

SECOND REGULAR SESSION

# SENATE BILL NO. 1298

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR LEWIS.

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4587S.01I

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KRISTINA MARTIN, Secretary

### AN ACT

To repeal sections 191.226, 191.653, 191.656, 191.657, 191.658, 191.659, 191.662, 191.663, 191.671, 191.674, 191.680, 191.683, 191.689, 191.692, 191.694, 191.695, 191.699, 191.700, 191.703, 338.010, 338.730, 375.1300, 442.600, 545.940, 567.020, 567.120, and 595.226, RSMo, and to enact in lieu thereof thirteen new sections relating to the human immunodeficiency virus, with penalty provisions.

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

Section A. Sections 191.226, 191.653, 191.656, 191.657,  
2 191.658, 191.659, 191.662, 191.663, 191.671, 191.674, 191.680,  
3 191.683, 191.689, 191.692, 191.694, 191.695, 191.699, 191.700,  
4 191.703, 338.010, 338.730, 375.1300, 442.600, 545.940, 567.020,  
5 567.120, and 595.226, RSMo, are repealed and thirteen new  
6 sections enacted in lieu thereof, to be known as sections  
7 191.226, 191.663, 191.694, 191.695, 191.699, 191.700, 191.703,  
8 338.010, 338.730, 375.1300, 442.600, 567.020, and 595.226, to  
9 read as follows:

191.226. The department of health and senior services  
2 shall pay for the cost of conducting [HIV] testing **for**  
3 **sexually transmitted infections or diseases** for a victim of  
4 the crime of rape as defined in section 556.030, or of the  
5 crime of sodomy as defined in section 566.060, or of the  
6 crime of incest as defined in section 568.020[, if a person  
7 who is convicted of such crime is determined to be infected  
8 with HIV based upon HIV testing conducted upon delivery of

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

9 the person to the department of corrections pursuant to  
10 section 191.659. Such testing shall be limited to not more  
11 than two enzyme-linked immunosorbent assay (ELISA) tests per  
12 year and such cost of such tests shall not be paid by the  
13 department of health and senior services for more than five  
14 years after the date the crime was committed. HIV  
15 testing]. **Such testing shall be limited to two rounds of**  
16 **testing and shall follow the best medical guidance for each**  
17 **infection or disease being screened. Testing** conducted  
18 pursuant to this section shall be performed by the public  
19 health laboratory of the department of health and senior  
20 services.

191.663. 1. As used in this section [and section  
2 191.659], the term ["HIV testing" means serological test or  
3 other test upon a biological specimen to determine the  
4 presence of the human immunodeficiency virus that causes  
5 acquired immunodeficiency syndrome or its antibodies in the  
6 specimen] **"testing" means the current medically recommended**  
7 **set of tests to screen for sexually transmitted infections**  
8 **or diseases.**

9 2. Any person who is convicted or who pleads guilty or  
10 nolo contendere to any sexual offense defined in chapter 566  
11 or any juvenile who is adjudicated pursuant to subsection 3  
12 of section 211.181 for an offense which would have been a  
13 sexual offense defined in chapter 566 if committed by an  
14 adult, which includes, in accordance with subsection (f) of  
15 42 U.S.C. 3756, a sexual act as defined in subparagraphs (A)  
16 and (B) of paragraph (2) of 18 U.S.C. 2245 as an element of  
17 the offense, shall be ordered by the court to undergo [HIV]  
18 testing prior to incarceration without the right of refusal.

19 3. Costs of such [HIV] testing shall be taxed to the  
20 defendant as costs in the criminal proceeding **unless**

21 **otherwise prohibited by law.** Such testing costs may be  
22 retained by the court from the bond filed by the defendant  
23 pursuant to subsection 4 of this section. Costs of such  
24 [HIV] testing for juveniles [may be collected as provided  
25 for in section 211.281] **shall be paid for by the county in  
26 which the offense occurred.**

27 4. Any defendant charged in a court of general  
28 jurisdiction with a sexual offense defined in chapter 566  
29 which includes, in accordance with subsection (f) of 42  
30 U.S.C. 3756, a sexual act as defined in subparagraphs (A)  
31 and (B) of paragraph (2) of 18 U.S.C. 2245 as an element of  
32 the crime, shall be required to post a minimum bond amount  
33 for his or her release prior to trial. The minimum bond  
34 amount shall be sufficient to cover the cost of any post-  
35 trial [HIV] testing ordered by the court.

36 5. Notwithstanding any provision of [section 191.656,  
37 or any other] law to the contrary, the victim of any crime  
38 defined in chapter 566 which includes, in accordance with  
39 subsection (f) of 42 U.S.C. 3756, a sexual act as defined in  
40 subparagraphs (A) and (B) of paragraph (2) of 18 U.S.C. 2245  
41 as an element, shall have a right to access to the results  
42 of any [HIV] testing performed pursuant to the provisions of  
43 this section, and the victim shall be informed of any  
44 confirmed positive results of the [HIV] testing. If the  
45 victim is an unemancipated minor, the minor's parents or  
46 custodian, if any, shall also be informed. The  
47 administrator of the jail or correctional facility in which  
48 the defendant is confined shall also have access to the test  
49 results.

191.694. 1. All health care professionals and health  
2 care facilities shall adhere to universal precautions, as  
3 defined by the Centers for Disease Control of the United

4 States Public Health Service, including the appropriate use  
5 of hand washing, protective barriers, and care in the use  
6 and disposal of needles and other sharp instruments, to  
7 minimize the risk of transmission of [HIV, HBV and other  
8 **blood-borne infections]** **serious infectious or communicable**  
9 **disease** to patients. Health care professionals and health  
10 care facilities shall comply with current guidelines,  
11 established by the Centers for Disease Control, for  
12 disinfection and sterilization of reusable devices used in  
13 invasive procedures.

14 2. Health care professionals who have exudative  
15 lesions or weeping dermatitis of the hands, forearms, or  
16 other locations that may contact patients, particularly on  
17 exposed areas such as hands or forearms, shall refrain from  
18 performing all invasive procedures, and from handling  
19 patient-care equipment and devices used in performing  
20 invasive procedures until the condition resolves.

21 3. As a condition for renewal of a certificate of  
22 registration or authority, permit, or license, all health  
23 care facilities shall provide satisfactory evidence that  
24 periodic training in infection control procedures, including  
25 universal precautions, is provided to all personnel who  
26 perform patient care services at or from such facilities.  
27 Regulations for such training shall be promulgated by the  
28 state regulatory authorities or bodies responsible for  
29 licensing the respective health care facilities.

30 4. All health care professionals who perform invasive  
31 procedures shall receive training on infection control  
32 procedures relevant to [HIV and related] **serious infectious**  
33 **or communicable** diseases, including universal precautions  
34 and prevention of percutaneous injuries, appropriate for  
35 their specialty and approved by the department of health and

36 senior services. The department of health and senior  
37 services, in cooperation with appropriate state regulatory  
38 authorities responsible for licensing the respective health  
39 care professionals and in cooperation with professional  
40 societies, shall develop regulations for such training. The  
41 requirements set forth in this subsection shall be deemed  
42 satisfied if the health care professional completes the  
43 training provided in accordance with the provisions of  
44 subsection 3 of this section.

