

CS FOR HOUSE BILL NO. 199(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/15/95

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVE OGAN

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the crime of criminal transmission of HIV."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 11.41 is amended by adding new sections to read:

4 ARTICLE 6. CRIMINAL TRANSMISSION OF HIV.

5 Sec. 11.41.600. CRIMINAL TRANSMISSION OF HIV. (a) A person
6 commits the crime of criminal transmission of HIV when the person, knowing that the
7 person is infected with HIV,

8 (1) voluntarily engages in intimate sexual contact with another person
9 in a manner that could result in the transmission of HIV;

10 (2) deliberately exposes the person's bodily fluid to the body of another
11 person in a manner that could result in the transmission of HIV;

12 (3) transfers, donates, or provides the person's blood, tissue, semen,
13 organs, or other potentially infectious body fluids for transfusion, transplantation,
14 insemination, or other administration to another; or

15 (4) dispenses, delivers, exchanges, sells, or in another way transfers to

1 another a nonsterile device or paraphernalia designed for the intravenous or
2 intramuscular administration of drugs.

3 (b) It is an affirmative defense to a prosecution under

4 (1) (a)(1) of this section that the intimate sexual contact occurred under
5 the following conditions:

6 (A) the parties to the intimate sexual contact were legally
7 married at the time of the contact;

8 (B) the person exposed knew that the defendant was infected
9 with HIV, knew that the contact could result in transmission of HIV, and
10 voluntarily participated in the contact with the knowledge; and

11 (C) during the contact, the parties used reasonable prophylactic
12 measures designed to minimize the risk of transmission of sexually transmitted
13 disease;

14 (2) (a)(2) of this section, that the exposure was incidental to the
15 administration of medical treatment to the defendant, that the treatment took place at
16 the direction of a medical professional licensed and qualified to authorize the
17 treatment, and that the defendant made efforts that were reasonable considering the
18 circumstances to inform the medical professional that the defendant was infected with
19 HIV;

20 (3) (a)(1) or (2) of this section, that the person exposed to HIV by the
21 proscribed conduct had, before that exposure, been medically diagnosed as being
22 infected with HIV.

23 (c) In a prosecution under (a) of this section, the determination of whether a
24 defendant acted with knowledge that the defendant was infected with HIV shall be
25 based on the totality of the evidence concerning the existence of the knowledge, and
26 may not be construed as requiring that the accused has submitted to or received the
27 results of a particular test or method of diagnosis.

28 (d) This section does not require transmission of HIV to have actually occurred
29 in order for a person to have committed criminal transmission of HIV.

30 (e) In this section,

31 (1) "HIV" means human immunodeficiency virus or another identified

1 causative agent of acquired immunodeficiency syndrome;

2 (2) "intimate sexual contact" means sexual penetration or any sexual
3 contact in which the body of one person is exposed to a body fluid of another person.

4 (f) Criminal transmission of HIV is a class A felony.

5 * **Sec. 2.** AS 18.67.101 is amended to read:

6 Sec. 18.67.101. INCIDENTS AND OFFENSES TO WHICH THIS CHAPTER
7 APPLIES. The board may order the payment of compensation in accordance with the
8 provisions of this chapter for personal injury or death that resulted from

9 (1) an attempt on the part of the applicant to prevent the commission
10 of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
11 officer to do so, or aiding a victim of crime; or

12 (2) the commission or attempt on the part of one other than the
13 applicant to commit any of the following offenses:

14 (A) murder in any degree;

15 (B) manslaughter;

16 (C) criminally negligent homicide;

17 (D) assault in any degree;

18 (E) kidnapping;

19 (F) sexual assault in any degree;

20 (G) sexual abuse of a minor;

21 (H) robbery in any degree;

22 (I) threats to do bodily harm; [OR]

23 (J) driving while intoxicated or another crime resulting from the
24 operation of a motor vehicle, boat, or airplane when the offender is intoxicated;

25 **or**

26 **(K) criminal transmission of HIV.**