

SB

17

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/11/97

FURTHER:

REPORTED OUT OF

APR 22 1997

DATE TURNED
IN TO OFFICE:

4-22-97

Finance Committee considered

SENATE BILL NO. 17

"An Act creating the crime of criminal transmission of human immunodeficiency virus (HIV)."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical change
- new: SCR# _____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | NR | DNP | AM |
|---------------------|----|-------------------------------|----|-----|----|
| <i>John Loggins</i> | ✓ | <i>Keel, E. Kelly</i> | ✓ | | |
| | | <i>Bill [unclear]</i> | | X | |
| | | <i>W. [unclear]</i> | ✓ | | |
| Co-Chair: | | Co-Chair: <i>A. [unclear]</i> | ✓ | | |
| Co-Chair: | | Co-Chair: <i>B. [unclear]</i> | ✓ | | |

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
| 1 ADMIN | 4/10 | ✓ | |
| 2 DPS | 4/9 | ✓ | |
| 3 LAW | 4/10 | ✓ | |
| | | | |
| | | | |
| | | | |

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

REPORTED OUT OF
APR 22 1997

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: SB17
(S) Publish Date: 4/11/97

| | | | |
|----------------|---|-----------------------|-------------------|
| Revision Date: | | Dept. Affected: | Department of Law |
| Title: | "An Act creating the crime of criminal transmission of human immunodeficiency virus (HIV)." | BRU: | Criminal Division |
| Sponsor: | Senator Taylor | Component: | Criminal Division |
| Requester: | Senate HESS Committee | COMPONENT SERIAL NO.: | 2085 |

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE

(Thousands of Dollars)

| FUND SOURCE | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

| POSITIONS | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill would make it a class B felony for a person, knowing that he or she is infected with the human immunodeficiency virus (HIV), to knowingly expose others to HIV infection through intimate contact, potentially infectious body fluids (including blood, tissue, semen or organs) in any manner that could result in transmission of HIV to a person who is unaware that the person causing the exposure is infected with HIV.

At the current time, 640 out of 99,725 Alaskans tested through state health laboratories are known to be infected with HIV. Because many at high risk test anonymously or out of state, the actual number of persons residing in the state who have tested positive for HIV is undoubtedly higher than state records indicate.

Although the bill is intended to deter persons who have tested positive from engaging in conduct that may spread HIV, we are concerned that it will have the unintended, but certain effect of deterring persons at the highest risk from seeking HIV testing and counseling, thus increasing the risk of spreading HIV.

| | | | |
|---------------------------|--|--------|----------|
| Prepared by: | Joan M. Kasson <i>Joan M. Kasson</i> | Phone: | 465-5370 |
| Division: | Administrative Services Division | Date: | 4/10/97 |
| Approved by Commissioner: | Bruce M. Botelho, Attorney General <i>Bruce M. Botelho</i> | Date: | 4/10/97 |
| Agency: | Department of Law | | |

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ANALYSIS CONTINUATION:

Of the known HIV cases in Alaska, the vast majority resulted from consensual sexual contact. Obtaining a conviction under this circumstance (simply securing sufficient evidence to warrant a conviction) would be difficult, if not impossible. Consequently, the number of convictions resulting from exposure to HIV through intimate sexual contact may be relatively small. In a rare case where a person infected with HIV deliberately sets about to infect another, it might be possible to obtain a conviction. However, such a case is already chargeable under the state's existing criminal laws. Because the cases where it is likely that we could obtain a conviction, and thus initiate a prosecution, are already prohibited under present law, we believe that this bill will have no significant fiscal impact on the Department of Law.

FISCAL NOTE

REPORTED OUT OF
N 2FC APR 22 1997

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: Bill Version: SB17
(S) Publish Date: 4/11/97

Revision Date: 04/07/97 Dept. Affected: Public Safety
Title: Criminal Transmission of HIV BRU: Alaska State Troopers
Sponsor: Sen. Taylor Component: Detachments
Requestor: Senate HESS COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

| OPERATING | FY 96 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|-------------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES () | -0- | -0- | -0- | -0- | -0- | -0- |
| Revenue Code | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|-----------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

Estimate of current year (FY 97) impact: \$ _____

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (Attach a separate page if necessary.)

While there may be 1 or 2 cases a year involving this crime, it is not expected that this bill would have a significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman Phone: 269-5650
Division: Alaska State Troopers Date: 04/07/97
Approved by Commissioner: Ronald L. Otte *Ronald L. Otte* Date: 4-7-97
Agency: Department of Public Safety

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FISCAL NOTE

REPORTED OUT OF
APR 22 1997

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 75
Bill Version: SB17
(S) Publish Date: 4/11/97

Revision Date: _____
Title: "An Act creating the crime of criminal transmission of HIV..."
Sponsor: Senator Taylor
Requestor: (S) HES

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|----------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE: (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

Prepared by: Barbara K. Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Alison M. Elger
Date: 4/10/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 17 #1

ANALYSIS: (continued)

This bill creates the new crime of criminal transmission of HIV. If a person

(1) knows that they are infected with HIV, and

(a) voluntarily engages in intimate contact with another person; or

(b) transfers, donates or provides blood, tissue, semen, organs or other potentially infectious bodily fluids for transfusion, transplantation, insemination or other administration to another; or

(c) dispenses, delivers, exchanges, sells or in any manner transfers to another person any non-sterile intravenous or intramuscular drug paraphernalia.

The existing criminal statutes in Alaska already provide an adequate means to prosecute and punish anyone who either intentionally or recklessly transmit HIV. The bill unconstitutionally shifts the burden of proof to the accused person to show either that the person exposed knew that the defendant was infected or that the action could result in infection and consented with that knowledge. Additionally, many of the definitions are vague. As no cases of this type have been heard of in Alaska, and current statutes already allow for criminal prosecution, no additional fiscal impact is expected.