

DETAIL LISTING
FROM FIRST TO LAST STEP

TODAY'S DATE: June 13, 1997
TIME : 11:54 am
LEG. DAY: 93 Regular
PAGE : 1 OF 1

N E L I S

1993

SB 514 By Judiciary AIDS

Prohibits certain conduct through which human immunodeficiency virus may be transmitted after testing positive for disease. (BDR 15-2109)

Fiscal Note: Effect on Local Government: No. Effect on the State or on Industrial Insurance: Yes.

06/01 83 Read first time. Referred to Committee on Judiciary. To printer.
06/02 84 From printer. To committee.
06/02 84 Dates discussed in Committee: 6/7, 6/11 (A&DP)
06/22 100 From committee: Amend, and do pass as amended.
06/22 100 (Amendment number 891.)
06/22 100 Placed on Second Reading File.
✓ 06/22 100 Read second time. Amended. To printer.
06/23 101 From printer. To engrossment.
✓ 06/23 101 Engrossed. First reprint. ✓ Placed on General File.
✓ 06/23 101 Read third time. Passed, as amended. Title approved, as amended. (20 Yeas, 0 Nays, 0 Absent, 1 Excused, 0 Not Voting.) To Assembly.
06/24 103 In Assembly.
06/24 103 Read first time. Referred to Committee on Judiciary. To committee.
06/24 103 Dates discussed in committee: 6/26 (DP)
06/26 105 From committee: Do pass.
✓ 06/26 105 Placed on Second Reading File.
✓ 06/26 105 Read second time.
✓ 06/27 106 Read third time. Passed. Title approved. (41 Yeas, 0 Nays, 1 Absent, 0 Excused, 0 Not Voting.) To Senate.
06/28 105 In Senate.
06/28 105 To enrollment.
06/30 107 Enrolled and delivered to Governor.
07/09 0 Approved by the Governor.
07/12 0 Chapter 472.
Effective October 1, 1993.

(* = instrument from prior session)

NEVADA LEGISLATURE
SIXTY-SEVENTH SESSION
1993

SUMMARY OF LEGISLATION

PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU

S.B. 514 (Chapter 472)

Senate Bill 514 makes it a felony for a person who has received notice of testing positive for exposure to the human immunodeficiency virus (HIV) to intentionally engage in conduct that is intended or likely to transmit HIV to another person. The punishment is imprisonment for 1 year to 20 years or a fine of not more than \$10,000, or both.

The bill creates an affirmative defense if the person subjected to the exposure knew the defendant was infected with HIV, knew the conduct could result in exposure, and consented to the conduct having such knowledge.

This bill was requested after the passage of Senate Bill 466, which decriminalized certain sexual activities. The bill is designed to protect persons from the spread of HIV and to punish those who willfully spread the disease.

Referred to Senate Committee on Judiciary

SENATE VOTE: 20-0-1

Referred to Assembly Committee on Judiciary

ASSEMBLY VOTE: 41-0-1

Effective October 1, 1993

SENATE BILL NO. 514--COMMITTEE ON JUDICIARY

JUNE 1, 1993

Referred to Committee on Judiciary

SUMMARY--Prohibits certain conduct through which human immunodeficiency virus may be transmitted after testing positive for disease. (BDR 15-2109)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.



EXPLANATION--Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to the human immunodeficiency virus; making it unlawful to engage in certain conduct through which the virus may be transmitted after testing positive for the disease; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 201 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 *Any person who, after testing positive in a test approved by the state board*
4 *of health for exposure to the human immunodeficiency virus and receiving*
5 *actual notice of that fact, willfully, wantonly or negligently engages in con-*
6 *duct in a manner that is intended or likely to transmit the disease to another*
7 *person is guilty of a felony and shall be punished by imprisonment in the state*
8 *prison for not less than 1 year nor more than 20 years, or by a fine of not more*
9 *than \$10,000, or by both fine and imprisonment.*

BDR 15-2109
 A.B. _____
 S.B. 514

EXECUTIVE AGENCY
FISCAL NOTE

STATE AGENCY'S ESTIMATES

Date Prepared June 4, 1993

Agency Submitting Department of Prisons

Items of Revenue or Expense or both	Fiscal Year 1992-93	Fiscal Year 1993-94	Fiscal Year 1994-95	Continuing
None	0	Not Calculated		
Total	0	Not Calculated		

Explanation (Use Additional Sheets or Attachments, if required)

The Department of Prisons is unable to provide a specific fiscal impact for this proposal. Contact with Robert Nellie of the Bureau of Disease Control and Intervention discloses that it is not possible to provide an estimate of the number of persons who will be prosecuted of this crime, and if prosecuted, who would be sentenced to prison and for how long.

There are several elements of this bill that makes this estimate difficult. (see attached)
 Effect on Local Government Yes No

Signature [Signature]
 Title Director, Department of Prisons

DEPARTMENT OF ADMINISTRATION'S
 COMMENTS

Date June 10, 1993

The agency comments are reasonable.

Signature [Signature]
 Title Chief Assistant

FISCAL EFFECT ON LOCAL GOVERNMENT
 (Legislative Counsel Bureau Use Only)

Date _____

Signature _____
 Title _____

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BDR 15-2109

EXECUTIVE AGENCY
FISCAL NOTE
Department of Prisons

Explanation

They are:

-Prostitutes who engage in this type of act are already coming to prison and would not represent an additional impact on prison populations.

-The bill requires that HIV positive persons have received actual notice of their infection. This must be a legally substantive process that may or may not be in place at the present time.

-In order to confirm that a person has been properly notified there must be an administrative process to record that fact and be available to investigators and prosecutors. That process does not exist at this time and there is no indication that it is to be established and who will be the responsible agency. This issue is complicated by the issue of privacy.

