

By: Representative Evans

To: Corrections

## HOUSE BILL NO. 693

1 AN ACT TO PROVIDE THAT ALL OFFENDERS WHO ARE IN THE CUSTODY  
2 OF THE DEPARTMENT OF CORRECTIONS SHALL BE TESTED FOR HIV UPON  
3 RELEASE FROM THE CUSTODY OF THE DEPARTMENT; TO AMEND SECTION  
4 41-23-1, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR  
5 RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Upon release of any offender who is in the  
8 custody of the Department of Corrections, whether the offender is  
9 housed in a state facility or in a county jail, such offender  
10 shall undergo Human Immunodeficiency Virus (HIV) testing that is to  
11 be conducted by the Department of Corrections. The department  
12 shall also adhere to the reporting requirements for such testing  
13 as prescribed in Section 41-23-1. The term "HIV testing" as used  
14 in this section shall mean performing a serological test or tests  
15 upon a sample of venous blood to determine the presence of HIV or  
16 its antibodies following HIV blood sampling.

17 **SECTION 2.** Section 41-23-1, Mississippi Code of 1972, is  
18 amended as follows:

19 41-23-1. (1) The State Board of Health shall adopt rules  
20 and regulations (a) defining and classifying communicable diseases  
21 and other diseases that are a danger to health based upon the  
22 characteristics of the disease; and (b) establishing reporting,  
23 monitoring and preventive procedures for those diseases.

24 (2) Upon the death of any person who has been diagnosed as  
25 having Human Immunodeficiency Virus/Acquired Immune Deficiency  
26 Syndrome (HIV/AIDS) or any Class 1 disease as designated by the  
27 State Board of Health, in a hospital or other health care  
28 facility, in all other cases where there is an attending

29 physician, and in cases in which the medical examiner, as defined  
30 in Section 41-61-53(f), investigates and certifies the cause of  
31 death, the attending physician, the person in charge of the  
32 hospital or health care facility, or the medical examiner, as the  
33 case may be, shall report as soon as practicable to the Executive  
34 Officer of the State Board of Health or to other authorities the  
35 cause or contributing cause of death as required by the State  
36 Board of Health. Such reporting shall be according to procedures  
37 as required by the State Board of Health.

38 (3) Upon the death of any person who has been diagnosed as  
39 having Human Immunodeficiency Virus/Acquired Immune Deficiency  
40 Syndrome (HIV/AIDS), where there is not an attending physician,  
41 any family member or other person making disposition of the body  
42 who knows that such decedent had been diagnosed as having HIV/AIDS  
43 shall report this fact to the medical examiner as defined in  
44 Section 41-61-53(f), who shall report as soon as practicable to  
45 the Executive Officer of the State Board of Health or to other  
46 authorities the cause or contributing cause of death as required  
47 by the State Board of Health. Such reporting shall be according  
48 to procedures as required by the State Board of Health.

49 (4) Every practicing or licensed physician, or person in  
50 charge of a hospital, health care facility, insurance company  
51 which causes to be performed blood tests for underwriting purposes  
52 or laboratory, shall report immediately to the Executive Officer  
53 of the State Board of Health or to other authorities as required  
54 by the State Board of Health every case of such diseases as shall  
55 be required to be reported by the State Board of Health. Such  
56 reporting shall be according to procedures, and shall include such  
57 information about the case, as shall be required by the State  
58 Board of Health. Insurance companies having such blood test  
59 results shall report immediately to the Executive Officer of the  
60 State Board of Health or to other authorities as required by the  
61 State Board of Health every case of such diseases as shall be

62 required to be reported by the State Board of Health. The  
63 insurance company shall notify the individual on whom the blood  
64 test was performed in writing by certified mail of an adverse  
65 underwriting decision based upon the results of such individual's  
66 blood test but shall not disclose the specific results of such  
67 blood tests to the individual. The insurance company shall also  
68 inform the individual on whom the blood test was performed that  
69 the results of the blood test will be sent to the physician  
70 designated by the individual at the time of application and that  
71 such physician should be contacted for information regarding the  
72 blood test results. If a physician was not designated at the time  
73 of application, the insurance company shall request that the  
74 individual name a physician to whom a copy of the blood test can  
75 be sent.

