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HIV STATUS - FAILURE TO WARN: PENALTY AND CIVIL ACTION

House Bill 4235

Sponsor: Rep. Doug Spade

Committee: Criminal Law and
Corrections

Complete to 3-4-99

A SUMMARY OF HOUSE BILL 4235 AS INTRODUCED 2-9-99

The Public Health Code makes it a felony for a person who knows that he or she is HIV positive or has AIDS or AIDS related complex to engage in sexual penetration (sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body) with a willing partner without first warning that partner of his or her HIV status.

The bill would amend the code so that the felony would apply to not only those who know they have AIDS or are HIV positive, but also to those who have reasonable cause to believe they have AIDS or are HIV positive. In addition, the bill would specify a penalty of no more than five years in prison and/or a fine of up to \$10,000.

Finally, the bill would allow the victim of such a crime to pursue a civil action for actual damages, an injunction, or other appropriate relief. This civil action would be available to the victim even if the offender had not been charged with or convicted of the underlying crime. If the victim won the civil action, the court would be required to award him or her three times the actual damages or at least \$2,000, plus reasonable costs and attorney fees.

MCL 333.5210

House Bill 4235 (3-4-99)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.