-The continued sexual conduct of the infected person must be willful, wanton, or negligent in order to warrant a prosecution. The concept of willful, wanton, or negligent seems to be vague given the private nature of sexual conduct between consenting persons, and the assumption that not all continued sexual activity after notice is willful, wanton, or negligent.

-Even if a person were convicted, this proposal does not preclude a sentencing decision for probation.

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Sixty-seventh Session
June 7, 1993

The Senate Committee on Judiciary was called to order by Chairman Mark A. James, at 2:10 p.m., on Monday, June 7, 1993, in Room 224 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. James, Chairman
Senator R. Hal Smith, Vice Chairman
Senator Lawrence E. Jacobsen
Senator Mike McGinness
Senator Dina Titus*
Senator Raymond C. Shaffer
Senator Ernest E. Adler

STAFF MEMBERS PRESENT:

Bob Erickson, Research Director
Marilyn Hofmann, Committee Secretary

OTHERS PRESENT:

Jerry Cade, M.D., Medical Director, HIV Services, University
Medical Center, Las Vegas, Nevada
Ben Graham, Nevada District Attorney's Association
Kevin Kelly, Nevada Attorneys for Criminal Justice
Ron Angelone, Director, State of Nevada, Department of Prisons
Bob Gagnier, Executive Director, State of Nevada Employees Association
(SNEA)
Michael H. Johaneson, Service Employee International Union (SEIU)
Victoria D. Riley, Nevada Trial Lawyers Association (NTLA)
Janine Hansen, Nevada Eagle Forum

Senator James opened the hearing on Senate Bill (S.B.) 514.

SENATE BILL 514: Prohibits certain conduct through which human immunodeficiency virus may be transmitted after testing positive for disease.

Senator James said the bill addresses two issues which must be resolved: First, the different degrees of culpability between "willful," "wanton" and "negligent" conduct; and secondly, the question of whether there are other diseases which can be passed on which should be included in the legislation.

The first to testify was Jerry Cade, M.D., Medical Director, HIV Services, University Medical Center, Las Vegas, Nevada. Dr. Cade stated he believed there were times when the transmission of human immunodeficiency virus (HIV) should be criminalized, particularly in cases of rape, transmission to a minor and intentional transmission. He said he had a concern with singling out HIV, "...when it really is simply another virus...you have other diseases which are like it." Dr. Cade mentioned hepatitis B, which is transmitted in the same manner as HIV. He said many individuals die from the complications of hepatitis B. Dr. Cade asked if other sexually transmitted diseases should be included in the bill. He also referenced situations where one partner is HIV positive and the other partner is aware of that but chooses to engage in sexual activity. Dr. Cade concluded:

I am very glad that this committee is addressing HIV disease. As I pointed out earlier, it is a crisis in this state. I appreciate your support of S.B. 466, and I hope to continue to work with you as we do address this crisis.

Senator Jacobsen asked Dr. Cade if there was one type of disease which was easier to contract than another. Dr. Cade answered hepatitis B was more easily contracted than HIV, but had a lower percentage of fatalities. He added the number of cases of HIV contracted through a "needle-stick" was four in one thousand; with hepatitis B it is 24 percent.

Senator James referred to a situation where one partner is HIV infected, the other is not but is aware of his partner's infection, and they have consensual sexual contact. He questioned whether the person infected with the virus would still be criminally liable with the bill as written, even though it would be a consensual situation. Senator James reviewed the language of the bill and asked Dr. Cade if he would comment on the possibility of changing the language of the bill to "...willfully and wantonly engaged in conduct with the intent of transmitting...." Dr. Cade replied it would be an improvement but asked what would prove "intent." Senator James said most states who have adopted such legislation have included as an offense blood donation by a person who knows he or she has HIV. He said that action would be covered by the bill since it could be interpreted as "willful or wanton conduct."

The next to testify were Ben Graham, Nevada District Attorney's Association and Kevin Kelly, Nevada Attorneys for Criminal Justice. Mr. Graham indicated there were different kinds of conduct to consider and "negligence" would have a little higher degree of culpability than "accidental." He indicated there should be different degrees of punishment for those classifications than there would be for "willful or wanton conduct." Mr. Graham suggested removal of the word "negligent" and retention of the words "willful" and "wanton."

Senator Titus suggested the possibility of amending the bill to only refer to blood donations. Senator James responded a number of states have done that.

Mr. Kelly stated he saw a problem with the bill as written was the matter of proof. He said he felt the law might be held unconstitutional because of the "negligence" aspect.

Mr. Graham referred to a "consensual" situation and said there was a theory of law that if it takes two to commit a crime, you do not have a punishable offense. He said if two persons choose to engage in "careless activity," regardless of the consequences, there would be no offense.

Mr. Kelly indicated there was a potential for false allegations by a person who is aware another person is HIV-positive. He said there would be a difficulty in proving unprotected sexual activity took place.

Senator James indicated he would return to a discussion of S.B. 514 after hearing the other bills on the agenda.

The chairman opened the hearing on Senate Bill (S.B.) 515.

SENATE BILL 515: Extends time certain offenders are placed under supervision of director of department of prisons for participation in program of regimental discipline.

The first to testify was Ron Angelone, Director, State of Nevada, Department of Prisons. Mr. Angelone explained the bill as a "housekeeping measure." He indicated it took 30 days to take an inmate through a physical and psychological testing process, which left only 120 days for that inmate to complete the program of regimental discipline. Mr. Angelone said the extension of time will allow the judge and the Department of Prisons to work together in order to keep certain persons in the program for a full 150 days after the testing has been completed. He indicated there would be no major fiscal impact on the state, since it was a small number of inmates which would require the additional time.

Senator McGinness asked if it ever took less than 30 days to determine an inmate's eligibility for the regimental discipline program. Mr. Angelone answered it usually took the entire time to do the testing process. Senator McGinness suggested a change from language which indicated they "must" use the 30 days to "may." Mr. Angelone agreed it would be beneficial not to be locked into the entire 30-day time period if they did not need it.

returned to the assembly for approval of such amendment and indicated he would not want to see the bill defeated at this time.

