

FIRST REGULAR SESSION

# HOUSE BILL NO. 590

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLEY (127).

1301H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

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

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Section A. Section 544.193, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 544.193, to read as follows: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

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

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

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

3. All strip searches and body cavity searches conducted by law enforcement officers or employees in this state shall be performed by persons of the same sex as the person being searched, and shall be conducted on premises where the search cannot be observed by any person other than the persons physically conducting the search, except that nothing herein shall be

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.

17 interpreted to prohibit a readily available person from being present at the request and consent  
18 of the person being searched.

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

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

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

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

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

31 (b) The name of the person searched;

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

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

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

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

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