191.695. No rule or portion of a rule promulgated  
2 under the authority of sections 191.650 to [191.700] **191.703**  
3 shall become effective unless it has been promulgated  
4 pursuant to the provisions of section 536.024.

191.699. Any health care professional who, after  
2 disclosure has been made by a patient of [HIV infection] **a**  
3 **serious infectious or communicable disease**, discriminates  
4 against the patient on the basis of that [HIV infection]  
5 **serious infectious or communicable disease** or who, prior to  
6 such disclosure, makes [HIV] testing **for serious infectious**  
7 **or communicable disease** a condition of treatment shall be  
8 subject to administrative disciplinary action for violation  
9 of a professional trust or confidence or the commission of  
10 an act of unprofessional conduct as those terms are used in  
11 sections 330.160, 332.321, 334.100, and 335.066.

191.700. 1. [The current assessment by the Centers  
2 for Disease Control of the risk that infected health care  
3 professionals will transmit HIV or HBV to patients during  
4 invasive procedures does not justify mandatory testing to  
5 detect infection with those viruses. Health care  
6 professionals who perform invasive procedures are advised,  
7 however, to know their HIV antibody status and their  
8 hepatitis B antigen status.]

9           2.] (1) The department of health and senior services  
10 shall establish and oversee a voluntary evaluation process  
11 for health care professionals infected with [HIV or HBV] a  
12 **serious infectious or communicable disease** who perform  
13 invasive procedures. This evaluation process may be  
14 accessed directly by an infected health care professional,  
15 or by the director of a health care facility with the  
16 consent of the infected health care professional and after  
17 consultation with his private physician.

18           (2) The confidential and individualized evaluation  
19 shall be conducted by an expert review panel appointed by  
20 the department of health and senior services. Each panel  
21 shall include at least such individuals as:

22           (a) The health care professional's private physician;  
23           (b) An infectious disease specialist with expertise in  
24 the epidemiology of [HIV and HBV] **serious infectious or**  
25 **communicable disease** transmission who is not involved in the  
26 care of the health care professional;

27           (c) A health care professional with expertise in the  
28 procedures performed by the infected health care  
29 professional; and

30           (d) A state or local public health official.

31           (3) The department of health and senior services, in  
32 cooperation with appropriate state regulatory authorities or  
33 bodies responsible for licensing the respective health care  
34 professionals and with professional societies, shall develop  
35 uniform evaluation criteria which shall be used in  
36 determining whether, and under what circumstances, any  
37 restrictions or limitations should be placed on an  
38 individual health care professional's medical practice.  
39 These criteria shall, consistent with guidelines from the

40 Centers for Disease Control, include at least the following  
41 inquiries:

42 (a) Whether the health care professional performs  
43 procedures in which injury could result in that individual's  
44 blood contamination of a patient's body cavity, subcutaneous  
45 tissues, or mucous membranes;

46 (b) The nature of the invasive procedures performed by  
47 the health care professional and the techniques used, skill  
48 and experience, and compliance with infection control  
49 practices demonstrated by that individual; and

50 (c) Whether the presence of physical or mental  
51 impairments may interfere with the health care  
52 professional's ability to perform such invasive procedures  
53 safely.

54 (4) (a) The individualized evaluation and the  
55 recommendations of the panel shall be based on the premise  
56 that **[HIV or HBV infection] a serious infectious or**  
57 **communicable disease** alone does not justify limiting the  
58 health care professional's duties.

59 (b) The panel may determine which procedures the  
60 health care professional may or may not perform, or perform  
61 with modifications. If the panel is uncertain about whether  
62 a procedure may pose some risk of **[HIV or HBV] serious**  
63 **infectious or communicable disease** transmission, it may  
64 recommend that such procedures be performed only after the  
65 patients have been informed of the health care  
66 professional's infection status.

67 (5) (a) Information obtained during the evaluation  
68 process shall be confidential and shall not be disclosed  
69 except to health care facilities where the health care  
70 professional provides patient care. The department of  
71 health and senior services may only notify or disclose to

72 such facilities the practice restrictions and limitations  
73 imposed on the health care professional. Such restrictions  
74 and limitations shall be disclosed only to those employed by  
75 such health care facilities who have a reasonable need to  
76 know the information.

77 (b) Practice restrictions or limitations recommended  
78 by the department of health and senior services shall be  
79 monitored by the health care facilities in which the  
80 infected health care professional is employed. If practice  
81 restrictions or limitations are placed on community based  
82 health care professionals, periodic monitoring to ensure  
83 compliance shall be performed by the department of health  
84 and senior services.

85 (c) Health care professionals whose practices are  
86 restricted or limited because of their **[HIV or HBV] serious**  
87 **infectious or communicable disease** infection status shall,  
88 whenever possible, be provided opportunities to continue  
89 appropriate patient care activities.

90 (d) Health care facilities regulated under sections  
91 197.010 to 197.120 may maintain or establish peer review  
92 panels that operate under the regulations developed by the  
93 department of health and senior services and the  
94 recommendations of the Centers for Disease Control of the  
95 United States Public Health Service.

96 (e) Any violation of practice restrictions or  
97 limitations by a health care professional shall constitute  
98 either an act violative of professional trust and  
99 confidence, or failure or refusal to properly guard against  
100 contagious infections or communicable diseases or the spread  
101 thereof, or both, as these terms are used in sections  
102 330.160, 332.321, 334.100, and 335.066. Complaints of  
103 possible violations of practice restrictions or limitations

104 may be made to the appropriate state board, as provided  
105 under chapter 330, chapter 332, chapter 334, or chapter 335.

106 [3.] 2. The department of health and senior services  
107 shall, from time to time, review established standards for  
108 preventing the transmission of [HIV or HBV] **serious**  
109 **infectious or communicable diseases** from health care  
110 professionals to patients and, consistent with current  
111 medical knowledge and revised or updated guidelines from the  
112 Centers for Disease Control, modify existing standards and  
113 require additional minimum standards, as appropriate.

114 [4.] 3. Notwithstanding the provisions of sections  
115 191.650 to 191.698, the department of health and senior  
116 services may exercise the general authority and power under  
117 section 192.020 to intervene in instances where there is  
118 reason to believe that a health care professional is  
119 practicing in a manner that creates a grave and  
120 unjustifiable risk of injury to others.

191.703. A licensed health care facility that treats a  
2 patient having [HIV or HBV infection] **a serious infectious**  
3 **or communicable disease** or any other reportable infectious  
4 or contagious disease as defined by the department of health  
5 and senior services shall notify the funeral establishment  
6 personnel, coroner or medical examiner involved of such  
7 disease prior to the removal of the patient, when deceased,  
8 from the licensed health care facility. Notification shall  
9 be conducted in a manner that protects the confidentiality  
10 of the deceased patient.