There was no further testimony, and the chairman closed the hearing on A.B. 175. The hearing was then reopened on S.B. 514.

Mr. Kelly again appeared with Mr. Graham and Vicki Riley, Nevada Trial Lawyers Association (NTLA.) Mr. Kelly stated they had discussed the legislation and had developed an amendment. He referenced line 5 of the bill and suggested the language, "...actual notice of the fact intentionally, knowingly or willfully..." Senator James asked if "knowingly" would take in "recklessness," and Mr. Graham answered it would not. Ms. Riley suggested the deletion of the word "negligently." Mr. Kelly stated he believed such amendments would be broader than including transplants and blood donations in the bill. However, he said, the words "...such as blood donation, tissue transplants, sexual activity or the like" could be added at line 6 after the word "conduct."

Mr. Graham stated he felt the words "any conduct" would be the broadest language which could be used and added he would prefer that to a specific listing. Senator Adler also indicated he would be against a listing of specific acts.

There was continued discussion regarding the situation where one party is HIV positive, the other is not but is aware of the first party's disease, and chooses to engage in sexual activity. Mr. Kelly said he felt the intent of the bill was to also include that situation within the provisions of the bill. Senator James asked if the penalty should be the same in an "agreed" situation. Mr. Kelly answered he did not believe the situation would ever "surface." Mr. Graham stated he was not "confident" a partner could be deemed guilty of the offense if the other partner was aware of the disease and agreed to continue their relationship. Mr. Kelly suggested an exemption in the law for married couples.

Mr. Graham asked, "Does the state have an interest in trying to prevent people from acquiring HIV? Are we going to give statutory consent to a noninfected spouse to agree to become infected?" Senator McGinness stated whether a couple was married or not married "should not have a whole lot to do with it" if one consents to have sexual relations with an infected partner. Mr. Kelly said the real focus of the bill should be on the innocent person who is unaware of the partner's illness. He said he could not imagine the state prosecuting a partner or spouse who is engaging in activity knowingly with a partner who is HIV-positive.

Mr. Graham cited the case of State v. Gordon (citation omitted), which prohibits conviction for uncorroborated testimony of an accomplice, which would be the only evidence available in the situation discussed

above. Mr. Graham stated a partner who knew the other had the virus would be "a knowing accomplice."

Senator James stated the bill should protect not just the person who will get the disease but also society, which should be protected from the spread of the disease. The chairman indicated he would need additional time to study the statutes in effect in other states. He stated he would reschedule the bill for hearing at a later date.

Janine Hansen, Nevada Eagle Forum, asked to testify on S.B. 514. Ms. Hansen expressed concerns regarding testing and the possibility persons would avoid being tested if penalties were involved in connection with being responsible for transmitting HIV. She referenced the "reasonable man" theory which states "...he knew or should have known," and suggested language of that type be inserted into the bill. Ms. Hansen reiterated the importance of developing a policy which indicates to the public "...that the state wants to protect the individual as well as society from the costly spread of AIDS." She stated she did not believe there was a system of "contact tracing" which is utilized in other forms of sexually transmitted diseases. Ms. Hansen said the legislature should encourage health officials to pursue contact tracing of HIV.

Dr. Cade returned to the committee to announce that beginning January 1, 1993, the State of Nevada began reporting and contact tracing HIV positive cases.

There was no further testimony on S.B. 514.

Senator James returned to a discussion of A.B. 175. He said the only issue outstanding was the question of whether the bill should be amended to include public employees of cities and counties, as well as the state. The committee members agreed the bill should be so amended.

SENATOR SMITH MOVED TO AMEND AND DO PASS A.B. 175.

SENATOR SHAFER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Sixty-seventh Session
June 11, 1993**

The Senate Committee on Judiciary was called to order by Chairman Mark A. James, at 1:30 p.m., on Friday, June 11, 1993, in Room 224 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. James, Chairman
Senator R. Hal Smith, Vice Chairman
Senator Lawrence E. Jacobsen
Senator Mike McGinness
Senator Dina Titus
Senator Ernest E. Adler

COMMITTEE MEMBERS ABSENT:

Senator Raymond C. Shaffer (Excused)

STAFF MEMBERS PRESENT:

Dennis Neilander, Senior Research Analyst
Sherry Nesbitt, Committee Secretary

OTHERS PRESENT:

Honorable Michael Fondi, Judge, First Judicial District Court,
Member, Nevada District Judge's Legislative Committee
Ed Irvin, Chief Deputy Public Defender, State of Nevada, Office
of the Public Defender
Honorable David Gamble, Judge, Ninth Judicial District Court,
Chairman, Nevada District Judge's Legislative Committee
John P. Sande, III, Lobbyist, Nevada Bankers Association
John Morrow, Public Defender, Washoe County Public Defender's
Office
Noel S. Waters, Lobbyist, Nevada District Attorney's Association
Judy Corbisiero, Member, Nevadans for Constitutional Equality
Victoria D. Riley, Lobbyist, Nevada Trial Lawyers Association
Ben Graham, Lobbyist, Nevada District Attorney's Association
Lucille K. Lusk, Lobbyist, Nevada Coalition of Concerned
Citizens
Dr. Paul Cameron, Chairman, Family Research Institute,
Washington, D.C.
Alan Rabkin, General Counsel, Sierra Tahoe Bancorp

Senate Committee on Judiciary
June 11, 1993
Page 2

David Sarnowski, Deputy Attorney General, State of Nevada,
Attorney General's Office
Frank Daykin, Commissioner on Uniform State Law, State of Nevada

Senator James opened the hearing on Senate Bill (S.B.) 514.

