

HCS HBs 167 & 166 -- COMMUNICABLE DISEASES (Rehder)

COMMITTEE OF ORIGIN: Standing Committee on Health and Mental Health Policy

This bill modifies the laws regarding Human Immunodeficiency Virus (HIV), and applies the law to all serious infectious or communicable diseases instead of only HIV. A serious infectious or communicable disease is a non-airborne disease spread from person to person that is fatal or causes disabling long-term consequences in the absence of lifelong treatment and management.

It shall be a class C felony for a person knowingly infected with a serious infectious or communicable disease to be a blood, organ, sperm, or tissue donor, except as deemed necessary for medical research or deemed medically appropriate by a licensed physician; or to knowingly expose another person to a serious infectious or communicable disease through an activity that creates a substantial risk of transmission as determined by competent medical or epidemiological evidence. If the victim contracts a serious infectious or communicable disease, it is a class B felony. It shall be a class D felony for a person knowingly infected with a serious infectious or communicable disease to act in a reckless manner by exposing another person to a serious infectious or communicable disease through an activity that creates a substantial risk of transmission as determined by competent medical or epidemiological evidence.

However, a person shall not be considered to act knowingly if he or she takes practical means to prevent transmission. This includes, but is not limited, to the use of a condom, barrier protection, prophylactic medication regimen or device, or compliance with a medical treatment regimen as prescribed by a health care provider.

It is an affirmative defense if the person exposed to the serious infectious or communicable disease knew that the infected person was infected and consented to the exposure with such knowledge.

When alleging a violation of the law against exposing another person to a communicable disease, the prosecuting attorney or grand jury must use a pseudonym to protect the victim of the crime.

Currently, the crimes of offense of endangering a corrections employee and offense of endangering a Department of Mental Health employee are committed when an offender causes or attempts to cause another person to come in contact with certain bodily fluids. This bill specifies that the bodily fluids must be scientifically shown to be a means of transmission of a serious infectious or communicable disease and that the offender must have the intent to

harm and that there is a substantial risk of disease transmission by the contact with the bodily fluid. Additionally, the current law for these offenses made the penalty higher if the offender is knowingly infected with HIV, hepatitis B, or hepatitis C. This bill makes the penalty higher for any serious infectious or communicable disease.

This bill is similar to HB 2674 and HB 2675 (2018).