

FIRST REGULAR SESSION

HOUSE BILL NO. 339

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES EL-AMIN, (Sponsor), JONES (63), SCHAAF, COLONA,
McGHEE, LOW, BROWN (50), PACE, ROORDA, CARTER AND WEBB (Co-sponsors).

0932L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 217, RSMo, by adding thereto four new sections relating to the stop HIV/AIDS in prison act.

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

Section A. Chapter 217, RSMo, is amended by adding thereto four new sections, to be
2 known as sections 217.625, 217.628, 217.631, and 217.634, to read as follows:

217.625. 1. Sections 217.625 to 217.634 shall be known and may be cited as the
2 "Stop HIV/AIDS in Prison Act of 2009".

3 2. As used in sections 217.625 to 217.634, the following terms shall mean:

4 (1) "AIDS", acquired immunodeficiency syndrome;

5 (2) "Department", the department of corrections;

6 (3) "HIV", the human immunodeficiency virus that causes acquired
7 immunodeficiency syndrome (AIDS);

8 (4) "HIV/AIDS testing", performing a serological test or other tests upon a
9 biological specimen to determine the presence of HIV or its antibodies in the specimen
10 following HIV sampling.

217.628. 1. The department of corrections shall develop a comprehensive policy to
2 provide HIV testing, treatment, and prevention for inmates within the state correctional
3 setting and upon reentry.

4 2. The department shall consult with appropriate officials within the department
5 of health and senior services regarding the development of this policy.

6 3. The policy developed under this section shall include all of the following:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended
to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 (1) Testing and counseling upon intake. Medical personnel shall provide routine
8 HIV testing to all inmates as a part of a comprehensive medical examination immediately
9 following admission to a facility. For inmates admitted to a facility prior to the effective
10 date of this policy, medical personnel shall provide routine HIV testing within no more
11 than six months. HIV testing for such inmates may be performed in conjunction with
12 other health services provided to such inmates by medical personnel;

13 (2) Pretest and post-test counseling. Medical personnel shall provide confidential
14 pretest and post-test counseling to all inmates who are tested for HIV. Counseling may be
15 included with other general health counseling provided to inmates by medical personnel;

16 (3) HIV/AIDS prevention education.

17 (a) Medical personnel shall improve HIV/AIDS awareness through frequent
18 educational programs for all inmates. HIV/AIDS educational programs may be provided
19 by community-based organizations, local health departments, and inmate peer educators.
20 Such programs shall include information on modes of transmission, including transmission
21 through tattooing, sexual contact, and intravenous drug use; prevention methods;
22 treatment; and disease progression. Such programs shall be culturally sensitive, conducted
23 in a variety of languages, and present scientifically accurate information in a clear and
24 understandable manner.

25 (b) HIV/AIDS educational materials shall be made available to all inmates at
26 orientation, at health care clinics, at regular educational programs, and prior to release.
27 Both written and audio-visual materials shall be made available to all inmates. Such
28 materials shall be culturally sensitive, written for low literacy levels, and available in a
29 variety of languages;

30 (4) HIV testing upon request.

31 (a) Medical personnel shall allow inmates to obtain HIV tests upon request once per
32 year or whenever an inmate has a reason to believe the inmate may have been exposed to
33 HIV. Medical personnel shall, both orally and in writing, inform inmates, during
34 orientation and periodically throughout incarceration, of their right to obtain HIV tests.

35 (b) Medical personnel shall encourage inmates to request HIV tests if the inmate
36 is sexually active, has been raped, uses intravenous drugs, receives a tattoo, or if the inmate
37 is concerned that the inmate may have been exposed to HIV/AIDS.

38 (c) An inmate's request for an HIV test shall not be considered an indication that
39 the inmate has put himself or herself at risk of infection and/or committed a violation of
40 prison rules;

41 (5) HIV testing of pregnant women. Medical personnel shall provide routine HIV
42 testing to all inmates who become pregnant;

43 **(6) Comprehensive treatment.**

44 **(a) Medical personnel shall provide all inmates who test positive for HIV:**

45 **a. Timely comprehensive medical treatment;**

46 **b. Confidential counseling on managing their medical condition and preventing its**
47 **transmission to other persons; and**

48 **c. Voluntary partner notification services.**

49 **(b) Medical care provided under this subdivision shall be consistent with current**
50 **department of health and senior services guidelines and standard medical practice.**
51 **Medical personnel shall discuss treatment options, the importance of adherence to**
52 **antiretroviral therapy, and the side effects of medications with inmates receiving**
53 **treatment.**

