

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 167 & 166

100TH GENERAL ASSEMBLY

0107H.03P

DANA RADEMAN MILLER, Chief Clerk

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Section A. Sections 191.677, 575.155, and 575.157, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 191.677, 575.155, and 575.157, to read as follows: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

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

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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.

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

18 ~~_____ a. The HIV-infected person knew of such infection before engaging in sexual activity~~
19 ~~with another person, sharing needles with another person, biting another person, or purposely~~
20 ~~causing his or her semen, vaginal secretions, or blood to come into contact with the mucous~~
21 ~~membranes or nonintact skin of another person, and such other person is unaware of the~~
22 ~~HIV-infected person's condition or does not consent to contact with blood, semen or vaginal fluid~~
23 ~~in the course of such activities;~~

24 ~~_____ b. The HIV-infected person has subsequently been infected with and tested positive to~~
25 ~~primary and secondary syphilis, or gonorrhea, or chlamydia; or~~

26 ~~_____ c. Another person provides evidence of sexual contact with the HIV-infected person after~~
27 ~~a diagnosis of an HIV status] a serious infectious or communicable disease through an~~
28 **activity that creates a substantial risk of disease transmission as determined by competent**
29 **medical or epidemiological evidence; or**

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

33 **2. For the purposes of this section and sections 575.155 and 575.157, the term**
34 **“serious infectious or communicable disease” shall mean a non-airborne disease spread**
35 **from person to person that is fatal or causes disabling long-term consequences in the**
36 **absence of lifelong treatment and management. Violation of the provisions of subdivision**
37 **(1) or (2) of subsection 1 of this section is a class [B] C felony unless the victim contracts [HIV]**
38 **a serious infectious or communicable disease from the contact, in which case it is a class [A]**
39 **B felony, and violation of the provisions of subdivision (3) of subsection 1 of this section is**
40 **a class D felony.**

41 **3. The department of health and senior services or local law enforcement agency, victim**
42 **or others may file a complaint with the prosecuting attorney or circuit attorney of a court of**
43 **competent jurisdiction alleging that a person has violated a provision of subsection 1 of this**
44 **section. The department of health and senior services shall assist the prosecutor or circuit**
45 **attorney in preparing such case, and upon request, turn over to peace officers, police officers, the**
46 **prosecuting attorney or circuit attorney, or the attorney general records concerning that person's**
47 **[HIV-infected] serious infectious or communicable disease status, testing information,**
48 **counseling received, and the identity and available contact information for individuals with**
49 **whom that person had sexual intercourse or deviate sexual intercourse and those individuals' test**
50 **results.**

51 4. ~~[The use of condoms is not a defense to a violation of paragraph (a) of subdivision (2)~~
52 ~~of subsection 1 of this section]~~ **It is an affirmative defense to a charge under this section if**
53 **the person exposed to the serious infectious or communicable disease knew that the**
54 **infected person was infected with the serious infectious or communicable disease at the**
55 **time of the exposure and consented to the exposure with such knowledge.**

56 5. **For the purposes of this section:**

57 (1) **When alleging a violation of this section, the prosecuting attorney or the grand**
58 **jury shall substitute a pseudonym for the true name of a person exposed. The actual name**
59 **and other identifying characteristics of a person exposed shall be revealed to the court only**
60 **in camera unless the person exposed requests otherwise, and the court shall seal the**
61 **information from further disclosure, except by counsel as part of discovery;**

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

66 (3) **Unless the person exposed requests otherwise, a court in which a violation of**
67 **this section is filed shall issue an order that prohibits counsel and their agents, law**
68 **enforcement personnel, and court staff from making a public disclosure of the name or any**
69 **other identifying characteristic of the person exposed;**

70 (4) **Unless the defendant requests otherwise, a court in which a violation of this**
71 **section is filed shall issue an order that counsel and their agents, law enforcement**
72 **personnel, and court staff, before a finding of guilt, shall not publicly disclose the name or**
73 **other identifying characteristics of the defendant. In any public disclosure, a pseudonym**
74 **shall be substituted for the true name of the defendant;**

75 (5) **For the purposes of this subsection, "identifying characteristics" includes, but**
76 **is not limited to, the name or any part of the name, address or any part of the address, city**
77 **or unincorporated area of residence, age, marital status, relationship of the defendant and**
78 **exposed person, place of employment, or race or ethnic background; and**

79 (6) **Before sentencing, a defendant shall be assessed for placement in one or more**
80 **community-based programs that provide counseling, supervision, and education and**
81 **provide reasonable redress to the exposed person or persons.**

575.155. 1. An offender or prisoner commits the offense of endangering a corrections
2 employee, a visitor to a correctional center, county or city jail, or another offender or prisoner
3 if he or she **with the intent to harm** attempts to cause or knowingly causes such person to come
4 into contact with ~~[blood, seminal fluid, urine, feces, or saliva]~~ **a bodily fluid that has been**
5 **scientifically shown to be a known means of transmission of a serious infectious or**

6 **communicable disease and there is a substantial risk of disease transmission through the**
7 **means of contact utilized.**

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

9 (1) "Corrections employee", a person who is an employee, or contracted employee of a
10 subcontractor, of a department or agency responsible for operating a jail, prison, correctional
11 facility, or sexual offender treatment center or a person who is assigned to work in a jail, prison,
12 correctional facility, or sexual offender treatment center;

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

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

15 3. The offense of endangering a corrections employee, a visitor to a correctional center,
16 county or city jail, or another offender or prisoner is a class E felony unless the substance is
17 unidentified in which case it is a class A misdemeanor. If an offender or prisoner is knowingly
18 infected with [~~the human immunodeficiency virus (HIV), hepatitis B or hepatitis C~~] **a serious**
19 **infectious or communicable disease** and exposes another person to [~~HIV or hepatitis B or~~
20 ~~hepatitis C~~] **a serious infectious or communicable disease** by committing the offense of
21 endangering a corrections employee, a visitor to a correctional center, county or city jail, or
22 another offender or prisoner, it is a class D felony.

575.157. 1. An offender commits the offense of endangering a department of mental
2 health employee, a visitor or other person at a secure facility, or another offender if he or she
3 **with the intent to harm** attempts to cause or knowingly causes such individual to come into
4 contact with [~~blood, seminal fluid, urine, feces, or saliva~~] **a bodily fluid that has been**
5 **scientifically shown to be a known means of transmission of a serious infectious or**
6 **communicable disease and there is a substantial risk of disease transmission through the**
7 **means of contact utilized.**

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

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

13 (2) "Offender", persons ordered to the department of mental health after a determination
14 by the court that such persons may meet the definition of a sexually violent predator, persons
15 ordered to the department of mental health after a finding of probable cause under section
16 632.489, and persons committed for control, care, and treatment by the department of mental
17 health under sections 632.480 to 632.513;

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

20 3. The offense of endangering a department of mental health employee, a visitor or other
21 person at a secure facility, or another offender is a class E felony. If an offender is knowingly
22 infected with [~~the human immunodeficiency virus (HIV), hepatitis B, or hepatitis C~~] **a serious**
23 **infectious or communicable disease** and exposes another individual to [~~HIV or hepatitis B or~~
24 ~~hepatitis C~~] **a serious infectious or communicable disease** by committing the offense of
25 endangering a department of mental health employee, a visitor or other person at a mental health
26 facility, or another offender, the offense is a class D felony.

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