

# Missouri

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## Analysis

### **People living with HIV (PLHIV) must disclose their HIV status to sexual partners, and condom use is not a defense.**

Missouri's HIV-exposure statute makes it a felony punishable by up to 15 years in prison, or as many as 30 years if HIV is transmitted, for a PLHIV who knows their HIV status to recklessly expose someone, without disclosing their status, through contact with blood, semen, or vaginal secretions during oral, anal, or vaginal sex.<sup>1</sup> The same penalties apply to purposeful contact of certain fluids with mucus membranes, biting, and the sharing of needles.<sup>2</sup>

The only affirmative defense under this statute is disclosure of HIV status to sexual partners prior to engaging in sexual conduct.<sup>3</sup> Disclosure of HIV status can be difficult to prove in court, as the only evidence available is often the word of one party against that of another.

In *State v. Yonts*, the Missouri Court of Appeals upheld a conviction for reckless exposure of another to HIV despite evidence that the parties continued their ongoing sexual relationship even after the defendant disclosed his HIV status.<sup>4</sup> The defendant was sentenced to one year imprisonment for exposing his girlfriend to HIV.<sup>5</sup> The defendant testified that he disclosed his HIV status prior to any sexual conduct, but the complainant testified that he did not disclose his status until 10 months into their relationship.<sup>6</sup> According to the complainant, she continued to have unprotected sex with him after he disclosed his HIV status because the defendant told her that the medication he was taking would prevent HIV transmission—a possible result of achieving a low viral load.<sup>7</sup> The complainant's negative HIV test result was irrelevant to the prosecution.<sup>8</sup>

In *State v. Wilson*, the defendant was convicted of, among other charges, reckless exposure to HIV.<sup>9</sup> On appeal, the defendant argued he did not recklessly expose the complainant to HIV because he

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<sup>1</sup> MO. REV. STAT. §§ 191.677; 558.011.1(1), (2) (2018).

<sup>2</sup> *Id.*

<sup>3</sup> *State v. Wilson*, 256 S.W.3d 58, 64 (Mo. 2008) (stating that “[t]he statute is unambiguous that one who knows he is HIV positive is reckless [and subject to prosecution] if he has sexual intercourse with another without making that other person aware of his HIV status . . . the statute does not contemplate that withdrawal [prior to ejaculation] is in itself a complete defense.”).

<sup>4</sup> *State v. Yonts*, 84 S.W.3d 516, 517 (Mo. Ct. App. 2002)

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 518.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Wilson*, 256 S.W.3d at 59.

withdrew before ejaculation.<sup>10</sup> The Missouri Supreme Court concluded, “[w]hile the evidence regarding withdrawal would have been relevant to the jury’s determination of recklessness, the statute does not contemplate that withdrawal is in itself a complete defense.”<sup>11</sup>

Notable prosecutions for exposing persons to HIV in Missouri include:

- In March 2016, a 37-year-old PLHIV was charged with, among other offenses, aggravated criminal sexual assault after sexually assaulting a minor over the course of three years while infected with HIV.<sup>12</sup>
- In May 2015 a 23-year-old PLHIV was sentenced to 30 years in prison after being found guilty of transmitting HIV to one person and endangering four others when he had sex with them without disclosing his HIV status.<sup>13</sup> The man testified that he advised his sexual partners of his HIV status.<sup>14</sup> Upon appeal, the conviction was reversed due to prosecutorial misconduct, and the case was remanded for a new trial.<sup>15</sup> The PLHIV subsequently entered a no-contest plea and was sentenced to 10 years imprisonment.<sup>16</sup> He was approved for parole with a release date of October 9, 2019.<sup>17</sup>
- In June 2012, a 48-year-old PLHIV and his girlfriend (also living with HIV) were found guilty of knowingly exposing another person to HIV when they engaged in sexual activities with another couple without disclosing their HIV status.<sup>18</sup>
- In 2007, a PLHIV was convicted as a persistent sexual offender and sentenced to 10 years for each of two counts of exposing his sexual partners to HIV.<sup>19</sup>
- In 2007, a PLHIV was convicted of knowingly exposing his ex-girlfriend to HIV because he did not disclose his HIV status.<sup>20</sup>
- In 2004, a man pled guilty and was sentenced to 15 years imprisonment for five counts of the Class B felony and eight counts of the Class D felony of recklessly exposing his sexual partners to HIV without disclosing his HIV status.<sup>21</sup>

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<sup>10</sup> *Id.* at 64.