54 **(c) Medical and pharmacy personnel shall ensure that the facility formulary**
55 **contains all FDA-approved medications necessary to provide comprehensive treatment for**
56 **inmates living with HIV/AIDS, and the facility maintains adequate supplies of such**
57 **medications to meet inmates' medical needs. Medical and pharmacy personnel shall also**
58 **develop and implement automatic renewal systems for such medications to prevent**
59 **interruptions in care.**

60 **(d) Correctional staff and medical and pharmacy personnel shall develop and**
61 **implement distribution procedures to ensure timely and confidential access to medications;**

62 **(7) Protection of confidentiality.**

63 **(a) Medical personnel shall develop and implement procedures to ensure the**
64 **confidentiality of inmate tests, diagnoses, and treatment. Medical personnel and**
65 **correctional staff shall receive regular training on the implementation of such procedures.**
66 **Penalties for violations of inmate confidentiality by medical personnel or correctional staff**
67 **shall be specified and strictly enforced.**

68 **(b) HIV testing, counseling, and treatment shall be provided in a confidential**
69 **setting where other routine health services are provided and in a manner that allows the**
70 **inmate to request and obtain such services as routine medical services;**

71 **(8) Testing, counseling, and referral prior to reentry.**

72 **(a) Medical personnel shall provide routine HIV testing to all inmates, other than**
73 **inmates who have tested positive for HIV, no more than three months prior to their release**
74 **and reentry into the community. Such requirement may be waived if an inmate's release**
75 **occurs without sufficient notice to the department to allow medical personnel to perform**
76 **a routine HIV test and notify the inmate of the results.**

77 **(b) For all inmates who have tested positive for HIV and all inmates who already**
78 **are known to have HIV/AIDS, medical personnel shall provide:**

79 a. Confidential prerelease counseling on managing their medical condition in the
80 community, assessing appropriate treatment and services in the community, and
81 preventing the transmission of their condition to family members and other persons in the
82 community;

83 b. Referrals to appropriate health care providers and social service agencies in the
84 community that meet the inmate's individual needs, including voluntary partner
85 notification services and prevention counseling services for persons living with HIV/AIDS;
86 and

87 c. A thirty-day supply of any medically necessary medications the inmate is
88 currently receiving;

89 (9) Opt-out provision. Except as provided for in section 191.659, RSMo, inmates
90 shall have the right to refuse routine HIV testing. Inmates shall be informed both orally
91 and in writing of such right. Oral and written disclosure of such right may be included
92 with other general health information and counseling provided to inmates by medical
93 personnel. If an inmate refuses a routine test for HIV, medical personnel shall take note
94 of the inmate's refusal in the inmate's confidential medical records. However, the inmate's
95 refusal shall not be considered a violation of prison rules or result in disciplinary action;

96 (10) Exposure incident testing. The department may perform HIV testing of an
97 inmate who is involved in an exposure incident. For purposes of this subdivision, exposure
98 incident means a possible transmission of HIV, whether intentional or unintentional, to any
99 medical personnel, correctional staff, or other inmate. Such testing is not routine HIV
100 testing for purposes of subdivision (9) of this subsection and does not require the inmate's
101 consent. Medical personnel shall document the reason for exposure incident testing in the
102 inmate's confidential medical records; and

103 (11) Timely notification of test results. Medical personnel shall provide timely
104 notification to inmates of the results of HIV tests.

217.631. The department shall promulgate rules to implement the provisions of
2 sections 217.625 to 217.634. Any rule or portion of a rule, as that term is defined in section
3 536.010, RSMo, that is created under the authority delegated in sections 217.625 to 217.634
4 shall become effective only if it complies with and is subject to all of the provisions of
5 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 217.625 to 217.634
6 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general
7 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
8 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
9 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
10 invalid and void.

217.634. By February 1, 2011, and annually thereafter, the department shall
2 provide a report to the governor and general assembly on department policies and
3 procedures to provide testing, treatment, and prevention education programs for
4 HIV/AIDS and the incidence among inmates of HIV/AIDS. Such report shall include, but
5 not be limited to:

- 6 (1) The number of inmates who tested positive for HIV upon intake;
- 7 (2) The number of inmates who tested positive prior to reentry;
- 8 (3) The number of inmates who were not tested prior to reentry because they were
9 released without sufficient notice;
- 10 (4) The number of inmates who opted out of taking the test;
- 11 (5) The number of inmates who were tested following exposure incidents; and
- 12 (6) The number of inmates under treatment for HIV/AIDS.

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