

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 530

AND

**HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 292**

101ST GENERAL ASSEMBLY

1066S.03C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 191.677, 455.010, 488.029, 545.940, 556.046, 565.003, 575.155, and 575.157, RSMo, and to enact in lieu thereof eight new sections relating to criminal offenses, with penalty provisions.

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

Section A. Sections 191.677, 455.010, 488.029, 545.940,
2 556.046, 565.003, 575.155, and 575.157, RSMo, are repealed and
3 eight new sections enacted in lieu thereof, to be known as
4 sections 191.677, 455.010, 488.029, 545.940, 556.046, 565.003,
5 575.155, 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 or nonrespiratory disease spread from person to**
4 **person that is fatal or causes disabling long-term**
5 **consequences in the absence of lifelong treatment and**
6 **management.**

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

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

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

14 (2) [Act in a reckless manner by exposing] **Knowingly**
15 **expose** another person to [HIV without the knowledge and
16 consent of that person to be exposed to HIV, in one of the
17 following manners:

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

21 (b) By the sharing of needles; or

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

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

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

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

42 c. Another person provides evidence of sexual contact
43 with the HIV-infected person after a diagnosis of an HIV
44 status] **such serious infectious or communicable disease**
45 **through an activity that creates a substantial risk of**
46 **disease transmission as determined by competent medical or**
47 **epidemiological evidence; or**

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

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

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

71 deviate sexual intercourse and those individuals' test
72 results.

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

76 (2) Violation of the provisions of subdivision (3) of
77 subsection 2 of this section is a class A misdemeanor.

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

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

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

100 (3) Unless the person exposed requests otherwise, all
101 court decisions, orders, pleadings, and other documents,
102 including motions and papers filed by the parties, shall be

103 worded so as to protect from public disclosure the name and
104 other identifying characteristics of the person exposed.

105 (4) Unless the person exposed requests otherwise, a
106 court in which a violation of this section is filed shall
107 issue an order that prohibits counsel and their agents, law
108 enforcement personnel, and court staff from making a public
109 disclosure of the name or any other identifying
110 characteristics of the person exposed.

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

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

455.010. As used in this chapter, unless the context
2 clearly indicates otherwise, the following terms shall mean:

3 (1) "Abuse" includes but is not limited to the
4 occurrence of any of the following acts, attempts or threats
5 against a person who may be protected pursuant to this
6 chapter, except abuse shall not include abuse inflicted on a
7 child by accidental means by an adult household member or
8 discipline of a child, including spanking, in a reasonable
9 manner:

10 (a) "Assault", purposely or knowingly placing or
11 attempting to place another in fear of physical harm;

12 (b) "Battery", purposely or knowingly causing physical
13 harm to another with or without a deadly weapon;

14 (c) "Coercion", compelling another by force or threat
15 of force to engage in conduct from which the latter has a
16 right to abstain or to abstain from conduct in which the
17 person has a right to engage;

18 (d) "Harassment", engaging in a purposeful or knowing
19 course of conduct involving more than one incident that
20 alarms or causes distress to an adult or child and serves no
21 legitimate purpose. The course of conduct must be such as
22 would cause a reasonable adult or child to suffer
23 substantial emotional distress and must actually cause
24 substantial emotional distress to the petitioner or child.
25 Such conduct might include, but is not limited to:

26 a. Following another about in a public place or places;

27 b. Peering in the window or lingering outside the
28 residence of another; but does not include constitutionally
29 protected activity;

30 (e) "Sexual assault", causing or attempting to cause
31 another to engage involuntarily in any sexual act by force,
32 threat of force, duress, or without that person's consent;

33 (f) "Unlawful imprisonment", holding, confining,
34 detaining or abducting another person against that person's
35 will;

36 (2) "Adult", any person seventeen years of age or
37 older or otherwise emancipated;

38 (3) "Child", any person under seventeen years of age
39 unless otherwise emancipated;

40 (4) "Court", the circuit or associate circuit judge or
41 a family court commissioner;

42 (5) "Domestic violence", abuse or stalking committed
43 by a family or household member, as such terms are defined
44 in this section;

45 (6) "Ex parte order of protection", an order of
46 protection issued by the court before the respondent has
47 received notice of the petition or an opportunity to be
48 heard on it;

49 (7) "Family" or "household member", spouses, former
50 spouses, any person related by blood or marriage, persons
51 who are presently residing together or have resided together
52 in the past, any person who is or has been in a continuing
53 social relationship of a romantic or intimate nature with
54 the victim, and anyone who has a child in common regardless
55 of whether they have been married or have resided together
56 at any time;

57 (8) "Full order of protection", an order of protection
58 issued after a hearing on the record where the respondent
59 has received notice of the proceedings and has had an
60 opportunity to be heard;

