

1-10-95 Judiciary

FILED JAN 10 1995

SENATE FILE 12  
BY VILSACK

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the enhancement of a sentence for a conviction  
2 of sexual assault which involves the knowing transmission of  
3 the human immunodeficiency virus.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 12

1 Section 1. Section 141.23, subsection 1, Code 1995, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. k. The county attorney, if the subject of  
4 the test is a convicted offender as defined in section 709B.1,  
5 and if the test is required pursuant to chapter 709B, for the  
6 sole purpose of establishing that the convicted offender knew  
7 that the convicted offender's HIV status was positive at the  
8 time of the commission of the offense.

9 Sec. 2. NEW SECTION. 709.4A KNOWING TRANSMISSION OF THE  
10 HUMAN IMMUNODEFICIENCY VIRUS IN THE COMMISSION OF A SEXUAL  
11 ASSAULT -- ENHANCEMENT OF SENTENCE.

12 1. A person who is a convicted offender as defined in  
13 section 709B.1, and who at the time of the commission of the  
14 offense knew that the person's human immunodeficiency virus  
15 status was positive shall receive a three-year enhancement for  
16 each violation in addition to the sentence provided for  
17 commission of the offense.

18 2. Notwithstanding section 709B.3, the county attorney may  
19 use test results received under section 709B.2 for the purpose  
20 of proving the knowledge required of this section.

21 EXPLANATION

22 This bill provides for a three-year enhancement of a  
23 sentence awarded a person who is convicted of sexual assault  
24 if the person knew at the time of the commission of the  
25 offense that the person had a human immunodeficiency virus  
26 (HIV) status which was positive. The bill also provides for  
27 an exemption to the confidentiality provisions regarding HIV-  
28 related testing to allow the county attorney access to the  
29 result of an HIV-related test of the convicted offender.

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SENATE FILE 12  
FISCAL NOTE

The estimate for Senate File 12 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 12 provides for a three-year enhancement of a sentence awarded to a person who is convicted of sexual offense if the offender knew he or she was HIV positive at the time of the offense.

Assumptions:

1. Two offenders have been admitted to prison within the past year for sexual assault offenses that would have received the three-year enhancement.
2. An estimated four offenders would have received the enhanced sentence within the past year for aggravated misdemeanor prostitution.
3. The number of HIV-infected persons in Iowa is projected to quadruple by the year 2000. It is assumed HIV-infected offenders will increase at the same rate.

Fiscal and Correctional Impact:

The prison population increase and the costs associated with this change are:

	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY 2000</u>
Prison Population Increase	2	7	20
Cost of the Additional Inmates	\$ 7,300	\$25,550	\$73,000

Sources:

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Department of Corrections

(LSB 1075SS, MDF)

FILED JANUARY 30, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR