

SENATE BILL NO. 65

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR REHDER.

0507S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

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

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

Section A. Sections 191.677, 575.155, and 575.157, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 191.677, 575.155, and 575.157, to read as follows:

191.677. 1. It shall be unlawful for any individual knowingly infected with **[HIV] a serious infectious or communicable disease** to:

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

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

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

(b) By the sharing of needles; or

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

16 (c) By biting another person or purposely acting in
17 any other manner which causes the HIV-infected person's
18 semen, vaginal secretions, or blood to come into contact
19 with the mucous membranes or nonintact skin of another
20 person.

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

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

33 b. The HIV-infected person has subsequently been
34 infected with and tested positive to primary and secondary
35 syphilis, or gonorrhea, or chlamydia; or

36 c. Another person provides evidence of sexual contact
37 with the HIV-infected person after a diagnosis of an HIV
38 status] **a serious infectious or communicable disease through**
39 **an activity that creates a substantial risk of disease**
40 **transmission as determined by competent medical or**
41 **epidemiological evidence; or**

42 (3) **Act in a reckless manner by exposing another**
43 **person to a serious infectious or communicable disease**
44 **through an activity that creates a substantial risk of**
45 **disease transmission as determined by competent medical or**
46 **epidemiological evidence.**

47 2. **For the purposes of this section and sections**
48 **575.155 and 575.157, the term "serious infectious or**
49 **communicable disease" means a nonairborne disease spread**
50 **from person to person that is fatal or causes disabling long-**
51 **term consequences in the absence of lifelong treatment and**
52 **management.** Violation of the provisions of subdivision (1)
53 or (2) of subsection 1 of this section is a class [B] D
54 felony unless the victim contracts [HIV] **a serious**
55 **infectious or communicable disease** from the contact, in
56 which case it is a class [A] C felony, **and violation of the**
57 **provisions of subdivision (3) of subsection 1 of this**
58 **section is a class A misdemeanor.**

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

74 4. The use of condoms is not a defense to a violation
75 of paragraph (a) of subdivision (2) of subsection 1 of this
76 section] **It is an affirmative defense to a charge under this**
77 **section if the person exposed to the serious infectious or**
78 **communicable disease knew that the infected person was**

79 infected with the serious infectious or communicable disease
80 at the time of the exposure and consented to the exposure
81 with such knowledge.

82 4. For the purposes of this section:

83 (1) When alleging a violation of this section, the
84 prosecuting attorney, circuit attorney, or the grand jury
85 shall substitute a pseudonym for the true name of the person
86 exposed to a serious infectious or communicable disease.
87 The actual name and other identifying characteristics of the
88 person exposed shall be revealed to the court only in camera
89 unless the person exposed requests otherwise, and the court
90 shall seal the information from further disclosure, except
91 by counsel as part of discovery;

92 (2) Unless the person exposed requests otherwise, all
93 court decisions, orders, pleadings, and other documents,
94 including motions and papers filed by the parties, shall be
95 worded so as to protect the name or other identifying
96 characteristics of the exposed person from public disclosure;

97 (3) Unless the person exposed requests otherwise, a
98 court in which a violation of this section is filed shall
99 issue an order that prohibits counsel and their agents, law
100 enforcement personnel, and court staff from making a public
101 disclosure of the name or any other identifying
102 characteristics of the person exposed;

103 (4) Unless the defendant requests otherwise, a court
104 in which a violation of this section is filed shall issue an
105 order that prohibits counsel and their agents, law
106 enforcement personnel, and court staff, before a finding of
107 guilt, from making a public disclosure of the name or any
108 other identifying characteristics of the defendant. In any
109 public disclosure before a finding of guilt, a pseudonym
110 shall be substituted for the true name of the defendant;

111 (5) Before sentencing, a defendant shall be assessed
112 for placement in one or more community-based programs that
113 provide counseling, supervision, and education and that
114 offer reasonable opportunity for the defendant to provide
115 redress to the exposed person;

116 (6) "Identifying characteristics" includes, but is not
117 limited to, the name or any part of the name, address or any
118 part of the address, city or unincorporated area of
119 residence, age, marital status, place of employment, or race
120 or ethnic background of the defendant or the person exposed,
121 or the relationship between the defendant and the person
122 exposed.

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] **a bodily**
7 **fluid that has been scientifically shown to be a known means**
8 **of transmission of a serious infectious or communicable**
9 **disease.**

10 2. For the purposes of this section, the following
11 terms mean:

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

19 (2) "Offender", a person in the custody of the
20 department of corrections;

21 (3) "Prisoner", a person confined in a county or city
22 jail.

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

9 2. For purposes of this section, the following terms
10 mean:

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

17 (2) "Offender", persons ordered to the department of
18 mental health after a determination by the court that such
19 persons may meet the definition of a sexually violent
20 predator, persons ordered to the department of mental health
21 after a finding of probable cause under section 632.489, and
22 persons committed for control, care, and treatment by the
23 department of mental health under sections 632.480 to
24 632.513;

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

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] a
35 **serious infectious or communicable disease** by committing the
36 offense of endangering a department of mental health
37 employee, a visitor or other person at a mental health
38 facility, or another offender, the offense is a class D
39 felony.

✓