

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 622
Judiciary

(Delegate Wilson, *et al.*)

**Criminal Law - Knowingly Transferring the HIV Virus to Another Individual -
Felony**

This bill alters the classification and maximum criminal penalties for the crime of knowingly transmitting or attempting to transfer the human immunodeficiency virus (HIV) to another individual. The bill reclassifies the crime from a misdemeanor to a felony and increases the maximum criminal penalties from three years imprisonment and/or a \$2,500 fine to 25 years imprisonment and/or a \$10,000 fine.

Fiscal Summary

State Effect: Potential minimal increase in State expenditures due to the bill's incarceration penalty. Revenues are not affected.

Local Effect: Potential minimal increase in local revenues from fines imposed in circuit court cases. Potential minimal decrease in local expenditures if defendants are sent to State correctional facilities as a result of the bill.

Small Business Effect: None.

Analysis

Current Law: An individual is prohibited from knowingly transmitting or attempting to transfer HIV to another individual. A violation of this offense is a misdemeanor with maximum criminal penalties of three years imprisonment and/or a \$2,500 fine.

Background: According to the Kaiser Family Foundation, as of July 2010, 37 states criminalized HIV transmission. Twenty-five of these states have specific felony classifications associated with this offense.

State and Local Fiscal Effect: Changing crimes from misdemeanors to felonies means that (1) such cases are likely to be filed in the circuit courts rather than the District Court; and (2) some persons may eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses for prior felony convictions. Accordingly, it is assumed that this bill shifts an unknown number of cases from the District Court to the circuit courts. It is not known whether such a prospective shift may spur more plea bargains and affect actual sentencing practices for this offense. However, according to the Maryland Sentencing Guidelines database, there have been no convictions in Maryland's circuit courts for knowingly transferring the HIV virus since the offense was enacted in statute in 2001.

Additional Information

Prior Introductions: None.

Cross File: SB 60 (Senator Stone) - Judicial Proceedings.

Information Source(s): Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Office of the Public Defender, Kaiser Family Foundation, Department of Legislative Services

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ncs/kdm

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