<sup>11</sup> *Id.* (noting that the State had also provided evidence that HIV can be transmitted by sexual fluids even if the actor withdraws prior to ejaculation).

<sup>12</sup> Detective George Fender, *Case #16-1899*, The Village of Shiloh, Mar. 10, 2016, <http://shilohil.org/case-16-1899/>.

<sup>13</sup> Mark Schlinkmann, *Ex-college wrestler gets 30 years in HIV case in St. Charles County*, ST. LOUIS POST-DISPATCH, Jul. 13, 2015, available at [https://www.stltoday.com/news/local/crime-and-courts/ex-college-wrestler-gets-years-in-hiv-case-in-st/article\\_c3123243-b8d3-58c9-97df-e2c5a504902a.html](https://www.stltoday.com/news/local/crime-and-courts/ex-college-wrestler-gets-years-in-hiv-case-in-st/article_c3123243-b8d3-58c9-97df-e2c5a504902a.html)

<sup>14</sup> *Missouri v. Johnson*, Cause No. 1311-CR05915-01 (Circuit Court of Missouri, St. Charles County 2015).

<sup>15</sup> *Missouri court orders new trial for man convicted of exposing partners to HIV*, CBS NEWS, December 20, 2016, available at <https://www.nbcnews.com/feature/nbc-out/former-college-wrestler-sentenced-10-years-spreading-hiv-n803956>.

<sup>16</sup> *Former College Wrestler Sentenced to 10 Years for Spreading HIV*, NBC NEWS, September 23, 2017, available at <https://www.nbcnews.com/feature/nbc-out/former-college-wrestler-sentenced-10-years-spreading-hiv-n803956>.

<sup>17</sup> *Michael Johnson, in Prison for HIV Nondisclosure, Is Granted Parole*, POZ, April 11, 2018, available at <https://www.poz.com/article/michael-johnson-prison-hiv-nondisclosure-granted-parole>.

<sup>18</sup> Jennifer Mann, *2 Guilty of Risking Transmission of HIV at St. Louis Mardi Gras Party*, ST. LOUIS POST-DISPATCH, June 12, 2012, available at [http://www.stltoday.com/news/local/crime-and-courts/guilty-of-risking-transmission-of-hiv-at-st-louis-mardi/article\\_33d9d61d-057e-582d-b319-894164df2710.html](http://www.stltoday.com/news/local/crime-and-courts/guilty-of-risking-transmission-of-hiv-at-st-louis-mardi/article_33d9d61d-057e-582d-b319-894164df2710.html).

<sup>19</sup> *State v. Newlon*, 216 S.W.3d 180, 182-83 (Mo. Ct. App. 2007).

<sup>20</sup> *State v. White*, 247 S.W.3d 557, 560 (Mo. Ct. App. 2007).

<sup>21</sup> *Spicer v. State*, 300 S.W.3d 249, 249 (Mo. Ct. App. 2009).

- In 2000, a PLHIV was convicted of recklessly exposing his former girlfriend to HIV and was sentenced to five years imprisonment.<sup>22</sup> His sentence was later suspended and he was placed on five years probation and fined \$5,000.<sup>23</sup>

Missouri's HIV exposure statute has survived constitutional challenge. In dismissing challenges based on free speech and privacy rights, the Supreme Court of Missouri in *State v. S.F.*, ruled that the statute, on its face, regulates conduct, not speech.<sup>24</sup> And while it may also compel disclosure, any burden on free speech is incidental to regulation of the targeted conduct.<sup>25</sup> Regarding the right to privacy, the Court found that reliance on *Lawrence v. Texas*, 539 U.S. 558 (2003), is inapposite.<sup>26</sup> It reasoned that the statute does not criminalize consensual, non-harmful sexual conduct, but rather sexual conduct that would expose a non-consenting person to the risk of disease.<sup>27</sup>

