

# HOUSE BILL No. 5502

January 27, 1998, Introduced by Reps. McManus, McBryde, Rocca, Law, Bodem, Voorhees, Horton, Birkholz, Jansen, Oxender, Richner, Lowe, Cropsey, Jelinek, Hammerstrom, Scranton, Goschka, Cassis, Llewellyn and Raczkowski and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 5210 (MCL 333.5210), as added by 1988 PA  
490.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5210. (1) A person who knows OR HAS REASONABLE CAUSE  
2 TO BELIEVE that he or she has ACQUIRED IMMUNODEFICIENCY SYNDROME  
3 or WHO has been diagnosed as having acquired immunodeficiency  
4 syndrome ~~or acquired immunodeficiency syndrome related complex,~~  
5 or who knows OR HAS REASONABLE CAUSE TO BELIEVE that he or she is  
6 HIV infected, and who engages in sexual penetration with another  
7 person without having first informed the other person that he or  
8 she has acquired immunodeficiency syndrome ~~or acquired~~  
9 ~~immunodeficiency syndrome related complex~~ or is HIV infected, is

1 guilty of a felony PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5  
2 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

3 (2) As used in this section, "sexual penetration" means  
4 sexual intercourse, cunnilingus, fellatio, anal intercourse, or  
5 any other intrusion, however slight, of any part of a person's  
6 body or of any object into the genital or anal openings of  
7 another person's body, but emission of semen is not required.

8 (3) REGARDLESS OF THE EXISTENCE OR OUTCOME OF A CRIMINAL  
9 CASE OR PROSECUTION UNDER SUBSECTION (1), AN INDIVIDUAL WHO IS  
10 INJURED AS A RESULT OF A VIOLATION OF SUBSECTION (1) MAY BRING A  
11 CIVIL ACTION FOR DAMAGES AGAINST THE INDIVIDUAL WHO VIOLATED  
12 SUBSECTION (1) TO SECURE AN INJUNCTION, FOR ACTUAL DAMAGES,  
13 INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR EMOTIONAL DISTRESS, OR  
14 FOR OTHER APPROPRIATE RELIEF. THE COURT SHALL AWARD BOTH OF THE  
15 FOLLOWING TO A PLAINTIFF WHO PREVAILS IN A CIVIL ACTION BROUGHT  
16 UNDER THIS SUBSECTION:

17 (A) DAMAGES IN THE AMOUNT OF 3 TIMES THE ACTUAL DAMAGES OR  
18 \$2,000.00, WHICHEVER IS GREATER.

19 (B) REASONABLE ATTORNEY FEES AND COSTS.