338.010. 1. The "practice of pharmacy" includes:  
2 (1) The interpretation, implementation, and evaluation  
3 of medical prescription orders, including any legend drugs  
4 under 21 U.S.C. Section 353, and the receipt, transmission,

5 or handling of such orders or facilitating the dispensing of  
6 such orders;

7 (2) The designing, initiating, implementing, and  
8 monitoring of a medication therapeutic plan in accordance  
9 with the provisions of this section;

10 (3) The compounding, dispensing, labeling, and  
11 administration of drugs and devices pursuant to medical  
12 prescription orders;

13 (4) The ordering and administration of vaccines  
14 approved or authorized by the U.S. Food and Drug  
15 Administration, excluding vaccines for cholera, monkeypox,  
16 Japanese encephalitis, typhoid, rabies, yellow fever, tick-  
17 borne encephalitis, anthrax, tuberculosis, dengue, Hib,  
18 polio, rotavirus, smallpox, and any vaccine approved after  
19 January 1, 2023, to persons at least seven years of age or  
20 the age recommended by the Centers for Disease Control and  
21 Prevention, whichever is older, pursuant to joint  
22 promulgation of rules established by the board of pharmacy  
23 and the state board of registration for the healing arts  
24 unless rules are established under a state of emergency as  
25 described in section 44.100;

26 (5) The participation in drug selection according to  
27 state law and participation in drug utilization reviews;

28 (6) The proper and safe storage of drugs and devices  
29 and the maintenance of proper records thereof;

30 (7) Consultation with patients and other health care  
31 practitioners, and veterinarians and their clients about  
32 legend drugs, about the safe and effective use of drugs and  
33 devices;

34 (8) The prescribing and dispensing of any nicotine  
35 replacement therapy product under section 338.665;

36 (9) The dispensing of HIV **preexposure and** postexposure  
37 prophylaxis pursuant to section 338.730; and

38 (10) The offering or performing of those acts,  
39 services, operations, or transactions necessary in the  
40 conduct, operation, management and control of a pharmacy.

41           2. No person shall engage in the practice of pharmacy  
42 unless he or she is licensed under the provisions of this  
43 chapter.

44           3. This chapter shall not be construed to prohibit the  
45 use of auxiliary personnel under the direct supervision of a  
46 pharmacist from assisting the pharmacist in any of his or  
47 her duties. This assistance in no way is intended to  
48 relieve the pharmacist from his or her responsibilities for  
49 compliance with this chapter and he or she will be  
50 responsible for the actions of the auxiliary personnel  
51 acting in his or her assistance.

52           4. This chapter shall not be construed to prohibit or  
53 interfere with any legally registered practitioner of  
54 medicine, dentistry, or podiatry, or veterinary medicine  
55 only for use in animals, or the practice of optometry in  
56 accordance with and as provided in sections 195.070 and  
57 336.220 in the compounding, administering, prescribing, or  
58 dispensing of his or her own prescriptions.

59       5. A pharmacist with a certificate of medication  
60 therapeutic plan authority may provide medication therapy  
61 services pursuant to a written protocol from a physician  
62 licensed under chapter 334 to patients who have established  
63 a physician-patient relationship, as described in  
64 subdivision (1) of subsection 1 of section 191.1146, with  
65 the protocol physician. The written protocol authorized by  
66 this section shall come only from the physician and shall  
67 not come from a nurse engaged in a collaborative practice

68 arrangement under section 334.104, or from a physician  
69 assistant engaged in a collaborative practice arrangement  
70 under section 334.735.

71       6. Nothing in this section shall be construed as to  
72 prevent any person, firm or corporation from owning a  
73 pharmacy regulated by sections 338.210 to 338.315, provided  
74 that a licensed pharmacist is in charge of such pharmacy.

75       7. Nothing in this section shall be construed to apply  
76 to or interfere with the sale of nonprescription drugs and  
77 the ordinary household remedies and such drugs or medicines  
78 as are normally sold by those engaged in the sale of general  
79 merchandise.

80       8. No health carrier as defined in chapter 376 shall  
81 require any physician with which they contract to enter into  
82 a written protocol with a pharmacist for medication  
83 therapeutic services.

84       9. This section shall not be construed to allow a  
85 pharmacist to diagnose or independently prescribe  
86 pharmaceuticals.

87       10. The state board of registration for the healing  
88 arts, under section 334.125, and the state board of  
89 pharmacy, under section 338.140, shall jointly promulgate  
90 rules regulating the use of protocols for medication therapy  
91 services. Such rules shall require protocols to include  
92 provisions allowing for timely communication between the  
93 pharmacist and the protocol physician or similar body  
94 authorized by this section, and any other patient protection  
95 provisions deemed appropriate by both boards. In order to  
96 take effect, such rules shall be approved by a majority vote  
97 of a quorum of each board. Neither board shall separately  
98 promulgate rules regulating the use of protocols for  
99 medication therapy services. Any rule or portion of a rule,

100 as that term is defined in section 536.010, that is created  
101 under the authority delegated in this section shall become  
102 effective only if it complies with and is subject to all of  
103 the provisions of chapter 536 and, if applicable, section  
104 536.028. This section and chapter 536 are nonseverable and  
105 if any of the powers vested with the general assembly  
106 pursuant to chapter 536 to review, to delay the effective  
107 date, or to disapprove and annul a rule are subsequently  
108 held unconstitutional, then the grant of rulemaking  
109 authority and any rule proposed or adopted after August 28,  
110 2007, shall be invalid and void.

111 11. The state board of pharmacy may grant a  
112 certificate of medication therapeutic plan authority to a  
113 licensed pharmacist who submits proof of successful  
114 completion of a board-approved course of academic clinical  
115 study beyond a bachelor of science in pharmacy, including  
116 but not limited to clinical assessment skills, from a  
117 nationally accredited college or university, or a  
118 certification of equivalence issued by a nationally  
119 recognized professional organization and approved by the  
120 board of pharmacy.

121 12. Any pharmacist who has received a certificate of  
122 medication therapeutic plan authority may engage in the  
123 designing, initiating, implementing, and monitoring of a  
124 medication therapeutic plan as defined by a written protocol  
125 from a physician that may be specific to each patient for  
126 care by a pharmacist.

127 13. Nothing in this section shall be construed to  
128 allow a pharmacist to make a therapeutic substitution of a  
129 pharmaceutical prescribed by a physician unless authorized  
130 by the written protocol or the physician's prescription  
131 order.

132        14. "Veterinarian", "doctor of veterinary medicine",  
133        "practitioner of veterinary medicine", "DVM", "VMD", "BVSe",  
134        "BVMS", "BSe (Vet Science)", "VMB", "MRCVS", or an  
135        equivalent title means a person who has received a doctor's  
136        degree in veterinary medicine from an accredited school of  
137        veterinary medicine or holds an Educational Commission for  
138        Foreign Veterinary Graduates (EDFVG) certificate issued by  
139        the American Veterinary Medical Association (AVMA).

140        15. In addition to other requirements established by  
141        the joint promulgation of rules by the board of pharmacy and  
142        the state board of registration for the healing arts:

143            (1) A pharmacist shall administer vaccines by protocol  
144        in accordance with treatment guidelines established by the  
145        Centers for Disease Control and Prevention (CDC);

146            (2) A pharmacist who is administering a vaccine shall  
147        request a patient to remain in the pharmacy a safe amount of  
148        time after administering the vaccine to observe any adverse  
149        reactions. Such pharmacist shall have adopted emergency  
150        treatment protocols.