### **Acts posing no or negligible risk of HIV transmission, such as spitting and biting, are punishable by felony penalties of five to 15 years' imprisonment.**

Under Missouri's exposure statute, it is a felony to bite, or by acting purposefully in any other manner to expose someone to the semen, vaginal secretions, or blood of a PLHIV.<sup>28</sup> The CDC has concluded that, though HIV transmission is technically possible through biting, the risk is negligible.<sup>29</sup> Missouri's statute and its application ignore these scientific findings, leading to prosecutions for behavior that poses at most a remote or no possibility of transmitting HIV.<sup>30</sup> For example, in February 2012, a PLHIV was charged with recklessly risking the infection of another person with HIV when he bit a police officer.<sup>31</sup> According to the probable cause statement, the bite left marks but did not break the skin,<sup>32</sup> which means that transmission would not be possible.<sup>33</sup>

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<sup>22</sup> *State v. Moss*, 83 S.W.3d 604, 604 (Mo. Ct. App. 2002).

<sup>23</sup> *Id.*

<sup>24</sup> *State v. S.F.*, 483 S.W.3d 385, 386-88 (MO 2016).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 388-89.

<sup>27</sup> *Id.*

<sup>28</sup> MO. REV. STAT. § 191.677.1(2)(c) (2018).

<sup>29</sup> CTR. FOR DISEASE CONTROL & PREVENTION, *HIV Risk Behaviors, Estimated Per-Act Probability of Acquiring HIV from an Infected Source, by Exposure Act*, (Dec. 4, 2015) available at <http://www.cdc.gov/hiv/policies/law/risk.html> (last visited July 2, 2018).

<sup>30</sup> In addition to the specific HIV criminalization statute, prosecutors may charge PLHIV with assault for spitting at others, which poses no risk of HIV transmission. See, e.g., *Kansas City man brags that he has HIV, Hepatitis C, spits in the eye of an officer during arrest, police say*, FOX 4 NEWSROOM, July 22, 2016, available at <http://fox4kc.com/2016/07/22/kansas-city-man-brags-that-he-has-hiv-hepatitis-c-spits-in-the-eye-of-an-officer-during-arrest-police-say/>

<sup>31</sup> Tyler Francke, *Man Accused of Biting Officer*, BRANSON TRI-LAKES NEWS, Feb. 7, 2012, available at [http://bransontrilakesnews.com/news\\_free/article\\_7015e792-51d0-11e1-b3a4-0019bb2963f4.html](http://bransontrilakesnews.com/news_free/article_7015e792-51d0-11e1-b3a4-0019bb2963f4.html).

<sup>32</sup> *Id.*

<sup>33</sup> "There is no risk of transmission if the skin is not broken." Ctr. for Disease Control & Prevention, *HIV Basics*, (March 16, 2018) available at <https://www.cdc.gov/hiv/basics/transmission.html> (last visited July 16, 2018).

## **PLHIV face potential criminal penalties if they donate blood, organs, semen, or tissue unless such donation is for medical research.**

It is a class B felony, carrying a sentence of five to 15 years' imprisonment, for a PLHIV to donate any blood, blood products, organs, sperm or tissue, unless the donation is for medical research.<sup>34</sup>

## **It is a felony for a PLHIV to share needles and not disclose their HIV status.**

If PLHIV do not disclose their HIV status to fellow needle sharers, it is a class B felony punishable by five to 15 years in prison.<sup>35</sup> However, if the complainant later tests positive for HIV, the defendant can be convicted of a class A felony with the possibility of 10 to 30 years' imprisonment.<sup>36</sup>

## **Sex workers may receive enhanced sentences for the offense of prostitution if they know they are living with HIV.**

The offense of prostitution is generally a class B misdemeanor, punishable by six months' imprisonment and a \$1,000 fine.<sup>37</sup> However, if the defendant is a PLHIV and knows their HIV status, the offense is a class B felony, punishable by five to 15 years' imprisonment.<sup>38</sup> The use of condoms is expressly not a defense to this sentence enhancement.<sup>39</sup>