61 (9) "Order of protection", either an ex parte order of
62 protection or a full order of protection;

63 (10) "Pending", exists or for which a hearing date has
64 been set;

65 (11) "Petitioner", a family or household member who
66 has been a victim of domestic violence, or any person who
67 has been the victim of stalking or sexual assault, or a
68 person filing on behalf of a child pursuant to section
69 455.503 who has filed a verified petition pursuant to the
70 provisions of section 455.020 or section 455.505;

71 (12) "Respondent", the family or household member
72 alleged to have committed an act of domestic violence, or
73 person alleged to have committed an act of stalking or

74 sexual assault, against whom a verified petition has been
75 filed or a person served on behalf of a child pursuant to
76 section 455.503;

77 (13) "Sexual assault", as defined under subdivision
78 (1) of this section;

79 (14) "Stalking" is when any person purposely engages
80 in an unwanted course of conduct that causes alarm to
81 another person, or a person who resides together in the same
82 household with the person seeking the order of protection
83 when it is reasonable in that person's situation to have
84 been alarmed by the conduct. As used in this subdivision:

85 (a) "Alarm" means to cause fear of danger of physical
86 harm; and

87 (b) "Course of conduct" means [a pattern of conduct
88 composed of] two or more acts [over a period of time,
89 however short,] that [serves] **serve** no legitimate purpose[.
90 Such conduct may include, but is not limited to, following
91 the other person or unwanted communication or unwanted
92 contact] **including, but not limited to, acts in which the**
93 **stalker directly, indirectly, or through a third party**
94 **follows, monitors, observes, surveils, threatens, or**
95 **communicates to a person by any action, method, or device.**

488.029. There shall be assessed and collected a
2 surcharge of one hundred fifty dollars in all criminal cases
3 for any violation of chapter [195] **579** in which a crime
4 laboratory makes analysis of a controlled substance, but no
5 such surcharge shall be assessed when the costs are waived
6 or are to be paid by the state or when a criminal proceeding
7 or the defendant has been dismissed by the court. The
8 moneys collected by clerks of the courts pursuant to the
9 provisions of this section shall be collected and disbursed
10 as provided by sections 488.010 to 488.020. All such moneys

11 shall be payable to the director of revenue, who shall
12 deposit all amounts collected pursuant to this section to
13 the credit of the state forensic laboratory account to be
14 administered by the department of public safety pursuant to
15 section 650.105.

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.

556.046. 1. A person may be convicted of an offense
2 included in an offense charged in the indictment or
3 information. An offense is so included when:

4 (1) It is established by [proof] **evidence** of the same
5 or less than all the [facts] **elements** required to establish
6 the commission of the offense charged; or

7 (2) It is specifically denominated by statute as a
8 lesser degree of the offense charged; or

9 (3) It consists of an attempt to commit the offense
10 charged or to commit an offense otherwise included therein.

11 2. The court shall [not] be obligated to charge the
12 jury with respect to an included offense [unless] **only if:**

13 (1) **The offense is established by evidence of the same**
14 **or less than all the elements required to establish the**
15 **commission of the charged offense;**

16 (2) There is a **rational basis in the evidence** for a
17 verdict acquitting the person of the offense charged and
18 convicting him **or her** of the included offense[.]; **and**

19 (3) **Either party requests the court to charge the jury**
20 **with respect to a specific included offense.**

21 **3. It shall be the trial court's duty to determine if**
22 **a rational basis in the evidence for a verdict exists.**

23 **4.** An offense is charged for purposes of this section
24 if:

25 (1) It is in an indictment or information; or

26 (2) It is an offense submitted to the jury because
27 there is a **rational basis in the evidence** for a verdict
28 acquitting the person of the offense charged and convicting
29 the person of the included offense.

30 [3. The court shall be obligated to instruct the jury
31 with respect to a particular included offense only if there
32 is a basis in the evidence for acquitting the person of the
33 immediately higher included offense and there is a basis in
34 the evidence for convicting the person of that particular
35 included offense.]

 565.003. 1. **(1)** The culpable mental state necessary
2 for a homicide offense may be found to exist if the only
3 difference between what actually occurred and what was the
4 object of the offender's state of mind is that a different
5 person or persons were killed.

6 **(2) It is no defense to a homicide charge that the**
7 **identity of the person the offender intended to kill cannot**
8 **be established. If the state proves beyond a reasonable**
9 **doubt that the offender had the requisite mental state**
10 **toward a specific person or a general class of persons who**
11 **are not identified or who are not identifiable, such intent**
12 **shall be transferred to a person who is killed by the**
13 **offender while such mental state existed.**

14 2. The length of time which transpires between conduct
15 which results in a death and is the basis of a homicide

16 offense and the event of such death is no defense to any
17 charge of homicide.

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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