

FIRST REGULAR SESSION

# SENATE BILL NO. 158

90TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS SINGLETON AND SCHNEIDER.

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S0641.011

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal section 191.659, RSMo 1994, and section 191.663, RSMo Supp. 1998, relating to certain medical conditions, and to enact in lieu thereof two new sections relating to the same subject.

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

Section A. Section 191.659, RSMo 1994, and section 191.663, RSMo Supp. 1998, are repealed and two new sections enacted in lieu thereof, to be known as sections 191.659 and 191.663, to read as follows:

191.659. 1. Except as provided in subsection 2 of this section, all individuals who are delivered to the department of corrections and all individuals who are released or discharged from any correctional facility operated by the department of corrections, before such individuals are released or discharged, shall undergo HIV testing without the right of refusal. In addition, the department of corrections may perform or conduct HIV testing on all individuals required to undergo annual or biannual physical examinations by the department of corrections at the time of such examinations.

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

3. The department shall inform the victim of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse as an element of the crime, of any confirmed positive results of HIV testing on an offender within the custody of the department. **If the victim is an unemancipated minor, the department shall also inform the minor's parents or custodian, if any.**

191.663. 1. As used in this section and section 191.659, the term "HIV testing" means

serological test or other test upon a biological specimen to determine the presence of the human immunodeficiency virus that causes acquired immunodeficiency syndrome or its antibodies in the specimen.

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

3. Costs of such HIV testing shall be taxed to the defendant as costs in the criminal proceeding. Such testing costs may be retained by the court from the bond filed by the defendant under subsection 4 of this section. Costs of such HIV testing for juveniles may be collected as provided for in section 211.281, RSMo.

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

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

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