Moreover, the sentence enhancement applies even for conduct posing little or no risk of HIV transmission. The offense of prostitution applies broadly to "sexual conduct,"<sup>40</sup> which includes oral sex; anal or vaginal penetration by a finger or other object; and any touching of the genitals or anus of another person or breasts of a female person, including through clothing.<sup>41</sup> Of these, only oral sex carries even a theoretical risk of HIV transmission. Moreover, the offense of prostitution includes merely offering or agreeing to engage in sexual conduct with another person in return for something of value, meaning no physical contact of any kind is required for the application of the felony enhancement.<sup>42</sup>

There is an additional sentencing differentiation for sex workers living with HIV. For a class B misdemeanor offense, upon successful completion of a court-ordered drug and alcohol treatment program, the court may, at its discretion, allow the defendant to withdraw the guilty plea or reverse the verdict and enter a judgment of not guilty.<sup>43</sup> This option is denied a defendant convicted of a class B felony (a sex worker who knows their HIV status).<sup>44</sup> However, the court has discretion to take into consideration successful completion of such a program when sentencing.<sup>45</sup>

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<sup>34</sup> MO. REV. STAT. §§ 191.677(1)(1), 558.011.1(2) (2018).

<sup>35</sup> MO. REV. STAT. §§ 191.677(1)(2)(b), 558.011.1(2) (2018).

<sup>36</sup> MO. REV. STAT. §§ 191.677(2), 558.011.1(1) (2018).

<sup>37</sup> MO. REV. STAT. §§ 567.020(2), 558.011.1(7), 558.002.1(3) (2018).

<sup>38</sup> MO. REV. STAT. §§ 567.020(2), 558.011.1(2) (2018).

<sup>39</sup> MO. REV. STAT. § 567.020(2) (2018).

<sup>40</sup> MO. REV. STAT. § 567.020(1) (2018).

<sup>41</sup> MO. REV. STAT. § 567.010 (2018).

<sup>42</sup> MO. REV. STAT. § 567.020(1) (2018).

<sup>43</sup> MO. REV. STAT. § 567.020(4) (2018).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

**It is a crime to expose prison guards, prison visitors, and other prisoners, as well as mental health employees, visitors, or other offenders at secure department of mental health facilities to HIV or hepatitis through bodily fluids.**

In Missouri, it is a class E felony, punishable by up to four years in prison,<sup>46</sup> for a person in confinement to attempt to cause or knowingly cause a correctional employee, visitor to a correctional facility, or fellow prisoner to come into contact with their blood, semen, urine, feces, or saliva.<sup>47</sup> A violation of this statute becomes a class D felony, punishable by up to seven years in prison if the offender is a PLHIV or has hepatitis B or hepatitis C.<sup>48</sup> If the substance is unidentified, it is a class A misdemeanor, punishable by a term of incarceration of up to one year.<sup>49</sup> Areas of confinement covered by this statute include prisons, jails, sex offender treatment centers, and any other correctional facilities.<sup>50</sup>

A similar statute exists for those in secure mental health facilities.<sup>51</sup> The offense is a class E felony, unless the offender knows they are infected with HIV, hepatitis B, or hepatitis C, in which case the offense is a class D felony, shifting the sentence from a maximum of four years' imprisonment to a possible seven years' imprisonment.<sup>52</sup>

These “endangerment” statutes impose specific penalties for offenders living with HIV, even if they expose or *attempt* to expose others to fluids that cannot transmit HIV, such as saliva.<sup>53</sup> Neither the intent to transmit HIV nor actual transmission is required for prosecution. Nor is it a defense that HIV transmission was impossible under the circumstances.

Under these statutes, people may also face prosecution if they are injured and bleed during an altercation and a complainant claims they were intentionally exposed to the blood. Facts surrounding such events may be hard to determine, and this statute could impose additional sentences for inmates with communicable diseases who accidentally expose others to their blood due to an injury. This may be especially so if juries consider the testimony of those with stigmatized communicable diseases less credible than testimony from complainants.

