



Sen. Michael Noland

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09700SB1809sam001

LRB097 06418 RLC 54167 a

1 AMENDMENT TO SENATE BILL 1809

2 AMENDMENT NO. _____. Amend Senate Bill 1809 on page 4,
3 line 25, by replacing "Section 12-16.2" with "Sections 12-5.01
4 and 12-16.2"; and

5 by replacing all of page 5 and lines 1 through 22 on page 6 with
6 the following:

7 "(720 ILCS 5/12-5.01) (was 720 ILCS 5/12-16.2)

8 (This Section may contain text from a Public Act with a
9 delayed effective date)

10 Sec. 12-5.01. Criminal transmission of HIV.

11 (a) A person commits criminal transmission of HIV when he
12 or she, with the specific intent to commit the offense ~~knowing~~
13 ~~that he or she is infected with HIV:~~

14 (1) engages in sexual activity with another without the
15 use of a condom knowing that he or she is infected with HIV
16 ~~intimate contact with another;~~

1 (2) transfers, donates, or provides his or her blood,
2 tissue, semen, organs, or other potentially infectious
3 body fluids for transfusion, transplantation,
4 insemination, or other administration to another knowing
5 that he or she is infected with HIV; or

6 (3) dispenses, delivers, exchanges, sells, or in any
7 other way transfers to another any nonsterile intravenous
8 or intramuscular drug paraphernalia knowing that he or she
9 is infected with HIV.

10 (b) For purposes of this Section:

11 "HIV" means the human immunodeficiency virus or any other
12 identified causative agent of acquired immunodeficiency
13 syndrome.

14 "Sexual activity" means the insertive vaginal or anal
15 intercourse on the part of an infected male, receptive
16 consensual vaginal intercourse on the part of an infected woman
17 with a male partner, or receptive consensual anal intercourse
18 on the part of an infected man or woman with a male partner.

19 ~~"Intimate contact with another" means the exposure of the~~
20 ~~body of one person to a bodily fluid of another person in a~~
21 ~~manner that could result in the transmission of HIV.~~

22 "Intravenous or intramuscular drug paraphernalia" means
23 any equipment, product, or material of any kind which is
24 peculiar to and marketed for use in injecting a substance into
25 the human body.

26 (c) Nothing in this Section shall be construed to require

1 that an infection with HIV has occurred in order for a person
2 to have committed criminal transmission of HIV.

3 (d) It shall be an affirmative defense that the person
4 exposed knew that the infected person was infected with HIV,
5 knew that the action could result in infection with HIV, and
6 consented to the action with that knowledge.

7 (d-5) A court, upon a finding of reasonable suspicion that
8 an individual has committed the crime of criminal transmission
9 of HIV, shall order the production of records of a person
10 accused of the offense of criminal transmission of HIV or the
11 attendance of a person with relevant knowledge thereof so long
12 as the return of the records or attendance of the person
13 pursuant to the subpoena is submitted initially to the court
14 for an in camera inspection. Only upon a finding by the court
15 that the records or proffered testimony are relevant to the
16 pending offense, the information produced pursuant to the
17 court's order shall be disclosed to the prosecuting entity and
18 admissible if otherwise permitted by law.

19 (e) A person who commits criminal transmission of HIV
20 commits a Class 2 felony.

21 (Source: P.A. 96-1551, eff. 7-1-11.)

22 (720 ILCS 5/12-16.2) (from Ch. 38, par. 12-16.2)

23 (This Section renumbered as Section 12-5.01 by P.A.
24 96-1551, effective 7-1-11)

25 Sec. 12-16.2. Criminal Transmission of HIV. (a) A person

1 commits criminal transmission of HIV when he or she, with the
2 specific intent to commit the offense ~~knowing that he or she is~~
3 ~~infected with HIV:~~

4 (1) engages in sexual activity with another without the use
5 of a condom ~~intimate contact with another;~~

6 (2) transfers, donates, or provides his or her blood,
7 tissue, semen, organs, or other potentially infectious body
8 fluids for transfusion, transplantation, insemination, or
9 other administration to another; or

10 (3) dispenses, delivers, exchanges, sells, or in any other
11 way transfers to another any nonsterile intravenous or
12 intramuscular drug paraphernalia.

13 (b) For purposes of this Section:

14 "HIV" means the human immunodeficiency virus or any other
15 identified causative agent of acquired immunodeficiency
16 syndrome.

17 "Sexual activity" means the insertive vaginal or anal
18 intercourse on the part of an infected male, receptive
19 consensual vaginal intercourse on the part of an infected woman
20 with a male partner, or receptive consensual anal intercourse
21 on the part of an infected man or woman with a male partner.

22 "~~Intimate contact with another~~" ~~means the exposure of the~~
23 ~~body of one person to a bodily fluid of another person in a~~
24 ~~manner that could result in the transmission of HIV.~~

25 "Intravenous or intramuscular drug paraphernalia" means
26 any equipment, product, or material of any kind which is

1 peculiar to and marketed for use in injecting a substance into
2 the human body.

3 (c) Nothing in this Section shall be construed to require
4 that an infection with HIV has occurred in order for a person
5 to have committed criminal transmission of HIV.

6 (d) It shall be an affirmative defense that the person
7 exposed knew that the infected person was infected with HIV,
8 knew that the action could result in infection with HIV, and
9 consented to the action with that knowledge.

10 (d-5) A court, upon a finding of reasonable suspicion that
11 an individual has committed the crime of criminal transmission
12 of HIV, shall order the production of records of a person
13 accused of the offense of criminal transmission of HIV or the
14 attendance of a person with relevant knowledge thereof so long
15 as the return of the records or attendance of the person
16 pursuant to the subpoena is submitted initially to the court
17 for an in camera inspection. Only upon a finding by the court
18 that the records or proffered testimony are relevant to the
19 pending offense, the information produced pursuant to the
20 court's order shall be disclosed to the prosecuting entity and
21 admissible if otherwise permitted by law.

22 (e) A person who commits criminal transmission of HIV
23 commits a Class 2 felony.

24 (Source: P.A. 86-897. Renumbered as Section 12-5.01 by P.A.
25 96-1551, eff. 7-1-11.)

1 Section 95. No acceleration or delay. Where this Act makes
2 changes in a statute that is represented in this Act by text
3 that is not yet or no longer in effect (for example, a Section
4 represented by multiple versions), the use of that text does
5 not accelerate or delay the taking effect of (i) the changes
6 made by this Act or (ii) provisions derived from any other
7 Public Act.".