

IN THE SENATE

SENATE BILL NO. 1059

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE CONTROL OF VENEREAL DISEASES; AMENDING SECTION 39-604, IDAHO
2 CODE, TO REVISE PROVISIONS RELATING TO THE EXAMINATION FOR AND TREAT-
3 MENT OF CERTAIN DISEASES OF PERSONS CONFINED OR IMPRISONED IN ANY STATE
4 PRISON FACILITY IN IDAHO.
5

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

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

9 39-604. CONFINED AND IMPRISONED PERSONS -- EXAMINATION, TREATMENT,
10 AND QUARANTINE -- VICTIMS OF SEXUAL OFFENSES -- ACCESS TO OFFENDERS' TEST
11 RESULTS, TESTING FOR HIV, COUNSELING AND REFERRAL SERVICES. (1) All persons
12 who shall be confined or imprisoned in any state prison facility in this
13 state shall be examined for on admission, and again upon the offender's re-
14 quest before release, and, if infected, treated for the diseases enumerated
15 in section 39-601, Idaho Code, and this examination shall include a test
16 for HIV antibodies or antigens. This examination is not intended to limit
17 any usual or customary medical examinations that might be indicated during
18 a person's imprisonment. Nothing herein contained shall be construed to
19 interfere with the service of any sentence imposed by a court as a punishment
20 for the commission of crime.

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

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

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

37 (5) All persons who are charged with any crime involving the use of in-
38 jectable drugs shall be tested for the presence of HIV antibodies or anti-
39 gens, for hepatitis C virus and for hepatitis B virus.

40 (6) If a person is tested as required in subsection (3), (4) or (5) of
41 this section, the results of the test shall be revealed to the court. The
42 court shall release the results of the test to the victim(s), or if the vic-

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

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

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

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

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