151        16. In addition to other requirements by the board, a  
152        pharmacist shall receive additional training as required by  
153        the board and evidenced by receiving a certificate from the  
154        board upon completion, and shall display the certification  
155        in his or her pharmacy where vaccines are delivered.

156        17. A pharmacist shall inform the patient that the  
157        administration of a vaccine will be entered into the  
158        ShowMeVax system, as administered by the department of  
159        health and senior services. The patient shall attest to the  
160        inclusion of such information in the system by signing a  
161        form provided by the pharmacist. If the patient indicates  
162        that he or she does not want such information entered into  
163        the ShowMeVax system, the pharmacist shall provide a written

164 report within fourteen days of administration of a vaccine  
165 to the patient's health care provider, if provided by the  
166 patient, containing:

- 167 (1) The identity of the patient;
- 168 (2) The identity of the vaccine or vaccines  
169 administered;
- 170 (3) The route of administration;
- 171 (4) The anatomic site of the administration;
- 172 (5) The dose administered; and
- 173 (6) The date of administration.

174 18. A pharmacist licensed under this chapter may order  
175 and administer vaccines approved or authorized by the U.S.  
176 Food and Drug Administration to address a public health  
177 need, as lawfully authorized by the state or federal  
178 government, or a department or agency thereof, during a  
179 state or federally declared public health emergency.

338.730. 1. Notwithstanding any other law to the  
2 contrary, a pharmacist may dispense HIV **preexposure and**  
3 postexposure prophylaxis in accordance with this section.  
4 Such prophylaxis shall be dispensed only if the pharmacist  
5 follows a written protocol authorized by a licensed  
6 physician.

7 2. For purposes of this section, "**preexposure and**  
8 postexposure prophylaxis" shall mean any drug approved by  
9 the Food and Drug Administration that meets the same  
10 clinical eligibility recommendations provided in CDC  
11 guidelines **for either preexposure prophylaxis or**  
12 **postexposure prophylaxis.**

13 3. For purposes of this section, "CDC guidelines"  
14 shall mean the current HIV guidelines published by the  
15 federal Centers for Disease Control and Prevention.

16       4. The state board of registration for the healing  
17 arts and the state board of pharmacy shall jointly  
18 promulgate rules and regulations for the administration of  
19 this section. Neither board shall separately promulgate  
20 rules governing a pharmacist's authority to dispense HIV  
21 **preexposure and postexposure prophylaxis under this section.**

22       5. Any rule or portion of a rule, as that term is  
23 defined in section 536.010, that is created under the  
24 authority delegated in this section shall become effective  
25 only if it complies with and is subject to all of the  
26 provisions of chapter 536 and, if applicable, section  
27 536.028. This section and chapter 536 are nonseverable and  
28 if any of the powers vested with the general assembly  
29 pursuant to chapter 536 to review, to delay the effective  
30 date, or to disapprove and annul a rule are subsequently  
31 held unconstitutional, then the grant of rulemaking  
32 authority and any rule proposed or adopted after August 28,  
33 2021, shall be invalid and void.

375.1300. When used in sections 375.1300 to 375.1312,  
2 the following terms mean:

3       (1) "Consultant", an individual, partnership or  
4 corporation who, for a fee, holds himself or itself out to  
5 the public as engaged in the business of offering any  
6 advice, counsel, opinion or service with respect to the  
7 benefits, advantages or disadvantages promised under any  
8 policy of insurance that could be issued in this state;

9       (2) "Director", the director of the department of  
10 commerce and insurance of this state;

11       (3) "Genetic information", the results of a genetic  
12 test. Genetic information shall not include family history,  
13 the results of routine physical measurements, or the results  
14 of chemical, blood, urine analysis, or the results of tests

15 for drugs or the presence of the human immunodeficiency  
16 virus, or from results of any other tests commonly accepted  
17 in clinical practice at the time;

18 (4) "Genetic test", a laboratory test of human  
19 deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) used  
20 to identify the presence or absence of inherited alterations  
21 in the DNA or RNA which cause predisposition to disease or  
22 illness. The term does not include routine physical  
23 measurements and examinations, routine tests performed as a  
24 part of a physical examination, chemical, blood or urine  
25 analysis, cholesterol tests, tests for the presence of [the  
26 ~~human immunodeficiency virus]~~ **infection or disease**, a test  
27 for drugs, or tests commonly accepted in clinical practice  
28 at the time;

29 (5) "Insurer", any person, reciprocal exchange,  
30 interinsurer, Lloyds insurer, fraternal benefit society, and  
31 any other legal entity engaged in the business of insurance,  
32 including agents, brokers, adjusters and third-party  
33 administrators. "Insurer" also includes health services  
34 corporations, health maintenance organizations, prepaid  
35 limited health care service plans, dental, optometry and  
36 other similar health service plans. For purposes of  
37 sections 375.930 to 375.948, such entities shall be deemed  
38 to be engaged in the business of insurance. "Insurer" shall  
39 also include all companies organized, incorporated or doing  
40 business pursuant to the provisions of chapters 325, 375,  
41 376, 377, 378, 379, 381 and 383;

42 (6) "Person", any natural or artificial entity,  
43 including, but not limited to, individuals, partnerships,  
44 associations, trusts or corporations;

45 (7) "Policy", "certificate" or "contract" includes any  
46 contract of insurance, indemnity, medical, health or

47 hospital service, suretyship, or annuity issued, proposed  
48 for issuance, or intended for issuance by any insurer.

442.600. 1. The fact that a parcel of real property,  
2 or any building or structure thereon, may be a  
3 psychologically impacted real property, or may be in close  
4 proximity to a psychologically impacted real property shall  
5 not be a material or substantial fact that is required to be  
6 disclosed in a sale, exchange or other transfer of real  
7 estate.

8 2. "Psychologically impacted real property" is defined  
9 to include:

10 (1) Real property in which an occupant is, or was at  
11 any time, infected [with human immunodeficiency virus] or  
12 diagnosed with [acquired immune deficiency syndrome, or  
13 with] any [other] disease which has been determined by  
14 medical evidence to be highly unlikely to be transmitted  
15 through the occupancy of a dwelling place; or

16 (2) Real property which was the site of a homicide or  
17 other felony, or of a suicide.

18 3. No cause of action shall arise nor may any action  
19 be brought against any real estate agent or broker for the  
20 failure to disclose to a buyer or other transferee of real  
21 estate that the transferred real property was a  
22 psychologically impacted real property.

567.020. 1. A person commits the offense of  
2 prostitution if he or she engages in or offers or agrees to  
3 engage in sexual conduct with another person in return for  
4 something of value to be received by any person.

5 2. The offense of prostitution is a class B  
6 misdemeanor [unless the person knew prior to performing the  
7 act of prostitution that he or she was infected with HIV in

8 which case prostitution is a class B felony. The use of  
9 condoms is not a defense to this offense].

