

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 66

Short Title: HIV Assault.

(Public)

Sponsors: Representatives Justus; Arnold, Berry, Bowman, Brawley, J. Brown, Brubaker, Creech, Culp, Daughtry, Decker, Diamont, Ellis, Esposito, Flaherty, Gamble, Gardner, Hall, Hayes, Holmes, Ives, James, Jenkins, Joye, Lee, Lemmond, McCombs, Mercer, Mitchell, Morgan, Nichols, C. Preston, J. Preston, Ramsey, Robinson, Russell, Sexton, Thompson, Weatherly, Wilson, and Wood.

Referred to: Judiciary I.

February 10, 1994

A BILL TO BE ENTITLED

AN ACT TO CREATE THE CRIMINAL OFFENSE OF HIV ASSAULT.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-32.3. HIV assault.

(a) The following definitions apply in this section:

(1) HIV. – The Human Immunodeficiency Virus (HIV) or any other identified causative agent of Acquired Immune Deficiency Syndrome (AIDS).

(2) Intimate contact. – The exposure of the body of one person to the bodily fluid of another person in a manner which can transmit the HIV virus.

(3) Intravenous or intramuscular drug paraphernalia. – Any equipment, products, or material of any kind which is peculiar to and used for injecting a controlled substance into the human body.

(b) A person commits the offense of HIV assault if, knowing that the person is infected with HIV, the person:

(1) Engages in intimate contact with another;

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

4 (3) Dispenses, delivers, exchanges, sells, or in any other way transfers to
5 another any nonsterile intravenous or intramuscular drug paraphernalia
6 used by the person.

7 (c) A person who commits an offense under this section is guilty of a Class C
8 felony punishable by a term of imprisonment of up to 10 years, a fine of up to twenty
9 thousand dollars (\$20,000), or both. A person sentenced under this section shall serve a
10 mandatory term of imprisonment of no less than five years. The sentencing judge shall
11 not suspend the mandatory five-year term of imprisonment or place the person on
12 probation for the mandatory five-year term of imprisonment. During that time the
13 prisoner is not eligible for early parole or early release.

14 (d) A person who commits an offense under this section shall be civilly liable for
15 damages if another person becomes infected with HIV as a result of the violation.

16 (e) Nothing in this section shall be construed to require that an infection with
17 HIV occur in order for a person to commit an offense under this section.

18 (f) It shall be an affirmative defense that the person exposed knew that the
19 infected person was infected with HIV, knew that the action could result in infection
20 with HIV, and consented to the action with that knowledge."

21 Sec. 2. G.S. 14-32.3(c) as enacted by this act reads as rewritten:

22 "(c) ~~A person who commits an offense under this section is guilty of a Class C~~
23 ~~felony punishable by a term of imprisonment of up to 10 years, a fine of up to twenty~~
24 ~~thousand dollars (\$20,000), or both. A person sentenced under this section shall serve a~~
25 ~~mandatory term of imprisonment of no less than five years. The sentencing judge shall~~
26 ~~not suspend the mandatory five-year term of imprisonment or place the person on~~
27 ~~probation for the mandatory five-year term of imprisonment. During that time the~~
28 ~~prisoner is not eligible for early parole or early release. and shall serve an active~~
29 ~~minimum term of imprisonment of 60 months."~~

30 Sec. 3. The provisions of this act are severable. If any provision of this act is
31 held invalid by a court of competent jurisdiction, the invalidity does not affect other
32 provisions of the act that can be given without the invalid provision.

33 Sec. 4. Section 2 of this act becomes effective January 1, 1995, and applies
34 to offenses committed on or after that date. The remainder of this act becomes effective
35 July 1, 1994, and applies to offenses committed on or after that date.