SENATE BILL 514: Prohibits certain conduct through which
human immunodeficiency virus may be
transmitted after testing positive for
disease. (BDR 15-2109)

Senator James briefly described the bill. He advised that this bill had been heard previously by the Senate Committee on Judiciary, and that he had asked the Legislative Counsel Bureau (LCB) to provide statutes in other states which have enacted this law. He advised a number of states have set forth language similar to that in S.B. 514, as amended. He stated very few of these use the term "negligently." He stated this is a felony violation in other states, but those statutes contain the following language, as quoted from the Illinois statute:

. . . It shall be an affirmative defense if the person exposed knew the infected person was infected with [human immunodeficiency virus] (HIV), knew the action could result in infection with HIV, and consented to the action with that knowledge.

Senator James advised that would take care of one of the major concerns of the committee, regarding married couples or people in a relationship. The committee is concerned that these people not be made to be committing criminal conduct. Senator James asked if an affirmative defense is a complete defense to a crime.

Ben Graham, Lobbyist, Nevada District Attorney's Association provided testimony. Regarding an affirmative defense, he advised essentially a person would have the responsibility of coming forward with an explanation. An affirmative defense basically says the defendant has a burden of explanation. If the trier of fact believes that, then it would be a valid defense. Mr. Graham explained other affirmative defenses are self defense, statute of limitations and consent.

Senator James asked if there would be any crime left at that point with which to charge a person. The explanation shows that this would not be the case.

Mr. Graham stated he believes this speaks directly to the concerns of the committee. He recalled discussion regarding not

being able to prosecute the crime because of the accomplice rule, and other issues involved. He stated the language read by Senator James would clarify, and would provide the defense of assumption of risk.

Dr. Paul Cameron, Chairman, Family Research Institute, Washington, D.C., provided testimony. He stated the institute is responsible, as near as he can determine, for the only random sample regarding the issue of deliberate infection of others. He stated these findings, in his experience and the writings of public health experts, seem probably to be valid. He presented the committee with a table showing a random sample of people living largely in urban America. A copy of this table is attached as Exhibit C. Dr. Cameron stated the institute interviewed people, and asked the question, "when you knew that you had a contagious disease, how often have you had sex to infect others?" He stated it does not make sense that a person would do this. He referred to the index, and pointed out that 1-1/2 percent of men, claiming to be heterosexual, admitted to having deliberately infected others. These men also claim they were successful a certain percentage of the time. Dr. Cameron referred to the rate for homosexuals, showing 4.5 percent of these men admitted to having deliberately infected others. Again, a fair number recorded they were successful as near as they could determine. Dr. Cameron noted the percentages for females were approximately the same.

Dr. Cameron also distributed a brochure to the committee. A copy of this brochure, entitled Violence and Homosexuality is attached as Exhibit D. He referred to the table in this brochure. He noted a further analysis showed individuals engaging in variances of sexual activity, that is those engaging in bondage and discipline, were appreciably more apt to claim that they had deliberately attempted to sexually infect others. This was found to be true for both males and females. He advised these people were asked if they had ever attempted to kill another person, or engaged in activities to do so. A certain fraction of these people admitted to having done this.

Dr. Cameron advised that all of these findings have a bearing on S.B. 514. He stated there are individuals who have in the past, and are currently, engaging in deliberately attempting to infect others. He stated his belief that it would be an act of kindness to prosecute these individuals, to inhibit this activity.

Senator Adler asked for and received confirmation that Dr. Cameron supports the bill as amended.

Senator Titus asked for an explanation of the amendment.

Senator James reiterated his earlier explanation, and added that the language would be:

. . .intentionally, knowingly, or willfully, intended
or likely to transmit . . .

Senator James then reiterated the language, regarding an affirmative defense, from the Illinois statute which would be added.

Senator Titus asked for and received confirmation that the words "negligently and wantonly" are to be removed by the amendment.

Senator Titus asked if the phrase "or likely to" is to be left in the language.

Senator James replied that this is what was suggested, but is still open to discussion.

Senator James confirmed there was no further testimony regarding S.B. 514.

SENATOR ADLER MOVED TO AMEND AND DO PASS S.B. 514.

SENATOR JACOBSEN SECONDED THE MOTION.

Senator James asked Mr. Graham if the term "or likely" is an appropriate modifier for "intentionally, knowingly or willfully."

Mr. Graham recalled that, pursuant to the earlier discussion, the term "or likely to cause" would be appropriately left in.

Senator James stated the Illinois statute states, "engages in intimate contact." In that statute, there is no secondary intent.

Mr. Graham stated the way the bill is currently written, the crime would be extremely difficult to prove, even with the term "likely" included.

Senator James advised the definition of "intimate contact" under Illinois law is "exposure in a manner that could result." This would be comparable to the term "likely."

Mr. Graham deferred the question to the jurists and attorneys present at the hearing.

Senator James stated he would welcome any comment or suggestion. He stated he would like to pass a law which would be effective, but which will not take in people who do not have the requisite mens rea to be punished.

Honorable David Gamble, Judge, Ninth Judicial District Court, Chairman, Nevada District Judge's Legislative Committee, provided testimony. Judge Gamble advised the language "or likely to" seems not inconsistent with many existing criminal statutes. He stated in these statutes, there is a "knew or should have known" kind of standard. If the person knew the situation would occur it is an intentional act. If the person should have known, that person could not use as a defense, not knowing the situation would happen.

Senator James asked if that kind of thing goes more to negligence.

Senator Adler advised there exist crimes such as this. For example, a gun may be shot toward a crowd, not believing the bullet will hit a person. It is likely a bullet will hit a person, and therefore, the person with the gun would still be charged.

Judge Gamble advised this is related to some extent to the term "wantonly."

Senator James confirmed there was no further discussion, and reviewed the motion on the floor.

