



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 6020 (Substitute H-5 as reported without amendment)
House Bill 6021 (Substitute H-5 as reported without amendment)
Sponsor: Representative Jon Hoadley
House Committee: Health Policy
Senate Committee: Health Policy

CONTENT

House Bill 6020 (H-5) would amend the Public Health Code to modify the penalties for an individual who knew he or she had the human immunodeficiency virus (HIV) and without first informing the other person, engaged in vaginal or anal intercourse.

Under the Code, a person who knows that he or she has or has been diagnosed as having acquired immunodeficiency syndrome (AIDS) or AIDS-related complex, or who knows that he or she is HIV infected, and who engages in sexual penetration with another person without having first informed the other person that he or she has AIDS or AIDS-related complex or is HIV infected, is guilty of a felony. Under the bill, instead, a person who knew that he or she had HIV and engaged in anal or vaginal intercourse with another person without having first informed the other person that he or she had HIV with the specific intent that the uninfected person contract HIV would be guilty of a felony.

A person who knew that he or she had HIV who, without having first informed the other person that he or she had HIV, engaged in vaginal or anal intercourse, and transmitted HIV to an uninfected person causing that person to become HIV positive acted with reckless disregard and would be guilty of a felony.

A person who acted in the manner described above, but did not transmit HIV to the other person, would be guilty of a misdemeanor punishable by imprisonment for up to one year or a maximum fine of \$1,000, or both.

Under the bill, a person who knew that he or she had HIV who was adherent with an attending physician's treatment plan and had not been medically suppressed per accepted medical standards would not be acting with reckless disregard.

House Bill 6021 (H-5) would amend the sentencing guidelines in the Code of Criminal Procedure to modify the description for the felony amended under House Bill 6020 (H-5) for a person who knowingly had HIV and engaged in vaginal or sexual intercourse with an uninfected person without informing the person of his or her HIV.

The bill also would include in the guidelines the felony proposed under House Bill 6020 (H-5) as a class F felony against a person with a statutory maximum of four years' imprisonment.

House Bill 6021 (H-5) is tie-barred to House Bill 6020.

MCL 333.5210 (H.B. 6020)
777.13k (H.B. 6021)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

House Bill 6020 (H-5) would have an indeterminate, though likely minimal, fiscal impact on the State and local government. The bill would lower some related offenses from a felony to a misdemeanor violation, potentially reducing the number of felony convictions while increasing the number of misdemeanor convictions. However, it is not known how many people would be convicted under provisions of the bill. In 2016, 10 individuals were sentenced to prison, jail, or probation for engaging or attempting to engage in sexual penetration with a known HIV-infection with an uninformed partner. To the extent that changes in the bill led to increased misdemeanor arrests and prosecutions, it could increase resource demands on law enforcement, court systems, and jails.

House Bill 6021 (H-5) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bills would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Date Completed: 12-19-18

Fiscal Analyst: Abbey Frazier