76 (5) Any practicing or licensed physician, or person in  
77 charge of a hospital or health care facility, who knows that a  
78 patient has a medical condition specified by the Department of  
79 Health as requiring special precautions by health care providers,  
80 shall report this fact and the need for appropriate precautions to  
81 any other institution or provider of health care services to whom  
82 such patient is transferred or referred, according to regulations  
83 established by the State Board of Health.

84 (6) Any practicing or licensed physician or person in charge  
85 of a hospital, health care facility or laboratory who fails to  
86 make the reports required under this section regarding Human  
87 Immunodeficiency Virus/Acquired Immune Deficiency Syndrome  
88 (HIV/AIDS) or any Class 1 disease or condition as designated by  
89 the State Board of Health shall be reported to the Board of  
90 Medical Licensure, in the case of a physician, or to the  
91 applicable licensing agency in the case of institutions, and such  
92 failure shall be grounds for suspension of license.

93 (7) Any person other than a practicing or licensed  
94 physician, or person in charge of a hospital or health care

95 facility, willfully failing to make the reports required under  
96 this section shall be guilty of a misdemeanor and, upon  
97 conviction, shall be punished by a fine of not more than Five  
98 Hundred Dollars (\$500.00) or by confinement in the county jail for  
99 not more than thirty (30) days, or both.

100 (8) The provisions of this section are cumulative and  
101 supplemental to any other provision of law, and a conviction or  
102 penalty imposed under this section shall not preclude any other  
103 action at law, proceedings for professional discipline or other  
104 criminal proceedings.

105 (9) Notwithstanding any law of this state to the contrary,  
106 the State Board of Health is authorized to establish the rules by  
107 which exceptions may be made to the confidentiality provisions of  
108 the laws of this state for the notification of third parties of an  
109 individual's infection with any Class 1 or Class 2 disease, as  
110 designated by the State Board of Health, when exposure is  
111 indicated or there exists a threat to the public health and  
112 welfare. All notifications authorized by this section shall be  
113 within the rules established according to this subsection. All  
114 persons who receive notification of the infectious condition of an  
115 individual under this subsection and the rules established under  
116 this subsection shall hold such information in the strictest of  
117 confidence and privilege, shall not reveal the information to  
118 others, and shall take only those actions necessary to protect the  
119 health of the infected person or other persons where there is a  
120 foreseeable, real or probable risk of transmission of the disease.

121 (10) Each public or private correctional facility housing  
122 state offenders, federal offenders or offenders from any other  
123 jurisdiction shall require all offenders in the facility to be  
124 tested for tuberculosis and Human Immunodeficiency Virus (HIV) in  
125 conjunction with the rules and regulations of the State Department  
126 of Health. In addition, each public correctional facility that  
127 houses state offenders shall test each offender for HIV upon

128 release of such an offender from the custody of the state. The  
129 reporting shall be according to procedures and shall include any  
130 information about the case that is required by the State Board of  
131 Health. In order to carry out the provisions of this section, the  
132 following shall apply:

133 (a) Any such public or private correctional facility  
134 may contract with the Mississippi Department of Corrections, the  
135 Mississippi State Department of Health, or other such appropriate  
136 state, federal or local entity for the inspection, monitoring or  
137 provision of any assistance necessary or desirable to maintain  
138 appropriate facilities for the purpose of identification,  
139 prevention, and treatment of communicable diseases and other  
140 conditions considered prejudicial to public health; and

141 (b) Any such public or private correctional facility  
142 shall grant representatives of the State Department of Health, in  
143 the discharge of its duties, access to all areas of the facility  
144 and to the offenders and staff at all times. The facility shall  
145 reimburse the State Department of Health for all costs incurred  
146 for the control of communicable diseases or other conditions  
147 prejudicial to public health in the facility and for the costs  
148 incurred for the control of communicable diseases or other  
149 conditions prejudicial to public health spreading from the  
150 facility, staff or inmates to other individuals or property in the  
151 county or state.

152 **SECTION 3.** This act shall take effect and be in force from  
153 and after July 1, 2007.