**The Department of Health and Senior Services (HSS) is required to assist in the prosecution of PLHIV for “exposure to HIV.”**

The “exposure to HIV” felony offense requires that a person have prior knowledge of their HIV status.<sup>54</sup> To help prosecutors establish this element of the offense, HSS must “turn over . . . records concerning that person’s HIV-infected status, testing information, counseling received, and the identity and

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<sup>46</sup> MO. REV. STAT. § 558.011.1(5) (2018).

<sup>47</sup> MO. REV. STAT. § 575.155.1 (2018)(stating that a “corrections employee” is a person “who is an employee . . . of a department or agency responsible for operating a jail, prison, correctional facility, or sexual offender treatment center or a person who is assigned to work in [such locations].”).

<sup>48</sup> MO. REV. STAT. §§ 558.011.1(5), 575.155.1(3) (2018).

<sup>49</sup> MO. REV. STAT. § 575.155 (3) (2018).

<sup>50</sup> MO. REV. STAT. § 575.155.1 (2018).

<sup>51</sup> MO. REV. STAT. § 575.157 (2018).

<sup>52</sup> MO. REV. STAT. §§ 575.157(3), 558.011.1 (4), (5) (2018).

<sup>53</sup> CTR. FOR DISEASE CONTROL & PREVENTION, *HIV Transmission, Can I get HIV from being spit on or scratched by an HIV-infected person?*, (March 16, 2018) available at <http://www.cdc.gov/hiv/basics/transmission.html> (last visited July 10, 2018).

<sup>54</sup> MO. REV. STAT. § 191.677(1)(2) (2018).

available contact information for individuals with whom that person had sexual intercourse or deviate sexual intercourse and those individuals' test results."<sup>55</sup> This is a notable departure from the ordinarily recognized confidentiality protection that, "[a]ny information known to, and records containing any information held or maintained by . . . the state concerning an individual's HIV infection status or the results of any individual's HIV testing shall be strictly confidential and not disclosed."<sup>56</sup> The state can thus more easily prosecute persons once they have received a positive HIV test result because prosecutors can rely on the defendant's medical records to prove they "recklessly" exposed another person to HIV.<sup>57</sup>

The state of Missouri exploits this fact by mandating HIV testing for defendants of various crimes, many of which may carry little or no risk of HIV transmission.<sup>58</sup> In such prosecutions, defendants may also be required to test for hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia.<sup>59</sup> Moreover, PLHIV's subsequent infection with syphilis, gonorrhea, or chlamydia—whether the result is from a mandatory or voluntary test—may also prompt a prosecution and be used as evidence to show that the defendant acted recklessly in creating a risk of infecting another with HIV.<sup>60</sup>

### **Sexually violent predator statutes have been applied to PLHIV based solely on their HIV status.**

In the Missouri Court of Appeals case, *In re Coffel*, HIV status was a factor in the three-year civil confinement of a PLHIV as a sexually violent predator.<sup>61</sup> Missouri defines a sexually violent predator as "any person who suffers from a mental abnormality which makes the person more likely than not to engage in predatory acts of sexual violence if not confined in a secure facility and who [...] has pled guilty or been found guilty [...] of a sexually violent offense."<sup>62</sup>

On a dare, Coffel, then 18 years old, placed the penises of an 11-year-old and 13-year-old boy briefly in her mouth.<sup>63</sup> The boys later discovered her HIV status and reported the incident to their mother.<sup>64</sup> Coffel pled guilty to sodomy and was sentenced to five years' imprisonment. Although her pre-sentencing report said she was not a sexual predator, her end-of-confinement evaluation determined, due to her lack of remorse or concern about the possibility of infecting others with HIV, she was more likely than

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<sup>55</sup> MO. REV. STAT. § 191.677(3) (2018).

<sup>56</sup> MO. REV. STAT. § 191.656(1)(1)(c)-(d) (2018) (Exceptions to confidentiality protections include to, "(c) Peace officers, as defined in section 590.100, the attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, and prosecuting attorneys or circuit attorneys as defined in chapter 56 and pursuant to section 191.657; (d) Prosecuting attorneys or circuit attorneys as defined in chapter 56 to prosecute cases pursuant to section 191.677 or 567.020. . .").

