

HB 605 – Transmission of Disease Through Bodily Fluids (Identical SB 628)

Amends s. 381.0041, F.S., creating an exception for “any person who has human immunodeficiency virus infection, who knows he or she is infected with human immunodeficiency virus, and who has been informed that he or she may communicate this disease by donating blood, plasma, organs, etc.” That exception is “when the donation is deemed medically appropriate by a licensed physician. It also reduces the current Level 5, 3rd degree felony to a 1st degree misdemeanor.

Per DOC, in FY 15-16, no offenders were sentenced for these offenses.

CONFERENCE ADOPTED ESTIMATE: Negative Insignificant

This bill amends s. 384.23, F.S. (defining substantial risk of transmission) and s. 384.24(1), F.S., adding the human immunodeficiency virus infection (HIV) to unlawful acts by a person who has been notified that he or she may communicate a disease through sexual intercourse to do so, but redefines the act as “act with the intent to transmit the disease, engage in conduct that poses a substantial risk of transmission to another person when the other person is unaware that the person is a carrier of the disease, and transmit the disease to the other person.” Furthermore, under s. 384.24(2), F.S., it adds that a “person does not act with the intent required...if he or she in good faith complies with a treatment regimen prescribed by his or her health care provider or with the behavioral recommendations of his or her health care provider or public health officials, or if he or she offers to comply, but that offer is rejected by the other person. For purposes of this section, the term ‘behavioral recommendations’ includes, but is not limited to, the use of a prophylactic device to measurably limit the risk of transmission of the disease. Evidence of the person's failure to comply with such a treatment regimen or such behavioral recommendations is not, in and of itself, sufficient to establish that he or she acted with the intent.” Originally, HIV was included in the second subsection, but this now moves it into the first subsection, including it with the other diseases.

It also amends multiple penalties in s. 384.34, F.S. First it amends s. 384.34(3), F.S., reducing the unranked, 3rd degree felony to a 1st degree misdemeanor for “any person who maliciously disseminates any false information or report concerning the existence of any sexually transmissible disease.” Additionally, it deletes s. 384.34(5), F.S., the unranked, 3rd degree felony for a violation of the originally defined s. 384.24(2), F.S. and the unranked, 1st degree felony for multiple violations. With s. 384.24(2), F.S. already redefined, and HIV moved to the first subsection, this has the effect of reducing all acts to 1st degree misdemeanors. Finally, it reduces the unranked, 3rd degree felony to a 1st degree misdemeanor for “any person who obtains information that identifies an individual who has a sexually transmissible disease, who knew or should have known the nature of the information and maliciously, or for monetary gain, disseminates this information or otherwise makes this information known to any other person.”

Per DOC, in FY 15-16, no offenders were sentenced for offenses under s. 384.34(3), F.S. There were 4 (adj.) offenders sentenced for the unranked, 3rd degree felony under s. 384.34(5), F.S., but none of them received a prison sentence. One (adj.) offender was sentenced for the unranked, 1st degree felony, and that offender was sentenced to prison (sentence length=31.0 m, incarceration rate: 100%). One (adj.) offender was sentenced under s. 384.34(6), F.S., but that offender did not receive a prison sentence.

CONFERENCE ADOPTED ESTIMATE: Negative Insignificant

Amends s. 775.0877, F.S., removing the word “attempt” from the list of offenses in which the criminal transmission of HIV can occur. It also replaces “bodily fluids” with “semen or vaginal secretions” when discussing transmission from one person to another. Furthermore, it deletes offenses “relating to prostitution” and the “donation of blood, plasma, organs, skin, or other human tissue” from the list. Criminal transmission of HIV is also redefined as when a person commits a second or subsequent offense on the list following a prior offense on that list and a positive test result, and “that results in transmission of HIV to the victim.” It is also reduced from an unranked, 3rd degree felony to a 1st degree misdemeanor.

Per DOC, in FY 15-16, there was 1 (adj.) offender sentenced with criminal transmission of HIV, but that offender did not receive a prison sentence.

CONFERENCE ADOPTED ESTIMATE: Negative Insignificant

**CONFERENCE ADOPTED ESTIMATE FOR ENTIRE BILL:
Negative Insignificant**

Requested by: House