

Legislative Analysis



FELONY DISCLOSURE LAW

Phone: (517) 373-8080
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House Bills 6020 and 6021 (proposed H-5 substitutes)

Sponsor: Rep. Jon Hoadley

Committee: Health Policy

Complete to 12-4-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 6020 would amend the Public Health Code to separate the offense in the so-called felony disclosure law into three separate offenses, one of which would be a misdemeanor rather than a felony. House Bill 6021 would make complementary changes to the sentencing guidelines chapter of the Code of Criminal Procedure. The bills were part of a package requested by the Division of HIV and STD Programs within the Michigan Department of Health and Human Services (DHHS).¹ Each bill would take effect 90 days after its enactment.

House Bill 6020 would amend the “Felony Disclosure Law,” which currently makes it a felony for a person who knows that he or she has been diagnosed with AIDS or AIDS-related complex (ARC) [a term no longer in use] or who knows he or she is HIV-infected to engage in sexual penetration with another person without first informing that person of his or her AIDS, ARC, or HIV status.

The bill would remove reference to AIDS and ARC and instead separate the offense into three potential offenses, depending on the intent of the person with HIV and the result of the sexual contact. All three offenses would occur when a person knows that he or she has HIV and engages in anal or vaginal intercourse without informing that person that he or she has HIV.

If the infected person did so with the specific intent that the uninfected person contract HIV, the infected person would be guilty of a felony.

If the infected person did so, and transmitted HIV to an uninfected person that caused the person to become HIV positive, the infected person would be considered to have acted with reckless disregard and would be guilty of a felony.

If the infected person did so with reckless disregard, but did not transmit HIV, the infected person would be guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to \$1,000, or both.

MCL 333.5210

¹ House Fiscal Agency summary of House Bills 6016 to 6023: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-6016-12B24552.pdf>

House Bill 6021 would divide the felony described as “AIDS – sexual penetration with uninformed partner,” which is punishable by a statutory maximum of 4 years, into two offenses in the sentencing guidelines in the Code of Criminal Procedure. The offenses would mirror the two felony offenses described in HB 6020—one in which the person acted with specific intent to infect, and one in which the person acted with reckless disregard and the uninfected person became HIV-positive.

House Bill 6021 is tie-barred to HB 6020, meaning that it could not take effect unless HB 6020 were also enacted.

MCL 777.13k

FISCAL IMPACT:

House Bill 6020 would have an indeterminate fiscal impact on the state and on local units of government, and would depend on the number of persons convicted under provisions of the bill. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2017, the average cost of prison incarceration in a state facility was roughly \$37,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,600 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 6021 amends sentencing guidelines and would not have a direct fiscal impact on the state or on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.