<sup>57</sup> *See id.*

<sup>58</sup> MO. REV. STAT. § 566.135(1) (2018). Qualifying offenses include assault; domestic assault; assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, utility worker, cable worker, or probation and parole officer; endangering the welfare of a child; abuse of a child; and resisting or interfering with an arrest.

<sup>59</sup> *Id.*

<sup>60</sup> MO. REV. STAT. § 191.677.1(2)b (2018).

<sup>61</sup> *In re Coffel*, 117 S.W.3d 116, 118 (Mo. Ct. App. 2003).

<sup>62</sup> MO. REV. STAT. § 632.480(5) (2018).

<sup>63</sup> *Id.* at 117-18.

<sup>64</sup> *Id.* at 118.

not to re-offend and should be considered a sexually violent predator.<sup>65</sup> The Missouri Court of Appeals noted that the report was prepared by an individual unqualified to diagnose or testify in the state.<sup>66</sup>

At trial, a multidisciplinary team as well as a psychologist determined that Coffel was not a sexual predator.<sup>67</sup> In particular, the psychologist noted that the end-of-confinement report was based in large part on the erroneous assumption that Coffel's saliva could have transmitted HIV during the acts of sodomy.<sup>68</sup> The trial court, despite this evidence, ordered her to be confined "until such time as her mental abnormality has so changed that she is safe to be at large."<sup>69</sup>

On appeal, the Missouri Court of Appeals found only two out of 10 of the State's witnesses addressed whether Coffel was likely to commit the crime again, and that the expert testimonies did not base their opinions on psychological theories but rather on private, subjective, untested, unsupported analysis.<sup>70</sup> Based on this evidence, the court ordered Coffel's release because the state failed to meet its burden, but only after she had already been civilly committed for three years.<sup>71</sup> Moreover, *Coffel* was reversed because the state presented no evidence to meet its burden. Future cases might still consider a defendant's HIV status as part of the sexually violent predator determination so long as other evidence is presented as well.

Subsequent cases seem to follow *Coffel's* proposition that, without reliable evidence, a finding that someone is more likely than not to reoffend cannot be made.<sup>72</sup> However, one case from the Supreme Court of Missouri has limited the reversal in *Coffel* to sexually violent predator determinations in which the offender is a woman, seemingly because of the lack of data about recidivism for female sex offenders.<sup>73</sup> Thus, *Coffel* highlights the extent to which a person's HIV status can be erroneously relied upon in determining sexually violent predator status for the purpose of civil confinement.

**Important note:** *While we have made an effort to ensure that this information is current, the law is always changing and we cannot guarantee the accuracy of the information provided. This information may or may not be applicable to your specific situation and, as such, should not be used as a substitute for legal advice.*

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 118-19.

<sup>68</sup> *Id.* at 120.

<sup>69</sup> *Id.* at 127.

<sup>70</sup> *Id.* at 127-29.

<sup>71</sup> *Id.* at 129.

<sup>72</sup> See, e.g., *In re Kapprelian*, 168 S.W.3d 708, 715 (Mo. Ct. App. 2005).

<sup>73</sup> *In re Norton*, 123 S.W. 3d 170, 177 (Mo. 2003).

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## Missouri Revised Statutes

*Note: Provisions imposing punitive restrictions or listing criminal sentences are denoted with \*\* and are generally listed first. Thereafter, provisions within a particular title are listed numerically.*

### TITLE 12, PUBLIC HEALTH AND WELFARE

#### **Mo. Rev. Stat. § 191.677 (2018) \*\***

*Prohibited acts, criminal penalties*

1. It shall be unlawful for any individual knowingly infected with HIV to:

- (1) Be or attempt to be a blood, blood products, organ, sperm or tissue donor except as deemed necessary for medical research;
- (2) Act in a reckless manner by exposing 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.

