

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 39
Judiciary

(Delegate Fair, *et al.*)

Judicial Proceedings

Public Health - Repeal of Prohibition on Transfer of Human Immunodeficiency
Virus (Carlton R. Smith Act)

This bill repeals the misdemeanor prohibition against and associated penalty for knowingly transferring or attempting to transfer HIV to another.

Fiscal Summary

State Effect: The bill is not expected to materially affect governmental finances or operations, including the work of the District Court.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Current Law: An individual who has HIV may not knowingly transfer or attempt to transfer HIV to another individual. An individual who violates this prohibition is guilty of a misdemeanor and on conviction is subject to a maximum penalty of three years imprisonment and/or a fine of up to \$2,500.

An individual who knowingly transfers or attempts to transfer HIV to another may also be subject to prosecution for other criminal offenses, including reckless endangerment, first-degree assault, or second-degree assault (felony or misdemeanor).

Reckless Endangerment

An individual commits the offense of reckless endangerment if the individual recklessly (1) engages in conduct that creates a substantial risk of death or “serious physical injury”

to another or (2) discharges a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another. A violator is guilty of a misdemeanor, punishable by imprisonment for up to five years and/or a fine of up to \$5,000.

“Serious physical injury” means physical injury that (1) creates a substantial risk of death or (2) causes permanent or protracted serious disfigurement, loss of the function of any bodily member or organ, or impairment of the function of any bodily member or organ.

First-degree Assault

An individual commits a first-degree assault if the individual (1) intentionally causes or attempts to cause “serious physical injury” (as defined above) to another; (2) commits an assault with a firearm, as specified; or (3) intentionally strangles another. A violator is guilty of a felony and subject to imprisonment for up to 25 years.

Second-degree Assault

In general, an individual who commits an assault is guilty of misdemeanor second-degree assault and on conviction is subject to imprisonment for up to 10 years and/or a fine of up to \$2,500. Assault means the crimes of assault, battery, and assault and battery, which are defined through case law.

An individual commits a felony second-degree assault if the individual intentionally causes physical injury to another individual and has reason to know that the other individual is (1) a law enforcement officer or a parole or probation agent engaged in the performance of their official duties or (2) a firefighter, an emergency medical technician, a rescue squad member, or any other first responder engaged in providing emergency medical care or rescue services. “Physical injury” means any impairment of physical condition, excluding minor injuries. A violator is subject to imprisonment for up to 10 years and/or a fine of up to \$5,000.

Additional Comments: The Judiciary advises that, from fiscal 2000 through fiscal 2020, there were a total of 146 charges and 14 convictions for knowingly transferring or attempting to transfer HIV across both District and circuit courts in the State. While the offense has been charged 13 times in the District Court over the last four fiscal years (two in 2021, four in 2022, three in 2023, and four in 2024), there were 0 convictions during this time period.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 1165 and HB 485 of 2024; HB 287 of 2023; and SB 547 of 2022.

Designated Cross File: SB 356 (Senator Smith, *et al.*) - Judicial Proceedings.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - January 23, 2025
caw/jc Third Reader - March 17, 2025
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