

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 712
Judiciary

(Delegate McKee)

Criminal Law - Substantive Offenses - Knowingly Exposing Another Individual to a Sexually Transmitted Disease or Infection

This bill prohibits a person who has a sexually transmitted disease or infection from knowingly exposing another individual to infection by means of sexual activity unless, prior to the sexual activity, the person who has the sexually transmitted disease or infection discloses this information to the other individual and the other individual consents to the sexual activity despite full understanding of the disclosure. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$2,500.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's penalty provisions.

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.

State Revenues: General fund revenues could increase minimally as a result of the bill’s monetary penalty provision from cases heard in the District Court.

State Expenditures: 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 and increased payments to counties for reimbursement of inmate costs. 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 \$2,300 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 \$465 per month. Excluding medical care, the average variable costs total \$134 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be

served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2008 are estimated to range from \$21 to \$65 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$42 to \$120 per inmate in fiscal 2008.

Additional Information

Prior Introductions: HB 1529 of 2006, which would have criminalized the intentional transfer of HIV, received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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

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mll/jr

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