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

- a. The HIV-infected person knew of such infection before engaging in sexual activity with another person, sharing needles with another person, biting another person, or purposely causing his or her semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person, and such other person is unaware of the HIV-infected person's condition or does not consent to contact with blood, semen or vaginal fluid in the course of such activities;
  - b. The HIV-infected person has subsequently been infected with and tested positive to primary and secondary syphilis, or gonorrhea, or chlamydia; or
  - c. Another person provides evidence of sexual contact with the HIV-infected person after a diagnosis of an HIV status.
2. Violation of the provisions of subdivision (1) or (2) of subsection 1 of this section is a class B felony unless the victim contracts HIV from the contact in which case it is a class A felony.
3. The department of health and senior services or local law enforcement agency, victim or others may file a complaint with the prosecuting attorney or circuit attorney of a court of competent jurisdiction alleging that a person has violated a provision of subsection 1 of this section. The department of health and senior services shall assist the prosecutor or circuit attorney in preparing such case, and upon

request, turn over to peace officers, police officers, the prosecuting attorney or circuit attorney, or the attorney general records concerning that person's HIV-infected status, testing information, counseling received, and the identity and available contact information for individuals with whom that person had sexual intercourse or deviate sexual intercourse and those individuals' test results.

4. The use of condoms is not a defense to a violation of paragraph (a) of subdivision (2) of subsection 1 of this section.

**MO. REV. STAT. § 192.320 (2018) \*\***

*Violation of law or quarantine – penalty*

Any person or persons violating any of the provisions of sections 192.010, 192.020 to 192.490, 192.600 to 192.620 or who shall leave any pesthouse, or isolation hospital, or quarantined house or place without the consent of the health officer having jurisdiction, or who evades or breaks quarantine or knowingly conceals a case of contagious, infectious, or communicable disease, or who removes, destroys, obstructs from view, or tears down any quarantine card, cloth or notice posted by the attending physician or by the health officer, or by direction of a proper health officer, shall be deemed guilty of a class A misdemeanor.

**TITLE 38, CRIMES AND PUNISHMENT; PEACE OFFICERS AND PUBLIC DEFENDERS**

*Mo. Rev. Stat. § 567.020 (2018) (effective until August 28, 2018) \*\**

*Prostitution*

1. A person commits the crime of prostitution if he or she engages in or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by any person.
2. The offense of prostitution is a class B misdemeanor unless the person knew prior to performing the act of prostitution that he or she was infected with HIV in which case prostitution is a class B felony. The use of condoms is not a defense to this offense.
3. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.
4. The judge may order a drug and alcohol abuse treatment program for any person found guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. For the class B misdemeanor offense, upon the successful completion of such program by the defendant, the court may at its discretion allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. For the class B felony offense, the court shall not allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. The judge, however, has discretion to take into consideration successful completion of a drug or alcohol treatment program in determining the defendant's sentence.

**MO. REV. STAT. § 575.155 (2018) \*\***

*Crime of endangering a corrections employee—definitions—penalty*

1. An offender or prisoner commits the offense of endangering a corrections employee, a visitor to a correctional center, county or city jail, or another offender or prisoner if he or she attempts to cause or knowingly causes such person to come into contact with blood, seminal fluid, urine, feces, or saliva.

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

- (1) “Corrections employee”, a person who is an employee, or contracted employee of a subcontractor, of a department or agency responsible for operating a jail, prison, correctional facility, or sexual offender treatment center or a person who is assigned to work in a jail, prison, correctional facility, or sexual offender treatment center;
- (2) “Offender”, a person in the custody of the department of corrections;
- (3) “Prisoner”, a person confined in a county or city jail.

3. The offense of endangering a corrections employee, a visitor to a correctional center, county or city jail, or another offender or prisoner is a class E felony unless the substance is unidentified in which case it is a class A misdemeanor. If an offender or prisoner is knowingly infected with the human immunodeficiency virus (HIV), hepatitis B or hepatitis C and exposes another person to HIV or hepatitis B or hepatitis C by committing the offense of endangering a corrections employee, a visitor to a correctional center, county or city jail, or another offender or prisoner, it is a class D felony.

