the nature of the**  
39 **exposure to the bodily fluid has been scientifically shown**  
40 **to be a means of transmission of the serious infectious or**  
41 **communicable disease**, the offense is a class D felony.

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