10 3. [As used in this section, "HIV" means the human  
11 immunodeficiency virus that causes acquired immunodeficiency  
12 syndrome.

13 4.] The judge may order a drug and alcohol abuse  
14 treatment program for any person found guilty of  
15 prostitution, either after trial or upon a plea of guilty,  
16 before sentencing. [For the class B misdemeanor offense,]  
17 Upon the successful completion of such program by the  
18 defendant, the court may at its discretion allow the  
19 defendant to withdraw the plea of guilty or reverse the  
20 verdict and enter a judgment of not guilty. [For the class  
21 B felony offense, the court shall not allow the defendant to  
22 withdraw the plea of guilty or reverse the verdict and enter  
23 a judgment of not guilty. The judge, however, has  
24 discretion to take into consideration successful completion  
25 of a drug or alcohol treatment program in determining the  
26 defendant's sentence.

27 5.] 4. A person shall not be certified as an adult or  
28 adjudicated as a delinquent for the offense of prostitution  
29 under this section if the person was under the age of  
30 eighteen at the time the offense occurred. In such cases  
31 where the person was under the age of eighteen, the person  
32 shall be classified as a victim of abuse, as defined under  
33 section 210.110, and such abuse shall be reported  
34 immediately to the children's division, as required under  
35 section 210.115 and to the juvenile officer for appropriate  
36 services, treatment, investigation, and other proceedings as  
37 provided under chapters 207, 210, and 211. Upon request,  
38 the local law enforcement agency and the prosecuting

39 attorney shall assist the children's division and the  
40 juvenile officer in conducting the investigation.

595.226. 1. After August 28, 2007, any information  
2 contained in any court record, whether written or published  
3 on the internet, including any visual or aural recordings  
4 that could be used to identify or locate any victim of an  
5 offense under chapter 566 or a victim of domestic assault or  
6 stalking shall be closed and redacted from such record prior  
7 to disclosure to the public. Identifying information shall  
8 include, but shall not be limited to, the name, home or  
9 temporary address, personal email address, telephone number,  
10 Social Security number, birth date, place of employment, any  
11 health information, [including human immunodeficiency virus  
12 (HIV) status,] any information from a forensic testing  
13 report, or physical characteristics, including an  
14 unobstructed visual image of the victim's face or body.

15 2. Any person who is requesting identifying  
16 information of a victim and who has a legitimate interest in  
17 obtaining such information may petition the court for an in  
18 camera inspection of the records. If the court determines  
19 the person is entitled to all or any part of such records,  
20 the court may order production and disclosure of the  
21 records, but only if the court determines that the  
22 disclosure to the person or entity would not compromise the  
23 welfare or safety of the victim, and only after providing  
24 reasonable notice to the victim and after allowing the  
25 victim the right to respond to such request.

26 3. Notwithstanding the provisions of subsection 1 of  
27 this section, the judge presiding over a case under chapter  
28 566 or a case of domestic assault or stalking shall have the  
29 discretion to publicly disclose identifying information  
30 regarding the defendant which could be used to identify or

31 locate the victim of the crime. The victim may provide a  
32 statement to the court regarding whether he or she desires  
33 such information to remain closed. When making the decision  
34 to disclose such information, the judge shall consider the  
35 welfare and safety of the victim and any statement to the  
36 court received from the victim regarding the disclosure.

1 [191.653. 1. No person shall perform or  
2 conduct HIV testing except physicians,  
3 hospitals, and those persons authorized by the  
4 department of health and senior services. No  
5 person shall be authorized by the department of  
6 health and senior services to perform or conduct  
7 HIV testing unless such person provides suitable  
8 verification to the department that such testing  
9 shall be performed in accordance with  
10 departmental regulations governing the types of  
11 tests performed and the manner in which they are  
12 administered. The department may monitor the  
13 continued compliance of such persons with  
14 departmental regulations. Hospitals licensed  
15 pursuant to chapter 197 shall be deemed to be in  
16 compliance with departmental regulations  
17 governing HIV testing.

18 2. All HIV testing shall be performed in  
19 accordance with the department rules governing  
20 HIV testing procedures.

21 3. Except as provided in sections 191.671  
22 and 191.686, all physicians, hospitals, or other  
23 persons authorized by the department of health  
24 and senior services who perform or conduct HIV  
25 sampling shall provide consultation with the  
26 subject prior to taking the specimen and during  
27 the reporting of the test results and shall  
28 report to the department of health and senior  
29 services the identity of any individual  
30 confirmed to be infected with HIV.]

1 [191.656. 1. (1) All information known  
2 to, and records containing any information held  
3 or maintained by, any person, or by any agency,  
4 department, or political subdivision of the  
5 state concerning an individual's HIV infection

6 status or the results of any individual's HIV  
7 testing shall be strictly confidential and shall  
8 not be disclosed except to:

9 (a) Public employees within the agency,  
10 department, or political subdivision who need to  
11 know to perform their public duties;

12 (b) Public employees of other agencies,  
13 departments, or political subdivisions who need  
14 to know to perform their public duties;

15 (c) Peace officers, as defined in section  
16 590.100, the attorney general or any assistant  
17 attorneys general acting on his or her behalf,  
18 as defined in chapter 27, and prosecuting  
19 attorneys or circuit attorneys as defined in  
20 chapter 56 and pursuant to section 191.657;

21 (d) Prosecuting attorneys or circuit  
22 attorneys as defined in chapter 56 to prosecute  
23 cases pursuant to section 191.677 or 567.020.

24 Prosecuting attorneys or circuit attorneys may  
25 obtain from the department of health and senior  
26 services the contact information and test  
27 results of individuals with whom the HIV-  
28 infected individual has had sexual intercourse  
29 or deviate sexual intercourse. Any prosecuting  
30 attorney or circuit attorney who receives  
31 information from the department of health and  
32 senior services pursuant to the provisions of  
33 this section shall use such information only for  
34 investigative and prosecutorial purposes and  
35 such information shall be considered strictly  
36 confidential and shall only be released as  
37 authorized by this section;

38 (e) Persons other than public employees who  
39 are entrusted with the regular care of those  
40 under the care and custody of a state agency,  
41 including but not limited to operators of day  
42 care facilities, group homes, residential care  
43 facilities and adoptive or foster parents;

44 (f) As authorized by subsection 2 of this  
45 section;

46 (g) Victims of any sexual offense defined  
47 in chapter 566, which includes sexual  
48 intercourse or deviate sexual intercourse, as an  
49 element of the crime or to a victim of a section

50 545.940 offense, in which the court, for good  
51 cause shown, orders the defendant to be tested  
52 for HIV, hepatitis B, hepatitis C, syphilis,  
53 gonorrhea, or chlamydia, once the charge is  
54 filed. Prosecuting attorneys or circuit  
55 attorneys, or the department of health and  
56 senior services may release information to such  
57 victims;

58 (h) Any individual who has tested positive  
59 or false positive to HIV, hepatitis B, hepatitis  
60 C, syphilis, gonorrhea, or chlamydia, may  
61 request copies of any and all test results  
62 relating to said infections.