THE MOTION CARRIED. (SENATOR SHAFFER WAS ABSENT FOR THE VOTE.)

* * * * *

Senator James opened the hearing on Assembly Bill (A.B.) 621.

ASSEMBLY BILL 621: Deletes provisions governing recommendation for punishment agreed upon by defendant and district attorney with plea of guilty or nolo contendere to certain offenses. (BDR 14-1455.

Judge Gamble provided testimony in favor of A.B. 621. He advised in the 1991 legislative session, subsection 3 of Nevada Revised Statutes (NRS) 174.065 was passed. He stated the effect of this is that if defense counsel and the district attorney reach an agreement during the plea bargaining phase of a criminal prosecution which includes a specified punishment or a

TABLE 1
Sexual Orientation and Sexually Transmitted Disease by Gender

disease/ condition	MALE				P	FEMALE					
	heterosexuals	homosexuals		proportion of gender episodes attributable to bi/homo- sexuals (B/A + B)		heterosexuals	homosexuals		proportion of gender episodes attributable to bi/homo- sexuals (B/A + B)		
	#	% of ever had disease/ condition	(estimated)* share of episodes in cohort (A)	#	% of ever had disease/ condition	(estimated)* share of episodes in cohort (B)	(B/A + B)	#	% of ever had disease/ condition	(estimated)* share of episodes in cohort (B)	(B/A + B)
sypthilia	1311	18(1.4%)	29(44.3%)	83	16(19.3%)	20(30.5%)	40.8%				
gonorrhea	1347	139(10.4%)	184(61.0%)	83	29(34.9%)	50(16.5%)	21.3%				
genital warts	1312	57(4.3%)	69(42.8%)	81	12(14.8%)	16(9.9%)	18.8%				
hepatitis	1297	34(2.6%)	36(3.1%)	78	16(20.5%)	17(18.1%)	32.8%				
NSU	1296	100(7.7%)	150(48.3%)	79	11(13.4%)	16(5.1%)	9.6%				
lice	1343	295(22.0%)	381(55.2%)	84	53(63.1%)	88(12.8%)	18.9%				
scabies	1286	38(3.0%)	40(4.4%)	76	11(14.5%)	11(12.4%)	21.5%				
infection from vagina	1301	95(7.3%)	143(67.8%)	79	4(5.1%)	10(4.7%)	6.5%				
infection from penis	1268	2(2%)	3(8%)	79	5(5.9%)	6(1.7%)	68.0%				
oral infection from vagina	1297	9(7%)	11(66.7%)	78	—	—	0.0%				
oral infection from penis	1278	—	—	80	8(5.9%)	10(24.0%)	100.0%				
none of 11 STDs above	1216	851(70.0%)	—	73	24(32.4%)	—	—				
one of 11 STDs above		198(16.3%)	—		13(17.8%)	—	—				
two or more of 11 STDs above		167(13.7%)	—		36(49.3%)	—	—				
rash	1401	377(26.9%)	(70.0%)	89	34(38.2%)	(6.3%)	8.3%				
sores on genitals	1382	111(8.0%)	(46.1%)	88	11(12.5%)	(4.6%)	9.1%				
rectal pain	1380	47(3.4%)	(33.2%)	88	19(21.6%)	(13.4%)	28.8%				
genital discharge	1359	42(3.1%)	(24.3%)	86	4(4.7%)	(2.3%)	42.6%				
none of the 15 STDs above	1169	595(50.9%)	—	72	16(22.2%)	—	—				
one of the 15 STDs above		323(21.5%)	—		12(16.7%)	—	—				
two or more of the 15 STDs above		251(21.5%)	—		44(61.1%)	—	—				
had sex to infect others	1340	20(1.5%)	25(41.2%)	89	4(4.5%)	6(6.6%)	13.8%				
# others managed to infect		29(2.1%)	64(39.6%)		5(5.6%)	8(4.9%)	11.0%				

Note: All differences between hetero- and homosexuals for each disease category or event were tested with chi square and were statistically significant at or beyond the .05 level unless indicated otherwise.
*Male reports of disease episodes were multiplied by 1.24; female reports by .83.

92 two Jeffersonville, Indiana lesbians, aged 17, abducted a 12-year-old girl whom they accused of "stealing a girlfriend." The little girl was pushed from the trunk of a car, stabbed repeatedly, and beaten with a heavy metal bar. While still struggling, they poured gasoline on her and set her ablaze. Later that year, a Fort Lauderdale, Florida 14-year-old was convicted of first-degree murder for helping to kill his 40-year-old father. The father "was stabbed 45 times and killed so badly with an iron skillet that the skillet shattered." The boy confessed that he helped his father's homosexual lover and roommate kill him so he could live together.¹

Do these murders fit traditional psychiatric opinion: extreme violence is naturally associated with other forms of social pathology. From this perspective, those who rebel against society's norms — homosexuals, drug addicts, alcoholics, etc. — are more apt to be violent. Gay leaders reply that they are not violent, rebellious, or sexually deviant. They contrast that gays are gentle, loving people and that that they experience violence that they need special "crime" laws to protect them from non-violent gay bashers.

Does the excess of violence naturally flow from within a pathological gay subculture or does it flow from direct interaction with heterosexuals? Keeping in mind that only about 2%-3% of adults are homosexual, let's examine varieties of violence.

Serial and Mass Murder

Though the total number of victims dispatched by a serial killer is often in doubt, (e.g., homosexual Henry Lee Hunt claimed that he killed 350), it appears that the world record for serial killing is held by a Russian, Andrei Chikatilo, who was convicted of raping, murdering and eating parts of at least 52 women and 14 girls. The pathology of eating human victims also characterized Milwaukee's Jeffrey Dahmer in 1992. He not only killed 17 young men, but cooked and ate their body parts.

