

HOUSE BILL No. 4235

February 9, 1999, Introduced by Reps. Spade, DeHart, Prusi and Bogardus and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 5210 (MCL 333.5210), as added by 1988 PA
490.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5210. (1) ~~A person~~ AN INDIVIDUAL who knows OR HAS
2 REASONABLE CAUSE TO BELIEVE that he or she has ACQUIRED IMMUNODE-
3 FICIENCY SYNDROME or WHO has been diagnosed as having acquired
4 immunodeficiency syndrome ~~or acquired immunodeficiency syndrome~~
5 ~~related complex,~~ or who knows OR HAS REASONABLE CAUSE TO BELIEVE
6 that he or she is HIV infected, and who engages in sexual pene-
7 tration with another ~~person~~ INDIVIDUAL without having first
8 informed the other ~~person~~ INDIVIDUAL that he or she has
9 acquired immunodeficiency syndrome ~~or acquired immunodeficiency~~
10 ~~syndrome related complex~~ or is HIV infected, is guilty of a

1 felony PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
2 FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

3 (2) As used in this section, "sexual penetration" means
4 sexual intercourse, cunnilingus, fellatio, anal intercourse, or
5 any other intrusion, however slight, of any part of a person's
6 body or of any object into the genital or anal openings of
7 another person's body, but emission of semen is not required.

8 (3) REGARDLESS OF THE EXISTENCE OR OUTCOME OF A CRIMINAL
9 CASE OR PROSECUTION UNDER SUBSECTION (1), AN INDIVIDUAL WHO IS
10 INJURED AS A RESULT OF A VIOLATION OF SUBSECTION (1) MAY BRING A
11 CIVIL ACTION FOR DAMAGES AGAINST THE INDIVIDUAL WHO VIOLATED
12 SUBSECTION (1) FOR ACTUAL DAMAGES, INCLUDING, BUT NOT LIMITED TO,
13 DAMAGES FOR EMOTIONAL DISTRESS, TO SECURE AN INJUNCTION, OR FOR
14 OTHER APPROPRIATE RELIEF. THE COURT SHALL AWARD BOTH OF THE FOL-
15 LOWING TO A PLAINTIFF WHO PREVAILS IN A CIVIL ACTION BROUGHT
16 UNDER THIS SUBSECTION:

17 (A) DAMAGES IN THE AMOUNT OF 3 TIMES THE ACTUAL DAMAGES OR
18 \$2,000.00, WHICHEVER IS GREATER.

19 (B) REASONABLE ATTORNEY FEES AND COSTS.