

# HOUSE BILL NO. 1691

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REHDER.

4378H.011

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Section A. Sections 191.677, 575.155, and 575.157, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 191.677, 575.155, and 575.157, to read as follows: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 HHV shall include, but is not limited to, the following:

18 ~~\_\_\_\_\_ a. The HHV-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 ~~HHV-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 HHV-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 HHV-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" means a nonairborne disease spread from**  
35 **person to person that is fatal or causes disabling long-term consequences in the absence of**  
36 **lifelong treatment and management. Violation of the provisions of subdivision (1) or (2) of**  
37 **subsection 1 of this section is a class [B] D felony unless the victim contracts [HIV] a serious**  
38 **infectious or communicable disease from the contact, in which case it is a class [A] C felony,**  
39 **and violation of the provisions of subdivision (3) of subsection 1 of this section is a class A**  
40 **misdemeanor.**

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 ~~HHV-infected status, testing information, counseling received, and the identity and available~~  
48 ~~contact information for individuals with whom that person had sexual intercourse or deviate~~  
49 ~~sexual intercourse and those individuals' test results.~~

50 ~~\_\_\_\_\_ 4. The use of condoms is not a defense to a violation of paragraph (a) of subdivision (2)~~  
51 ~~of subsection 1 of this section]~~

52 It is an affirmative defense to a charge under this section if the person exposed to the  
53 serious infectious or communicable disease knew that the infected person was infected with  
54 the serious infectious or communicable disease at the time of the exposure and consented  
55 to the exposure with such knowledge.

56 **4. 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 the person exposed to a serious**  
59 **infectious or communicable disease. The actual name and other identifying characteristics**  
60 **of the person exposed shall be revealed to the court only in camera unless the person**  
61 **exposed requests otherwise, and the court shall seal the information from further**  
62 **disclosure, except by counsel as part of discovery;**

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

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

71 **(4) Unless the defendant requests otherwise, a court in which a violation of this**  
72 **section is filed shall issue an order that prohibits counsel and their agents, law enforcement**  
73 **personnel, and court staff, before a finding of guilt, from making a public disclosure of the**  
74 **name or any other identifying characteristics of the defendant. In any public disclosure**  
75 **before a finding of guilt, a pseudonym shall be substituted for the true name of the**  
76 **defendant;**

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

80 **(6) "Identifying characteristics" includes, but is not limited to, the name or any**  
81 **part of the name, address or any part of the address, city or unincorporated area of**  
82 **residence, age, marital status, place of employment, or race or ethnic background of the**  
83 **defendant or the person exposed, or the relationship between the defendant and the person**  
84 **exposed.**

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 attempts to cause or knowingly causes such person to come into contact with ~~blood~~;

4 ~~seminal fluid, urine, feces, or saliva~~ **a bodily fluid that has been scientifically shown to be**  
5 **a known means of transmission of a serious infectious or communicable disease.**

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

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

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

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

13 3. The offense of endangering a corrections employee, a visitor to a correctional center,  
14 county or city jail, or another offender or prisoner is a class E felony unless the substance is  
15 unidentified in which case it is a class A misdemeanor. If an offender or prisoner is knowingly  
16 infected with ~~[the human immunodeficiency virus (HIV), hepatitis B or hepatitis C]~~ **a serious**  
17 **infectious or communicable disease** and exposes another person to ~~[HIV or hepatitis B or~~  
18 ~~hepatitis C]~~ **a serious infectious or communicable disease** by committing the offense of  
19 endangering a corrections employee, a visitor to a correctional center, county or city jail, or  
20 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 attempts to cause or knowingly causes such individual to come into contact with ~~[blood, seminal~~  
4 ~~fluid, urine, feces, or saliva]~~ **a bodily fluid that has been scientifically shown to be a known**  
5 **means of transmission of a serious infectious or communicable disease.**

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

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

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

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

18 3. The offense of endangering a department of mental health employee, a visitor or other  
19 person at a secure facility, or another offender is a class E felony. If an offender is knowingly

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

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