

FIRST REGULAR SESSION

SENATE BILL NO. 236

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

Read 1st time January 10, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1323S.011

AN ACT

To repeal section 544.193, RSMo, and to enact in lieu thereof one new section relating to body cavity searches.

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

Section A. Section 544.193, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 544.193, to read as follows:

544.193. 1. As used in sections 544.193 to 544.197:

2 (1) "Body cavity search" means the inspection of a person's anus or
3 genitalia, including but not limited to inspections conducted visually, manually
4 or by means of any physical instrument.

5 (2) "Strip search" means the removal or rearrangement of some or all of
6 the clothing of a person so as to permit an inspection of the genitals, buttocks,
7 anus, breasts or undergarments of such person, including but not limited to
8 inspections conducted visually, manually or by means of any physical instrument.

9 2. No person arrested or detained for a traffic offense or an offense which
10 does not constitute a felony may be subject to a strip search or a body cavity
11 search by any law enforcement officer or employee unless there is probable cause
12 to believe that such person is concealing a weapon, evidence of the commission
13 of a crime or contraband.

14 3. All strip searches and body cavity searches conducted by law
15 enforcement officers or employees in this state shall be performed by persons of
16 the same sex as the person being searched, and shall be conducted on premises
17 where the search cannot be observed by any person other than the persons
18 physically conducting the search, except that nothing herein shall be interpreted
19 to prohibit a readily available person from being present at the request and
20 consent of the person being searched.

21 4. A body cavity search of any person detained or arrested for a traffic
22 offense or an offense which does not constitute a felony may only be conducted
23 pursuant to a duly executed search warrant, under sanitary conditions and by a
24 physician, registered nurse or practical nurse, licensed to practice in this state.

25 5. Every law enforcement officer or employee conducting a strip search or
26 body cavity search shall:

27 (1) Obtain the written permission of the person in command of the law
28 enforcement agency in which the strip search or body cavity search is to be
29 conducted authorizing the strip search or body cavity search; and

30 (2) Prepare a report regarding the strip search or body cavity search. The
31 report shall include:

32 (a) The written permission required in subdivision (1) above;

33 (b) The name of the person searched;

34 (c) The name of the persons conducting the search;

35 (d) The time, date and place of the search.

36 A copy of the report shall be furnished to the person who was searched.

37 **6. No person who administers any body cavity search pursuant**
38 **to this section or any other lawfully conducted body cavity search upon**
39 **the request of a law enforcement officer, no hospital in or with which**
40 **such person is employed or is otherwise associated or in which such**
41 **body cavity search is conducted, and no other person, firm, or**
42 **corporation by whom or with which such person is employed or is in**
43 **any way associated, shall be civilly liable in damages to the person**
44 **whose body cavity was searched unless for gross negligence, a willful**
45 **or wanton act, or omission.**

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