
Public Safety Committee

HB 1262

Brief Description: Eliminating the disparate treatment of HIV in the criminal justice system.

Sponsors: Representatives Moeller, Ryu, Roberts and Pollet.

Brief Summary of Bill

- Amends the statutory definition of Assault in the first degree to remove the specific mention of human immunodeficiency virus (HIV).
- Expands the statutory definition of Assault in the first degree to include the administering, exposing, transmitting, or causing to be taken of any fluid infected with a disease, the normal course of which if untreated is death or serious bodily injury or harm.
- Expands the statutory definitions of Assault in the second degree to include the administering or causing to be taken of any fluid infected with a disease, the normal course of which if untreated is death or serious bodily injury or harm.
- Removes the specific exclusion of HIV from the statutory definition of Sexual Intercourse without Notification so that any sexually transmitted disease can form the basis for criminal liability under the statute.

Hearing Date: 1/31/13

Staff: Sarah Koster (786-7303).

Background:

Assault in the First Degree.

A person is guilty of Assault in the first degree if he or she, with intent to inflict great bodily harm:

(a) assaults another with a firearm or deadly weapon or by any force or means likely to produce great bodily harm or death;

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- (b) administers, exposes or transmits to or causes to be taken by another, poison, the human immunodeficiency virus (HIV) or any other destructive or noxious substance; or
- (c) assaults another and inflicts great bodily harm.

Assault in the first degree is a class A felony.

Assault in the Second Degree.

A person is guilty of Assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

- (a) intentionally assaults another and thereby recklessly inflicts substantial bodily harm;
- (b) intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child;
- (c) assaults another with a deadly weapon;
- (d) with intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance;
- (e) with intent to commit a felony, assaults another;
- (f) knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture; or
- (g) assaults another by strangulation or suffocation.

Assault in the second degree is a class B felony, except if a finding of sexual motivation is made, in which case it is a class A felony.

Sexual Intercourse Unlawful Without Notification.

It is a gross misdemeanor for a person who, knowing that he or she is infected with a sexually transmitted disease, except HIV, has sexual intercourse without notifying his or her partner of the presence of the disease.

Summary of Bill:

This bill removes the specific inclusion of HIV in the statutory definition of Assault in the first degree and the specific exclusion of HIV from the statutory definition of Sexual Intercourse Unlawful Without Notification.

For both Assault in the first and second degrees, the bill creates a definition of "destructive or noxious substance" to include fluid infected with any disease which would be likely to cause death or serious bodily injury or harm if untreated.

A person is guilty of Assault in the first degree if, with intent to inflict great bodily harm, he or she administers, exposes, or transmits to or caused to be taken by another, poison or any other destructive or noxious substance with intent to inflict great bodily harm.

A person is guilty of Assault in the second degree if, with intent to inflict bodily harm, he or she administers to or causes to be taken by another, poison or any other destructive or noxious substance.

A person is guilty of Sexual Intercourse Without Notification if, knowing that he or she is infected with any sexually transmitted disease, he or she has sexual intercourse without notifying his or her partner of the presence of the disease.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.