

IN THE SENATE

SENATE BILL NO. 1057

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE CONTROL OF VENEREAL DISEASES; AMENDING SECTION 39-604, IDAHO  
2 CODE, TO PROVIDE THAT CERTAIN PERSONS SHALL BE TESTED FOR THE HUMAN IM-  
3 MUNODEFICIENCY VIRUS AND TO PROVIDE THAT AT THE REQUEST OF CERTAIN PER-  
4 SONS, SUCH TEST SHALL BE ADMINISTERED NOT LATER THAN FORTY-EIGHT HOURS  
5 AFTER THE DATE ON WHICH THE PERSON IS CHARGED; DECLARING AN EMERGENCY  
6 AND PROVIDING RETROACTIVE APPLICATION.  
7

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

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

11 39-604. CONFINED AND IMPRISONED PERSONS -- EXAMINATION, TREATMENT,  
12 AND QUARANTINE -- VICTIMS OF SEXUAL OFFENSES -- ACCESS TO OFFENDERS' TEST  
13 RESULTS, TESTING FOR HIV, COUNSELING AND REFERRAL SERVICES. (1) All persons  
14 who shall be confined or imprisoned in any state prison facility in this  
15 state shall be examined for on admission, and again before release, and, if  
16 infected, treated for the diseases enumerated in section 39-601, Idaho Code,  
17 and this examination shall include a test for HIV antibodies or antigens.  
18 This examination is not intended to limit any usual or customary medical ex-  
19 aminations that might be indicated during a person's imprisonment. Nothing  
20 herein contained shall be construed to interfere with the service of any  
21 sentence imposed by a court as a punishment for the commission of crime.

22 (2) All persons who shall be confined in any county or city jail may be  
23 examined for and, if infected, treated for the venereal diseases enumerated  
24 in section 39-601, Idaho Code, if such persons have, in the judgment of pub-  
25 lic health authorities and the jailer, been exposed to a disease enumerated  
26 in section 39-601, Idaho Code.

27 (3) All persons who are charged with any sex offense in which body  
28 fluid, as defined in this chapter, has likely been transmitted to another  
29 shall be tested for the human immunodeficiency virus (HIV). At the request  
30 of the victim or parent, guardian or legal custodian of a minor victim, such  
31 test shall be administered not later than forty-eight (48) hours after the  
32 date on which the person is charged.

33 (4) All persons, including juveniles, who are charged with sex of-  
34 fenses, drug related charges, prostitution, any crime in which body fluid  
35 has likely been transmitted to another, or other charges as recommended by  
36 public health authorities shall be tested for the venereal diseases enumer-  
37 ated in section 39-601, Idaho Code, and for hepatitis C virus.

38 (45) All persons who are charged with any crime in which body fluid  
39 as defined in this chapter has likely been transmitted to another shall be  
40 tested for the presence of HIV antibodies or antigens, for hepatitis C virus  
41 and for hepatitis B virus.

1           (56) If a person is tested as required in subsections (3), ~~or (4)~~ or (5)  
2 of this section, the results of the test shall be revealed to the court. The  
3 court shall release the results of the test to the victim(s), or if the vic-  
4 tim(s) is a minor, to the minor's parent, guardian or legal custodian. When-  
5 ever a prisoner tests positive for HIV antibodies or antigens, the victim(s)  
6 of said prisoner shall be entitled to counseling regarding HIV, HIV test-  
7 ing in accordance with applicable law, and referral for appropriate health  
8 care and support services. Said counseling, HIV testing and referral ser-  
9 vices shall be provided to the victim(s) by the district health departments  
10 at no charge to the victim(s). Provided however, the requirement to provide  
11 referral services does not, in and of itself, obligate the district health  
12 departments to provide or otherwise pay for a victim's health care or sup-  
13 port services. Any court, when releasing test results to a victim(s), or if  
14 the victim(s) is a minor, to the minor's parent, guardian, or legal custo-  
15 dian, shall explain or otherwise make the victim(s) or the victim's parent,  
16 guardian, or legal custodian, aware of the services to which the victim(s) is  
17 entitled as described herein.

18           (67) Responsibility for the examination, testing and treatment of per-  
19 sons confined in county or city jails shall be vested in the county or city  
20 that operates the jail. The county or city may contract with the district  
21 health departments or make other arrangements for the examination, testing  
22 and treatment services. The district health department or other provider  
23 may charge and collect for the costs of such examination and treatment, as  
24 follows:

25           (a) When the prisoner is a convicted felon awaiting transfer to the  
26 board of correction, or when the prisoner is a convicted felon being  
27 confined in jail pursuant to a contract with the board of correction,  
28 the board of correction shall reimburse such costs;

29           (b) When the prisoner is awaiting trial after an arrest by any state  
30 officer, the state agency employing such arresting officer shall reim-  
31 burse such costs;

32           (c) When the prisoner is being held for any other authority or jurisdic-  
33 tion, including another state, the authority or jurisdiction respon-  
34 sible shall reimburse such costs unless otherwise provided for by con-  
35 tract.

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