First Regular Session - 2011

## IN THE SENATE

## SENATE BILL NO. 1057

## BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE CONTROL OF VENEREAL DISEASES; AMENDING SECTION 39-604, IDAHO

CODE, TO PROVIDE THAT CERTAIN PERSONS SHALL BE TESTED FOR THE HUMAN IM
MUNODEFICIENCY VIRUS AND TO PROVIDE THAT AT THE REQUEST OF CERTAIN PER
SONS, SUCH TEST SHALL BE ADMINISTERED NOT LATER THAN FORTY—EIGHT HOURS

AFTER THE DATE ON WHICH THE PERSON IS CHARGED; DECLARING AN EMERGENCY

AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-604, Idaho Code, be, and the same is hereby amended to read as follows:

- 39-604. CONFINED AND IMPRISONED PERSONS -- EXAMINATION, TREATMENT, AND QUARANTINE -- VICTIMS OF SEXUAL OFFENSES -- ACCESS TO OFFENDERS' TEST RESULTS, TESTING FOR HIV, COUNSELING AND REFERRAL SERVICES. (1) All persons who shall be confined or imprisoned in any state prison facility in this state shall be examined for on admission, and again before release, and, if infected, treated for the diseases enumerated in section 39-601, Idaho Code, and this examination shall include a test for HIV antibodies or antigens. This examination is not intended to limit any usual or customary medical examinations that might be indicated during a person's imprisonment. Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.
- (2) All persons who shall be confined in any county or city jail may be examined for and, if infected, treated for the venereal diseases enumerated in section 39-601, Idaho Code, if such persons have, in the judgment of public health authorities and the jailer, been exposed to a disease enumerated in section 39-601, Idaho Code.
- (3) All persons who are charged with any sex offense in which body fluid, as defined in this chapter, has likely been transmitted to another shall be tested for the human immunodeficiency virus (HIV). At the request of the victim or parent, guardian or legal custodian of a minor victim, such test shall be administered not later than forty-eight (48) hours after the date on which the person is charged.
- $\underline{(4)}$  All persons, including juveniles, who are charged with sex offenses, drug related charges, prostitution, any crime in which body fluid has likely been transmitted to another, or other charges as recommended by public health authorities shall be tested for the venereal diseases enumerated in section 39-601, Idaho Code, and for hepatitis C virus.
- (45) All persons who are charged with any crime in which body fluid as defined in this chapter has likely been transmitted to another shall be tested for the presence of HIV antibodies or antigens, for hepatitis C virus and for hepatitis B virus.

- (56) If a person is tested as required in subsections (3),  $\frac{1}{9}$  (4) or (5) of this section, the results of the test shall be revealed to the court. The court shall release the results of the test to the victim(s), or if the victim(s) is a minor, to the minor's parent, guardian or legal custodian. Whenever a prisoner tests positive for HIV antibodies or antigens, the victim(s) of said prisoner shall be entitled to counseling regarding HIV, HIV testing in accordance with applicable law, and referral for appropriate health care and support services. Said counseling, HIV testing and referral services shall be provided to the victim(s) by the district health departments at no charge to the victim(s). Provided however, the requirement to provide referral services does not, in and of itself, obligate the district health departments to provide or otherwise pay for a victim's health care or support services. Any court, when releasing test results to a victim(s), or if the victim(s) is a minor, to the minor's parent, quardian, or legal custodian, shall explain or otherwise make the victim(s) or the victim's parent, guardian, or legal custodian, aware of the services to which the victim(s) is entitled as described herein.
- (67) Responsibility for the examination, testing and treatment of persons confined in county or city jails shall be vested in the county or city that operates the jail. The county or city may contract with the district health departments or make other arrangements for the examination, testing and treatment services. The district health department or other provider may charge and collect for the costs of such examination and treatment, as follows:
  - (a) When the prisoner is a convicted felon awaiting transfer to the board of correction, or when the prisoner is a convicted felon being confined in jail pursuant to a contract with the board of correction, the board of correction shall reimburse such costs;
  - (b) When the prisoner is awaiting trial after an arrest by any state officer, the state agency employing such arresting officer shall reimburse such costs;
  - (c) When the prisoner is being held for any other authority or jurisdiction, including another state, the authority or jurisdiction responsible shall reimburse such costs unless otherwise provided for by contract.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to February 15, 2011.