

AN ACT

ENTITLED, An Act to establish the crime of criminal exposure to HIV and to provide a penalty therefor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Any person who, knowing himself or herself to be infected with HIV, intentionally exposes another person to infection by:

- (1) Engaging in sexual intercourse or other intimate physical contact with another person;
- (2) Transferring, donating, or providing blood, tissue, semen, organs, or other potentially infectious body fluids or parts for transfusion, transplantation, insemination, or other administration to another in any manner that presents a significant risk of HIV transmission;
- (3) Dispensing, delivering, exchanging, selling, or in any other way transferring to another person any nonsterile intravenous or intramuscular drug paraphernalia that has been contaminated by himself or herself; or
- (4) Throwing, smearing, or otherwise causing blood or semen, to come in contact with another person for the purpose of exposing that person to HIV infection;

is guilty of criminal exposure to HIV. Criminal exposure to HIV is a Class 3 felony.

Section 2. Terms used in this Act mean:

- (1) "HIV," the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome;
- (2) "Intimate physical contact," bodily contact which exposes a person to the body fluid of the infected person in any manner that presents a significant risk of HIV transmission; and
- (3) "Intravenous or intramuscular drug paraphernalia," any equipment, product, or material of any kind which is peculiar to and marketed for use in injecting a substance into the human body.

Section 3. It is an affirmative defense to prosecution under section 1 of this Act, if proven by a preponderance of the evidence, that the person exposed to HIV knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and gave advance consent to the action with that knowledge.

Section 4. Nothing in this section may be construed to require the actual transmission of HIV in order for a person to have committed the offense of criminal exposure to HIV.

An Act to establish the crime of criminal exposure to HIV and to provide a penalty therefor.

=====

I certify that the attached Act
originated in the

SENATE as Bill No. 48

Secretary of the Senate

=====

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 48
File No. _____
Chapter No. _____

=====

Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State