63 (2) Further disclosure by public employees  
64 shall be governed by subsections 2 and 3 of this  
65 section;

66 (3) Disclosure by a public employee or any  
67 other person in violation of this section may be  
68 subject to civil actions brought under  
69 subsection 6 of this section, unless otherwise  
70 required by chapter 330, 332, 334, or 335,  
71 pursuant to discipline taken by a state  
72 licensing board.

73 2. (1) Unless the person acted in bad  
74 faith or with conscious disregard, no person  
75 shall be liable for violating any duty or right  
76 of confidentiality established by law for  
77 disclosing the results of an individual's HIV  
78 testing:

79 (a) To the department of health and senior  
80 services;

81 (b) To health care personnel working  
82 directly with the infected individual who have a  
83 reasonable need to know the results for the  
84 purpose of providing direct patient health care;

85 (c) Pursuant to the written authorization  
86 of the subject of the test result or results;

87 (d) To the spouse of the subject of the  
88 test result or results;

89 (e) To the subject of the test result or  
90 results;

91 (f) To the parent or legal guardian or  
92 custodian of the subject of the testing, if he  
93 is an unemancipated minor;

(g) To the victim of any sexual offense defined in chapter 566, which includes sexual intercourse or deviate sexual intercourse, as an element of the crime or to a victim of a section 545.940 offense, in which the court, for good cause shown, orders the defendant to be tested for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, or chlamydia, once the charge is filed;

(h) To employees of a state licensing board in the execution of their duties under chapter 330, 332, 334, or 335 pursuant to discipline taken by a state licensing board; The department of health and senior services and its employees shall not be held liable for disclosing an HIV-infected person's HIV status to individuals with whom that person had sexual intercourse or deviate sexual intercourse;

(2) Paragraphs (b) and (d) of subdivision (1) of this subsection shall not be construed in any court to impose any duty on a person to disclose the results of an individual's HIV testing to a spouse or health care professional or other potentially exposed person, parent or guardian;

(3) No person to whom the results of an individual's HIV testing has been disclosed pursuant to paragraphs (b) and (c) of subdivision (1) of this subsection shall further disclose such results; except that prosecuting attorneys or circuit attorneys may disclose such information to defense attorneys defending actions pursuant to section 191.677 or 567.020 under the rules of discovery, or jurors or court personnel hearing cases pursuant to section 191.677 or 567.020. Such information shall not be used or disclosed for any other purpose;

(4) When the results of HIV testing, disclosed pursuant to paragraph (b) of subdivision (1) of this subsection, are included in the medical record of the patient who is subject to the test, the inclusion is not a disclosure for purposes of such paragraph so long as such medical record is afforded the same

138 confidentiality protection afforded other  
139 medical records.

140 3. All communications between the subject  
141 of HIV testing and a physician, hospital, or  
142 other person authorized by the department of  
143 health and senior services who performs or  
144 conducts HIV sampling shall be privileged  
145 communications.

146 4. The identity of any individual  
147 participating in a research project approved by  
148 an institutional review board shall not be  
149 reported to the department of health and senior  
150 services by the physician conducting the  
151 research project.

152 5. The subject of HIV testing who is found  
153 to have HIV infection and is aware of his or her  
154 HIV status shall disclose such information to  
155 any health care professional from whom such  
156 person receives health care services. Said  
157 notification shall be made prior to receiving  
158 services from such health care professional if  
159 the HIV-infected person is medically capable of  
160 conveying that information or as soon as he or  
161 she becomes capable of conveying that  
162 information.

163 6. Any individual aggrieved by a violation  
164 of this section or regulations promulgated by  
165 the department of health and senior services may  
166 bring a civil action for damages. If it is  
167 found in a civil action that:

168 (1) A person has negligently violated this  
169 section, the person is liable, for each  
170 violation, for:

171 (a) The greater of actual damages or  
172 liquidated damages of one thousand dollars; and  
173 (b) Court costs and reasonable attorney's  
174 fees incurred by the person bringing the action;  
175 and

176 (c) Such other relief, including  
177 injunctive relief, as the court may deem  
178 appropriate; or

179 (2) A person has willfully or  
180 intentionally or recklessly violated this

181 section, the person is liable, for each  
182 violation, for:  
183 (a) The greater of actual damages or  
184 liquidated damages of five thousand dollars; and  
185 (b) Exemplary damages; and  
186 (c) Court costs and reasonable attorney's  
187 fees incurred by the person bringing the action;  
188 and  
189 (d) Such other relief, including  
190 injunctive relief, as the court may deem  
191 appropriate.

192 7. No civil liability shall accrue to any  
193 health care provider as a result of making a  
194 good faith report to the department of health  
195 and senior services about a person reasonably  
196 believed to be infected with HIV, or cooperating  
197 in good faith with the department in an  
198 investigation determining whether a court order  
199 directing an individual to undergo HIV testing  
200 will be sought, or in participating in good  
201 faith in any judicial proceeding resulting from  
202 such a report or investigations; and any person  
203 making such a report, or cooperating with such  
204 an investigation or participating in such a  
205 judicial proceeding, shall be immune from civil  
206 liability as a result of such actions so long as  
207 taken in good faith.]

2 [191.657. 1. No court shall issue an  
3 order for the disclosure of confidential HIV-  
4 related information, except a court of record of  
5 competent jurisdiction in accordance with the  
provisions of this section.

6 2. Pursuant to section 191.656, a court  
7 may grant an order for disclosure of  
8 confidential HIV-related information to peace  
9 officers, the attorney general or any assistant  
10 attorneys general acting on his or her behalf,  
11 and prosecuting attorneys upon an application  
12 showing:

13 (1) A compelling need for disclosure of  
14 the information for the adjudication of a  
15 criminal or civil proceeding;

(2) A clear and imminent danger to an individual whose life or health may unknowingly be at significant risk as a result of contact with the individual to whom the information pertains;

(3) Upon application of a state, county or local health officer, a clear and imminent danger to the public health; or

(4) That the applicant is lawfully entitled to the disclosure and the disclosure is consistent with the provisions of this section.

3. Upon receiving an application for an order authorizing disclosure pursuant to this section, the court shall enter an order directing that all pleadings, papers, affidavits, judgments, orders of the court, briefs and memoranda of law which are part of the application or the decision thereon, be sealed and not made available to any person, except to the extent necessary to conduct any proceedings in connection with the determination of whether to grant or deny the application, including any appeal. Such an order shall further direct that all subsequent proceedings in connection with the application shall be conducted in camera, and, where appropriate to prevent the unauthorized disclosure of confidential HIV-related information, that any pleadings, papers, affidavits, judgments, orders of the court, briefs and memoranda of law which are part of the application or the decision thereon not state the name of the individual concerning whom confidential HIV-related information is sought.

4. (1) The individual concerning whom confidential HIV-related information is sought and any person holding records concerning confidential HIV-related information from whom disclosure is sought shall be given adequate notice of such application in a manner which will not disclose to any other person the identity of the individual, and shall be afforded an opportunity to file a written response to the application, or to appear in

60 person for the limited purpose of providing  
61 evidence on the statutory criteria for the  
62 issuance of an order pursuant to this section.