Of the six U.S. male serial killers who were all gay, James Earl Ray claimed 37 victims in Kentucky; Wayne Gacy raped and killed 33 boys in Illinois, burying them under his house and in his yard; John Wayne Gacy accounted for 32, cutting his victims into small pieces after sex and leaving them in the trash along the Los Angeles freeways;

- Bruce Davis molested and killed 27 young men and boys in Illinois;

- A gay sex-murder-torture ring (Corli-Henley-Brooks) sent 27 Texas men and boys to their grave, and
- Juan Corona was convicted of murdering 25 migrant workers (he "made love" with their corpses).

Lesbian Aileen Wuornos laid claim in 1992 to "worst female killer" with at least 7 middle-aged male victims. She singlehandedly topped the lesbian nurse team of Catherine Wood and Gwen Graham, who had killed 6 convalescent patients in Grand Rapids, Michigan.

The association between serial murder and homosexuality isn't recent. Two gays compete for the spot of "world's worst murderer." During the Nazi reign of terror, Auschwitz executioner Ludwig Tieme strangled, crushed, and gnawed boys and young men to death while he raped them. Though his grand total is uncertain, he often murdered as many as 100 a day. Gilles de Rais (Bluebeard) brutally destroyed the lives of 800 boys. Each lad was lured to his home, bathed and fed. Just as the poor boy thought "this is my lucky day," he was raped, then killed by being ripped or cut apart and either burned or eaten.

A study of 518 sexually-tinged mass murders in the U.S. from 1966 to 1983 determined that 350 (68%) of the victims were killed by those who practiced homosexuality and that 19 (44%) of the 43 murderers were bisexuals or homosexuals.²

Though probably less than a majority of mass murderers are homosexual, given that no more than 3% of the populace is gay, homosexual murderers show up much more frequently than one would expect.

Along with serial murder, there appears to be a connection between homosexuality and murder. Evidence from before the gay rights movement is limited. Of 444 homicides in one jurisdiction from 1955-1973, investigators noted 5 clear "sexual motivation" murders. Three of the 5 involved homosexuality and 2 involved heterosexuality.³

Probing more deeply into the connection between murder and homosexuality, Jim Warren, who worked as a counselor at the Washington State Corrections Center, did the intake interview for almost all the younger murderers (i.e., under age 36) in the state of Washington from 1971-82 (during the growth of the gay rights movement). He was "probably the only one who examined the entirety of each of their case files." Warren testified that he was struck with how frequently homosexuality turned up in the cases.

Starting with a trickle of 2 or 3 murders/year in 1972 until dozens/year by the 1980s, he noted a recurrent pattern: Although the motive listed in the report was often robbery or theft, "about 50% of the time" it was also associated with homosexuality. Typically, a homosexual would meet someone at a bar or park and invite him to his home. Before the morning, an argument would ensue and he or his visitor would be dead.

Violent Sexual Practices

A substantial minority of homosexuals (between 22%⁴ to 37%^{5,7}) indulge in painful or violent sex (e.g., bondage and discipline [B/D], where the partner is physically restrained and mildly tortured, or sadomasochism [S/M], where partners are tortured or hurt during sex). Even in the 1940s, psychiatrist David Abrahamson noted, "It is well known that homosexual inclinations may be accompanied by sadistic or masochistic tendencies... These perversions play a great part in many sexual offenses and in many cases of murder." In a national survey of random samples of homosexuals and heterosexuals,⁸ 32% of those males who called themselves homosexual or bisexual versus 5% of heterosexual males reported having engaged in sadomasochism; 17% of lesbians versus 4% of heterosexual women also admitted to S/M. Likewise, gays and lesbians were about four times more apt to engage in bondage than were heterosexuals.

- Homosexual books and magazines celebrate the "fun" of violent sex. For instance, a Denver gay columnist (the "leathersex fairy"), told his readers how to strangle and flog one's partner during sex. He also extolled the practice of "hanging from a tree by meat hooks through the pectoral muscles" and described "guys who like to have burning cigars, cigarettes, or matches held near or pressed into their skin." Likewise, national and international gay tear books matter-of-factly list places where sadomasochistic sex can be obtained.¹⁰

- In 1993, London gays raised £100,000 to appeal a conviction in which the judge ruled that "sex is no excuse for violence.... Pleasure derived from the infliction of pain is an evil thing." The crime? "Nailing a foreskin and scrotum to a board" and "pouring hot wax in a urethra."¹¹

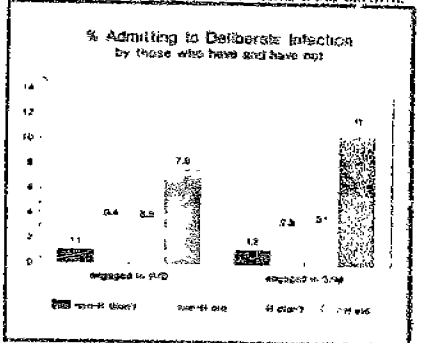
- The 1981 CBS-TV documentary, *Gay Power, Gay Politics* reported that about 10% of the accidental deaths among young men in San Francisco resulted from sadomasochistic sex gone awry.

Deliberately Infecting Others During Sex

Gay activists often argue that what consenting adults do in private is nobody else's business. However, gays have sex with so many different partners^{8,6,7} that they increase their risk of getting or transmitting sexually transmitted diseases (STDs). Indeed, homosexuals are considerably more apt to get STDs than are non-homosexuals.¹²

Most who get an STD decide that they will do all in their power not to infect others, but others — an important minority — decide that they will make their partners suffer as much as they have. As Mirko Grmek¹³ noted "every historian of disease knows that such an attitude of vengeance, or at least of recklessness, had contributed in other times to the spread of tuberculosis and syphilis." Limited evidence suggests that, compared to heterosexuals, homosexuals are more apt to harm their sexual partners deliberately. The only comparative study^{8,9} on this issue found that about 1% of male and female heterosexuals compared to 7% of gays and 3% of lesbians admitted to deliberately passing on STDs that they had acquired.

