

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

781D0258

SENATE BILL NO. 48

Introduced by: Senators Dunn (Rebecca), Brosz, Brown (Arnold), Daugaard, Dennert, Drake, Dunn (Jim), Hainje, Ham, Hutmacher, Lange, Lawler, Madden, Moore, Munson (David), Olson, Paisley, Reedy, Shoener, Symens, Vitter, and Whiting and Representatives Eccarius, Apa, Broderick, Burg, Davis, Diedtrich (Elmer), Duenwald, Duniphan, Earley, Garnos, Hanson, Hennies, Kazmerzak, Kooistra, Lockner, McIntyre, Weber, and Young

1 FOR AN ACT ENTITLED, An Act to establish the crime of criminal exposure to HIV and to
2 provide a penalty therefor.

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

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

6 (1) Engaging in sexual intercourse or other intimate physical contact with another person;

7 (2) Transferring, donating, or providing blood, tissue, semen, organs, or other potentially
8 infectious body fluids or parts for transfusion, transplantation, insemination, or other
9 administration to another in any manner that presents a significant risk of HIV
10 transmission;

11 (3) Dispensing, delivering, exchanging, selling, or in any other way transferring to another
12 person any nonsterile intravenous or intramuscular drug paraphernalia that has been
13 contaminated by himself or herself; or

14 (4) Throwing, smearing, or otherwise causing blood or semen, to come in contact with

1 another person for the purpose of exposing that person to HIV infection;
2 is guilty of criminal exposure to HIV. Criminal exposure to HIV is a Class 3 felony.

3 Section 2. Terms used in this Act mean:

4 (1) "HIV," the human immunodeficiency virus or any other identified causative agent of
5 acquired immunodeficiency syndrome;

6 (2) "Intimate physical contact," bodily contact which exposes a person to the body fluid
7 of the inflected person in any manner that presents a significant risk of HIV
8 transmission; and

9 (3) "Intravenous or intramuscular drug paraphernalia," any equipment, product, or
10 material of any kind which is peculiar to and marketed for use in injecting a substance
11 into the human body.

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

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