63 (2) The court may grant an order without  
64 such notice and opportunity to be heard, where  
65 an ex parte application by a state, county, or  
66 local health officer shows that a clear and  
67 imminent danger to an individual, whose life or  
68 health may unknowingly be at risk, requires an  
69 immediate order.

70 (3) Service of a subpoena shall not be  
71 subject to this subdivision.

72 5. In assessing compelling need and clear  
73 and imminent danger, the court shall provide  
74 written findings of fact, including scientific  
75 or medical findings, citing specific evidence in  
76 the record which supports each finding, and  
77 shall weigh the need for disclosure against the  
78 privacy interest of the protected individual and  
79 the public interest which may be disserved by  
80 disclosure which deters future testing or  
81 treatment or which may lead to discrimination.

82 6. An order authorizing disclosure of  
83 confidential HIV-related information shall:

84 (1) Limit disclosure to that information  
85 which is necessary to fulfill the purpose for  
86 which the order is granted; and

87 (2) Limit disclosure to those persons  
88 whose need for the information is the basis for  
89 the order, and specifically prohibit  
90 redisclosure by such persons to any other  
91 persons, whether or not they are parties to the  
92 action; and

93 (3) To the extent possible consistent with  
94 this section, conform to the provisions of this  
95 section; and

96 (4) Include such other measures as the  
97 court deems necessary to limit any disclosures  
98 not authorized by its order.]

2 [191.658. 1. As used in this section, the  
3 following terms shall mean:  
4 (1) "Disclose", to disclose, release,  
transfer, disseminate or otherwise communicate

5 all or any part of any record orally, in writing  
6 or by electronic means to any person or entity;

7 (2) "Health care practitioner", any  
8 licensed physician, nurse practitioner or  
9 physician's assistant;

10 (3) "HIV", the human immunodeficiency  
11 virus that causes acquired immunodeficiency  
12 syndrome;

13 (4) "HIV infection", the pathological  
14 state of the human body in response to HIV;

15 (5) "Medically significant exposure", a  
16 puncture through or laceration of the skin, or  
17 contact of mucous membrane or nonintact skin  
18 with blood, tissue, wound exudate or other body  
19 fluids, including semen, vaginal secretions,  
20 cerebrospinal fluid, synovial fluid, pleural  
21 fluid, peritoneal fluid, pericardial fluid,  
22 amniotic fluid or any body fluid containing  
23 visible blood, or contact of intact skin with  
24 any such body fluids when the duration of  
25 contact is prolonged or involves an extensive  
26 area of skin;

27 (6) "Person", private individuals, private  
28 or public bodies politic, and corporations,  
29 partnerships, trusts, and unincorporated  
30 associations and their officers, directors,  
31 agents or employees;

32 (7) "Source individual", the person who is  
33 the source of the blood or other body fluids to  
34 which medically significant exposure occurred.

35 2. A health care practitioner providing  
36 medical treatment for a health care worker or  
37 law enforcement officer because of a medically  
38 significant exposure to blood or other body  
39 fluids that occurred in the course of the  
40 worker's or officer's employment may request  
41 from the department of health and senior  
42 services information regarding the HIV infection  
43 status of the source individual. The department  
44 of health and senior services may disclose to  
45 the health care practitioner the HIV infection  
46 status of the source individual if such  
47 information is on file with the department.

48                   3. The health care practitioner shall  
49 disclose the HIV infection status of the source  
50 individual to the exposed health care worker or  
51 law enforcement officer if, in the professional  
52 judgment of the health care practitioner, such  
53 disclosure is necessary to assure adherence to a  
54 prescribed treatment regimen.

55                   4. No person to whom information about an  
56 individual's HIV infection has been disclosed  
57 pursuant to this section shall further disclose  
58 such results.

59                   5. Any person who knowingly releases  
60 information in violation of this section is  
61 guilty of a class A misdemeanor.]

1                   [191.659. 1. Except as provided in  
2 subsection 2 of this section, all individuals  
3 who are delivered to the department of  
4 corrections and all individuals who are released  
5 or discharged from any correctional facility  
6 operated by the department of corrections,  
7 before such individuals are released or  
8 discharged, shall undergo HIV and tuberculosis  
9 testing without the right of refusal. In  
10 addition, the department of corrections may  
11 perform or conduct infectious disease testing on  
12 offenders without the right of refusal.

13                   2. The department of corrections shall not  
14 perform HIV testing on an individual delivered  
15 to the department if similar HIV testing has  
16 been performed on the individual subsequent to  
17 trial and if the department is able to obtain  
18 the results of the prior HIV test.

19                   3. The department shall inform the victim  
20 of any sexual offense defined in chapter 566,  
21 which includes sexual intercourse or deviate  
22 sexual intercourse as an element of the crime,  
23 of any confirmed positive results of HIV testing  
24 performed on an offender within the custody of  
25 the department. If the victim is an  
26 unemancipated minor, the department shall also  
27 inform the minor's parents or custodian, if any.]

2 [191.662. 1. The department of mental  
3 health may perform or conduct HIV testing or HIV  
4 sampling without the right of refusal on:

5 (1) Any individual participating in a  
6 methadone treatment program for the treatment of  
7 intravenous drug abuse and who has refused to  
8 undergo such testing whenever there are  
9 reasonable grounds to believe that the  
10 individual is infected with HIV and is a  
reasonable health threat to others;

11 (2) Any individual under the care and  
12 custody of the department of mental health who  
13 has refused to undergo testing whenever there  
14 are reasonable grounds to believe that the  
15 individual is infected with HIV and is a  
16 reasonable health threat to others, unless such  
17 testing is otherwise prohibited by law.

18 2. The department of mental health shall  
19 not report to the department of health and  
20 senior services the identity of any individual  
21 for whom HIV testing pursuant to this section  
22 confirms HIV infection if such reporting is  
23 prohibited by federal law or regulation.]

2 [191.671. 1. No other section of this act  
3 shall apply to any insurer, health services  
4 corporation, or health maintenance organization  
5 licensed by the department of commerce and  
6 insurance which conducts HIV testing only for  
7 the purposes of assessing a person's fitness for  
8 insurance coverage offered by such insurer,  
9 health services corporation, or health  
10 maintenance corporation, except that nothing in  
11 this section shall be construed to exempt any  
12 insurer, health services corporation or health  
13 maintenance organization in their capacity as  
14 employers from the provisions of section 191.665  
relating to employment practices.

15 2. Upon renewal of any individual or group  
16 insurance policy, subscriber contractor health  
17 maintenance organization contract covering  
18 medical expenses, no insurer, health services  
19 corporation or health maintenance organization  
20 shall deny or alter coverage to any previously

21 covered individual who has been diagnosed as  
22 having HIV infection or any HIV-related  
23 condition during the previous policy or contract  
24 period only because of such diagnosis, nor shall  
25 any such insurer, health services corporation or  
26 health maintenance organization exclude coverage  
27 for treatment of such infection or condition  
28 with respect to any such individual.