**MO. REV. STAT. § 575.157 (2018) \*\***

*Endangering a mental health employee, visitor, or another offender, definitions, penalties*

1. An offender commits the offense of endangering a department of mental health employee, a visitor or other person at a secure facility, or another offender if he or she attempts to cause or knowingly causes such individual to come into contact with blood, seminal fluid, urine, feces, or saliva.
3. The offense of endangering a department of mental health employee, a visitor or other person at a secure facility, or another offender is a class E felony. If an offender is knowingly infected with the human immunodeficiency virus (HIV), hepatitis B, or hepatitis C and exposes another individual to HIV or hepatitis B or hepatitis C by committing the offense of endangering a department of mental health employee, a visitor or other person at a mental health facility, or another offender, the offense is a class D felony.

**MO. REV. STAT. § 567.010 (2018)**

*Chapter definitions*

As used in this chapter, the following terms mean:

- (1) “Deviate sexual intercourse”, any sexual act involving the genitals of one person and the mouth, hand, tongue, or anus of another person; or any act involving the penetration, however slight, of the penis, the female genitalia, or the anus by a finger, instrument, or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;
- (4) "Sexual conduct", sexual intercourse, deviate sexual intercourse, or sexual contact;
- (5) "Sexual intercourse", any penetration, however slight, of the female genitalia by the penis;
- (6) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person or the breast of a female person, or such touching through

the clothing, for the purpose of arousing or gratifying sexual desire of any person or for the purpose of terrorizing the victim.

**MO. REV. STAT. § 566.135 (2018)**

*Defendant may be tested for various sexually transmitted diseases, when*

1. Pursuant to a motion filed by the prosecuting attorney or circuit attorney with notice given to the defense attorney and for good cause shown, in any criminal case in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's office with any offense under chapter 566 or section 565.050, assault in the first degree; section 565.052 or 565.060, assault in the second degree; section 565.054 or 565.070, assault in the third degree; section 565.056, assault in the fourth degree; section 565.072, domestic assault in the first degree; section 565.073, domestic assault in the second degree; section 565.074, domestic assault in the third degree; section 565.075, assault while on school property; section 565.076, domestic assault in the fourth degree; section 565.081, 565.082, or 565.083, assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, utility worker, cable worker, or probation and parole officer in the first, second, or third degree; section 567.020, prostitution; section 568.045, endangering the welfare of a child in the first degree; section 568.050, endangering the welfare of a child in the second degree; section 568.060, abuse of a child; section 575.150, resisting or interfering with an arrest; or paragraph (a), (b), or (c), of subdivision (2) of subsection 1 of section 191.677, recklessly exposing a person to HIV, the court may order that the defendant be conveyed to a state-, city-, or county-operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia. The results of such tests shall be released to the victim and his or her parent or legal guardian if the victim is a minor. The results of such tests shall also be released to the prosecuting attorney or circuit attorney and the defendant's attorney. The state's motion to obtain said testing, the court's order of the same, and the test results shall be sealed in the court file.

**MO. REV. STAT. § 558.011 (2018) \*\***

*Sentence of imprisonment, terms—conditional release*

1. The authorized terms of imprisonment, including both prison and conditional release terms, are:
  - (1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;
  - (2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;
  - (3) For a class C felony, a term of years not less than three years and not to exceed ten years;
  - (4) For a class D felony, a term of years not to exceed seven years;
  - (5) For a class E felony, a term of years not to exceed four years;
  - (6) For a class A misdemeanor, a term not to exceed one year;
  - (7) For a class B misdemeanor, a term not to exceed six months;
  - (8) For a class C misdemeanor, a term not to exceed fifteen days.

**Mo. Rev. Stat. § 560.011 (2018)** \*\*

*Fines for felonies*

1. Except as otherwise provided for an offense outside this code, a person who has been convicted of an offense may be sentenced to pay a fine which does not exceed:

- (1) For a class C, D, or E felony, ten thousand dollars;
- (2) For a class A misdemeanor, two thousand dollars;
- (3) For a class B misdemeanor, one thousand dollars;
- (4) For a class C misdemeanor, seven hundred fifty dollars;
- (5) For a class D misdemeanor, five hundred dollars . . .