When the disease is AIDS, the personal and social costs of deliberate infection are exceptionally high. Several examples of homosexuals who were deliberate spreaders of AIDS have been documented,¹⁴ but the most notorious is that of "patient zero," the Canadian flight attendant who, until his death at age 32, shared his body and infection with 250 men every year. From the late 1970s through the early 1980s he was personally responsible for at least 40 of the first 248 American cases of AIDS and told public health officials in San Francisco it "was nobody else's business but his own."



Amend the title of the bill to read as follows:

“An Act relating to courts; authorizing a juvenile court to transfer a case involving a minor traffic offense to a justice’s or municipal court if the transfer is in the best interest of the child; and providing other matters properly relating thereto.”

Amend the summary of the bill to read as follows:

“Summary—Authorizes juvenile court to transfer case involving minor traffic offense to justice’s or municipal court if it is in child’s best interest. (BDR 5-1672)”

Senator James moved the adoption of the amendment.

Remarks by Senator James.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 514.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 891.

Amend section 1, page 1, line 3, by deleting “Any” and inserting “*I. Any*”.

Amend section 1, page 1, line 5, by deleting: “*willfully, wantonly or negligently*” and inserting: “*intentionally, knowingly or willfully*”.

Amend section 1, page 1, after line 9, by inserting:

“2. *It is an affirmative defense to an offense charged pursuant to subsection 1 that the person who was subject to exposure to the human immunodeficiency virus as a result of the prohibited conduct:*

(a) *Knew the defendant was infected with the human immunodeficiency virus;*

(b) *Knew the conduct could result in exposure to the human immunodeficiency virus; and*

(c) *Consented to engage in the conduct with that knowledge.*”

Amend the title of the bill, third line, after “disease;” by inserting: “providing an affirmative defense to such unlawful conduct;”

Senator James moved the adoption of the amendment.

Remarks by Senators James, Neal and Coffin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 515.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 794.

Amend section 1, page 1, line 16, by deleting “the” and inserting: “*not more than the*”.

Senator James moved the adoption of the amendment.

Remarks by Senator James.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

SENATE BILL No. 514--COMMITTEE ON JUDICIARY

JUNE 1, 1993

Referred to Committee on Judiciary

SUMMARY--Prohibits certain conduct through which human immunodeficiency virus may be transmitted after testing positive for disease. (BDR 15-2109)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.



EXPLANATION--Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to the human immunodeficiency virus; making it unlawful to engage in certain conduct through which the virus may be transmitted after testing positive for the disease; providing an affirmative defense to such unlawful conduct; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 201 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 1. *Any person who, after testing positive in a test approved by the state*
4 *board of health for exposure to the human immunodeficiency virus and receiv-*
5 *ing actual notice of that fact, intentionally, knowingly or willfully engages in*
6 *conduct in a manner that is intended or likely to transmit the disease to*
7 *another person is guilty of a felony and shall be punished by imprisonment in*
8 *the state prison for not less than 1 year nor more than 20 years, or by a fine of*
9 *not more than \$10,000, or by both fine and imprisonment.*
10 2. *It is an affirmative defense to an offense charged pursuant to subsection*
11 *1 that the person who was subject to exposure to the human immunodeficiency*
12 *virus as a result of the prohibited conduct:*
13 (a) *Knew the defendant was infected with the human immunodeficiency*
14 *virus;*
15 (b) *Knew the conduct could result in exposure to the human immu-*
16 *nodeficiency virus; and*
17 (c) *Consented to engage in the conduct with that knowledge.*

Roll call on Senate Bill No. 427:

YEAS—20.

NAYS—None.

Absent—Neal.

Senate Bill No. 427 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 479.

Bill read third time.

Roll call on Senate Bill No. 479:

YEAS—20.

NAYS—None.

Absent—Neal.

Senate Bill No. 479 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 510.

Bill read third time.

Roll call on Senate Bill No. 510:

YEAS—20.

NAYS—None.

Absent—Neal.

Senate Bill No. 510 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 514.

Bill read third time.

Roll call on Senate Bill No. 514:

YEAS—20.

NAYS—None.

Absent—Neal.

Senate Bill No. 514 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 515.

Bill read third time.

Roll call on Senate Bill No. 515:

YEAS—20.

NAYS—None.

Absent—Neal.

Senate Bill No. 515 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MINUTES OF MEETING
ASSEMBLY COMMITTEE ON JUDICIARY

Sixty-seventh Session
June 26, 1993

The Assembly Committee on Judiciary was called to order by Chairman Robert M. Sader at 12:20 p.m. June 26, 1993, in Room 332 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda, Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Mr. Robert M. Sader, Chairman
Mr. Bernie Anderson
Mr. John C. Bonaventura
Mr. Tom Collins, Jr.
Mr. James A. Gibbons
Mr. William D. Gregory
Mr. Ken L. Haller
Mr. William A. Petrak
Mr. John B. Regan
Mr. Scott Scherer
Mr. Michael A. Schneider
Mr. Louis A. Toomin

COMMITTEE MEMBERS ABSENT:

Mr. Gene T. Porter, Vice Chairman (excused)
Mr. John C. Carpenter (excused)
Ms. Stephanie Smith (excused)

GUEST LEGISLATORS PRESENT:

Senator Matthew Q. Callister, District No. 8

STAFF MEMBERS PRESENT:

Ms. Denice Miller, Research Analyst

OTHERS PRESENT:

Mr. Karl L. Sannicks, Assistant Director of Operations,
Nevada Department of Prisons
Mr. Robin Bates, Chief of Classification and Planning,
Nevada Department of Prisons
Mr. Robert Bayer, Operations Supervisor, Nevada Department
of Parole and Probation, Parole Violations Division
Ms. Kay Zunino, Chief, Department of Human Resources,
Welfare Division, Child Support Enforcement Program

SENATE BILL NO. 514

Prohibits certain conduct through which human immunodeficiency virus may be transmitted after testing positive for disease.