29       3. The director of the department of  
30 commerce and insurance shall establish by  
31 regulation standards for the use of HIV testing  
32 by insurers, health services corporations and  
33 health maintenance organizations.

34       4. A laboratory certified by the U.S.  
35 Department of Health and Human Services under  
36 the Clinical Laboratory Improvement Act of 1967,  
37 permitting testing of specimens obtained in  
38 interstate commerce, and which subjects itself  
39 to ongoing proficiency testing by the College of  
40 American Pathologists, the American Association  
41 of Bio Analysts, or an equivalent program  
42 approved by the Centers for Disease Control  
43 shall be authorized to perform or conduct HIV  
44 testing for an insurer, health services  
45 corporation or health maintenance organization  
46 pursuant to this section.

47       5. The result or results of HIV testing of  
48 an applicant for insurance coverage shall not be  
49 disclosed by an insurer, health services  
50 corporation or health maintenance organization,  
51 except as specifically authorized by such  
52 applicant in writing. Such result or results  
53 shall, however, be disclosed to a physician  
54 designated by the subject of the test. If there  
55 is no physician designated, the insurer, health  
56 services corporation, or health maintenance  
57 organization shall disclose the identity of  
58 individuals residing in Missouri having a  
59 confirmed positive HIV test result to the  
60 department of health and senior services.  
61 Provided, further, that no such insurer, health  
62 services corporation or health maintenance  
63 organization shall be liable for violating any  
64 duty or right of confidentiality established by

65 law for disclosing such identity of individuals  
66 having a confirmed positive HIV test result to  
67 the department of health and senior services.  
68 Such disclosure shall be in a manner that  
69 ensures confidentiality. Disclosure of test  
70 results in violation of this section shall  
71 constitute a violation of sections 375.930 to  
72 375.948 regulating trade practices in the  
73 business of insurance. Nothing in this  
74 subsection shall be construed to foreclose any  
75 remedies existing on June 1, 1988.]

191.674. 1. The department of health and  
2 senior services may seek in its own name in a  
3 court of competent jurisdiction a court order  
4 directing an individual to undergo HIV testing  
5 without the right of refusal after reasonable  
6 efforts have been made by the department to  
7 obtain informed consent to HIV testing. The  
8 court shall grant such order whenever there are  
9 reasonable grounds to believe that an individual  
10 is infected with HIV and there is clear and  
11 convincing evidence of a serious and present  
12 health threat to others posed by the individual  
13 if infected.

14 2. The record of any suit filed pursuant  
15 to this section shall be closed to the public  
16 and, at the request of the individual, any  
17 hearing shall be held in camera.]

191.680. 1. Any person who shall erect,  
2 establish, continue, maintain, use, own, or  
3 lease any building, structure, or place used for  
4 the purpose of lewdness, assignation, or illegal  
5 purpose involving sexual or other contact  
6 through which transmission of HIV infection can  
7 occur is guilty of maintaining a nuisance.

8 2. The building, structure, or place, or  
9 the ground itself, in or upon which any such  
10 lewdness, assignation, or illegal purpose is  
11 conducted, permitted, carried on, continued, or  
12 exists, and the furniture, fixtures, musical  
13 instruments, and movable property used in  
14 conducting or maintaining such nuisance, are  
15 hereby declared to be a nuisance and shall be

16 enjoined and abated as provided in subsection 3  
17 of this section.

18       3. If the existence of a nuisance is  
19 admitted or established in an action pursuant to  
20 this section or in a criminal proceeding in any  
21 court, an order of abatement shall be entered as  
22 part of the judgment in the case. The order  
23 shall direct the effectual closing of the  
24 business for any purpose, and so keeping it  
25 closed for a period of one year.

26       4. The department of health and senior  
27 services, a county prosecutor, or a circuit  
28 attorney shall file suit in its own name in any  
29 court of competent jurisdiction to enforce the  
30 provisions of this section.]

2       [191.683. The department of health and  
3 senior services shall regularly report to the  
4 appropriate committees of both houses of the  
general assembly:

5       (1) The number of individuals with HIV  
6 infection for whom a health care plan has been  
7 developed detailing the form and impact of such  
8 health care plans in a manner that does not  
9 identify or provide identifying characteristics  
10 of an individual infected with HIV;

11       (2) The nature and extent to which the  
12 department has utilized judicial proceedings in  
13 a manner that does not identify or provide  
14 identifying characteristics of any individual  
15 subject to such proceedings;

16       (3) The form and extent of the handling of  
17 federal funds available to the department of  
18 health and senior services for disbursement;

19       (4) The form and extent of programs and  
20 efforts funded by state funds; and

21       (5) Any other information such committees  
22 shall seek.]

2       [191.689. 1. Only after a school has  
3 adopted a policy consistent with recommendations  
4 of the Centers for Disease Control on school  
5 children who test positive for HIV shall the  
6 department of health and senior services give  
prompt and confidential notice of the identity

7 of any child reported to the department to have  
8 HIV infection and the parent or guardian of any  
9 child confirmed by the department of health and  
10 senior services standards to have HIV infection  
11 shall also give prompt and confidential notice  
12 of the identity of such child to the  
13 superintendent of the school district in which  
14 the child resides, and if the child attends a  
15 nonpublic elementary or secondary school, to the  
16 chief administrative officer of such school.

17 2. The superintendent or chief  
18 administrative officer may disclose the identity  
19 of an infected child to those persons:

20 (1) Who are designated by the school  
21 district to determine the fitness of an  
22 individual to attend school; and

23 (2) Who have a reasonable need to know the  
24 identity of the child in order to provide proper  
25 health care.]

1 [191.692. The department of health and  
2 senior services may promulgate rules providing  
3 for mandatory premarital HIV testing if the  
4 Centers for Disease Control so indicates.]

5 [545.940. 1. Pursuant to a motion filed  
6 by the prosecuting attorney or circuit attorney  
7 with notice given to the defense attorney and  
8 for good cause shown, in any criminal case in  
9 which a defendant has been charged by the  
10 prosecuting attorney's office or circuit  
11 attorney's office with any offense under chapter  
12 566 or section 565.050, assault in the first  
13 degree; section 565.052 or 565.060, assault in  
14 the second degree; section 565.054 or 565.070,  
15 assault in the third degree; section 565.056,  
16 assault in the fourth degree; section 565.072,  
17 domestic assault in the first degree; section  
18 565.073, domestic assault in the second degree;  
19 section 565.074, domestic assault in the third  
20 degree; section 565.075, assault while on school  
property; section 565.076, domestic assault in  
the fourth degree; section 565.081, 565.082, or  
565.083, assault of a law enforcement officer,  
corrections officer, emergency personnel,

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

46 2. As used in this section, "HIV" means  
47 the human immunodeficiency virus that causes  
48 acquired immunodeficiency syndrome.]

2 [567.120. Any person arrested for a  
3 prostitution-related offense, who has been found  
4 guilty of a prior prostitution-related offense,  
5 may, within the sound discretion of the court,  
6 be required to undergo HIV testing as a  
7 condition precedent to the issuance of bond for  
the offense.]

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