

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1529

(Delegate Burns)

Judiciary

Crimes - Intentional HIV Transfer Causing Death - Penalties

This bill prohibits a person from intentionally transferring the human immunodeficiency virus (HIV) to another individual. If the individual to whom HIV is transferred dies from complications from the virus, a violator is guilty of a felony and subject to maximum penalties of imprisonment for 25 years and/or a fine of \$10,000.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's incarceration penalty provision. The bill could also result in a minimal decrease in fine revenue due to cases (where a death occurs) being heard in the circuit courts rather than in the District Court.

Local Effect: Potential minimal increase in revenues due to the bill's monetary penalty provisions. The bill could also result in a minimal decrease in incarceration costs due to convicted persons being sentenced to a State facility rather than a local detention facility.

Small Business Effect: None.

Analysis

Current Law: An individual who has HIV may not knowingly transfer or attempt to transfer the virus to another individual. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$2,500.

An individual who has an infectious disease that endangers public health may not willfully: (1) be in a public place without taking proper precautions against exposing other individuals to the disease; or (2) transfer to another individual any article that has been exposed to the disease without thoroughly disinfecting the article. A violator is guilty of a misdemeanor subject to maximum penalties of imprisonment for one year and/or a fine of \$500.

Chapter 318 of 2004 prohibits a person from knowingly and willfully causing another to ingest a “bodily fluid” without consent or by force or threat of force. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$2,500.

An inmate may not maliciously cause or attempt to cause an employee of a State correctional facility, a local correctional facility, or a sheriff’s office, regardless of employment capacity, to come into contact with: (1) bodily fluids; or (2) blood, if the contact with the blood is not the result of physical injury resulting from physical body contact between the inmate and the employee. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$2,500 and/or imprisonment for 10 years. A sentence imposed under this provision may not be suspended and must be consecutive to any sentence that the inmate was serving at the time of the crime or that had been imposed but was not yet being served at the time of sentencing.

A person may not commit an assault. A violator is guilty of the misdemeanor of second degree assault and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$2,500. Assault means the crimes of assault, battery, and assault and battery.

A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is a law enforcement officer engaged in the performance of the officer’s official duties. “Physical injury” means any impairment of physical condition, excluding minor injuries. A violator is guilty of the felony of second degree assault and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000.

State Expenditures: Making a crime a felony means: (1) that such cases will likely be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. It is not known whether, under this bill’s provisions, the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for this offense. In any case, this bill would shift some unknown number of cases from the District Court to the circuit courts.

General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,974 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$341 per month. Excluding medical care, the average variable costs total \$134 per month.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions because these cases would likely be heard in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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