Mr. Jerry Ash, President, Nevada Hospital Association, strongly supported the passage of S.B. 514. He related one incident where a patient had attempted to transmit the HIV virus to workers in the hospital.

Mr. Ash informed the committee S.B. 514 had been discovered on the floor of the Senate during the debate over the sodomy legislation. It had been discovered by the Chairman of the Senate Judiciary Committee who had stated, contrary to everyone's belief, the current statute did not provide for penalties for the intentional passage of the HIV virus.

Chairman Sader clarified S.B. 514 made it a felony to knowingly, intentionally and willfully engage in conduct which was likely to transmit the HIV virus with affirmative defenses for consensual conduct on the part of the victims.

Mr. Gibbons asked if HIV infected individuals who were aware of their transmittal potential failed to alert dentists, would this conduct fall under the provisions of this bill. Mr. Ash responded by stating individuals, once notified of the fact they were carriers of the virus, would be guilty of felonies if they knowingly and intentionally transmitted the HIV virus. Chairman Sader claimed the provision would not be satisfied in this criteria because the victims were not aware the defendants were infected as in circumstances where dentists passed the virus to patients. In this case, the dentists would not be willing victims. He noted Section 2 referenced willing victims. There being no further testimony to come before the committee, Chairman Sader closed the hearing on S.B. 514.

ASSEMBLYMAN TOOMIN MOVED DO PASS S.B. 514.

ASSEMBLYMAN GIBBONS SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYMEN REGAN, BONAVENTURA, COLLINS, CARPENTER, PORTER, SMITH AND SCHNEIDER WERE ABSENT FOR THE VOTE.)

Mr. Toomin was assigned to handle S.B. 514 on the Assembly Floor.

6/26/93

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Lambert moved that Senate Bill No. 334 be taken from the Chief Clerk's desk and placed on the General File.

Remarks by Assemblyman Lambert.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 334.

Bill read third time.

The following amendment was proposed by Assemblyman Lambert:

Amendment No. 1149.

Amend sec. 2, page 2, line 12, by deleting "3. The" and inserting:

"3. [The] *Except as otherwise provided in subsection 4, the*".

Amend sec. 2, page 2, between lines 17 and 18 by inserting:

"4. *The state controller shall not transfer from the sales and use tax account to the state general fund pursuant to subsection 3 more than \$3,450,000 in a fiscal biennium.*".

Amend sec. 3, page 2, line 18, by deleting "1993." and inserting: "1993, and expires by limitation on July 1, 1995."

Assemblyman Lambert moved the adoption of the amendment.

Remarks by Assemblymen Lambert and Arberry.

Amendment lost.

Assemblyman Porter moved that Senate Bill No. 334 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Porter.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 479, 514, 515, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ROBERT M. SADER, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Porter moved that Senate Bills Nos. 479, 514, 515 be placed on the Second Reading File.

Remarks by Assemblyman Porter.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 479.

Bill read second time and ordered to third reading.

Senate Bill No. 514.

Bill read second time and ordered to third reading.

Senate Bill No. 515.

Bill read second time and ordered to third reading.

6/27/93

Roll call on Senate Bill No. 479:

YEAS—41.

NAYS—None.

Absent—Carpenter.

Senate Bill No. 479 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 484.

Bill read third time.

Remarks by Assemblyman Garner.

Roll call on Senate Bill No. 484:

YEAS—40.

NAYS—None.

Absent—Carpenter.

Not voting—Porter.

Senate Bill No. 484 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 514.

Bill read third time.

Remarks by Assemblyman Toomin.

Roll call on Senate Bill No. 514:

YEAS—41.

NAYS—None.

Absent—Carpenter.

Senate Bill No. 514 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 515.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Senate Bill No. 515:

YEAS—40.

NAYS—Spitler.

Absent—Carpenter.

Senate Bill No. 515 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 430, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ROBERT M. SADER, *Chairman*

began the program, return the defendant to *the* court with certification that the defendant satisfactorily completed the program. The court shall direct that:

(a) The defendant be placed under supervision of the chief parole and probation officer; and

(b) The director of the department of prisons cause a copy of the records concerning the defendant's participation in the program to be provided to the chief parole and probation officer.

5. If a defendant is ordered to complete the program of regimental discipline in lieu of causing the sentence imposed to be executed upon the violation of a condition of probation, a failure by the defendant satisfactorily to complete the program constitutes a violation of that condition of probation and the director of the department of prisons shall return the defendant to the court.

6. Time spent in the program must be deducted from any sentence which may thereafter be imposed.

Senate Bill No. 514—Committee on Judiciary

CHAPTER 472

AN ACT relating to the human immunodeficiency virus; making it unlawful to engage in certain conduct through which the virus may be transmitted after testing positive for the disease; providing an affirmative defense to such unlawful conduct; and providing other matters properly relating thereto.

[Approved July 9, 1993]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Any person who, after testing positive in a test approved by the state board of health for exposure to the human immunodeficiency virus and receiving actual notice of that fact, intentionally, knowingly or willfully engages in conduct in a manner that is intended or likely to transmit the disease to another person is guilty of a felony and shall be punished by imprisonment in the state prison for not less than 1 year nor more than 20 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.*

2. *It is an affirmative defense to an offense charged pursuant to subsection 1 that the person who was subject to exposure to the human immunodeficiency virus as a result of the prohibited conduct:*

(a) *Knew the defendant was infected with the human immunodeficiency virus;*

(b) *Knew the conduct could result in exposure to the human immunodeficiency virus; and*

(c) *Consented to engage in the conduct with that knowledge.*
