

MAR 15 2005
Place On Calendar

HOUSE FILE 777
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 625)

Passed House, Date 3-23-05 Passed Senate, Date _____
Vote: Ayes 100 Nays 0 Vote: Ayes _____ Nays _____
Approved 4/29/05

A BILL FOR

1 An Act relating to a person who assaults a peace officer by
2 exchanging or attempting to exchange bodily fluids.

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

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HF-777

1 Section 1. Section 356.48, Code 2005, is amended to read
2 as follows:

3 356.48 REQUIRED TEST.

4 1. A person confined to a jail or in the custody of a
5 peace officer, who bites another person, who causes an
6 exchange of bodily fluids with another person, or who causes
7 any bodily secretion to be cast upon another person, shall
8 submit to the withdrawal of a bodily specimen for testing to
9 determine if the person is infected with a contagious or
10 infectious disease as defined in section 141A.2. The bodily
11 specimen to be taken shall be determined by the attending
12 physician of that jail or the county medical examiner. The
13 specimen taken shall be sent to the state hygienic laboratory
14 at the state university at Iowa City or some other laboratory
15 approved by the Iowa department of public health. If a person
16 to be tested pursuant to this section refuses to submit to the
17 withdrawal of a bodily specimen, ~~application may be made by~~
18 the sheriff, or person in charge of the jail to, or any
19 potentially infected peace officer may file an application
20 with the district court for an order compelling the person to
21 submit to the withdrawal and, if infected, to receive
22 available treatment. An order authorizing the withdrawal of a
23 specimen for testing may be issued only by a district judge or
24 district associate judge upon application by the sheriff, ~~or~~
25 person in charge of the jail, or potentially infected peace
26 officer.

27 2. A person who fails to comply with an order issued
28 pursuant to this section is guilty of a serious misdemeanor.

29 3. Personnel at the jail shall be notified if a person
30 confined is found to have a contagious or infectious disease.

31 4. The sheriff, ~~or~~ person in charge of the jail, or peace
32 officer shall take any appropriate measure to prevent the
33 transmittal of a contagious or infectious disease to other
34 persons, including the segregation of a confined person who
35 tests positive for acquired immune deficiency syndrome from

1 other confined persons.

2 ~~For purposes of this section, "infectious disease" means~~
3 ~~any infectious condition which if spread by contamination~~
4 ~~would place others at serious health risk.~~

5 EXPLANATION

6 This bill relates to a person in the custody of a peace
7 officer who assaults another person by biting or exchanging or
8 attempting to exchange bodily fluids.

9 Under the bill, a person who is in the custody of a peace
10 officer and who bites another person, or who causes an
11 exchange of bodily fluids with the other person, or who causes
12 any bodily secretion to be cast upon the person, shall submit
13 to the withdrawal of a bodily specimen for testing to
14 determine if the person is infected with a contagious or
15 infectious disease. Current law provides that the person must
16 be confined in a jail before any such test is required.

17 The bill provides that a bodily specimen shall be taken by
18 the attending physician of the jail or the county medical
19 examiner to determine if the person is infected with a
20 contagious or infectious disease.

21 If a person to be tested under the bill refuses to submit
22 to the withdrawal of a bodily specimen, an application may be
23 made by any potentially infected peace officer to the district
24 court for an order compelling the person to submit to the
25 withdrawal.

26 A person who fails to comply with an order issued pursuant
27 to the bill is guilty of a serious misdemeanor.

28 A serious misdemeanor is punishable by confinement for no
29 more than one year and a fine of at least \$250 but not more
30 than \$1,500.

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- 1 Amend House File 777 as follows:
2 1. Page 1, line 12, by striking the word "that"
3 and inserting the following: "~~that~~ the".
4 2. Page 1, line 19, by striking the words "peace
5 officer" and inserting the following: "person".
6 3. Page 1, line 20, by inserting after the word
7 "person" the following: "that may have caused an
8 infection".
9 4. Page 1, lines 25 and 26, by striking the words
10 "potentially infected peace officer" and inserting the
11 following: "any other potentially infected person".
12 5. Page 1, lines 31 and 32, by striking the words
13 "peace officer" and inserting the following: "any
14 other potentially infected person".
15 6. Page 1, line 34, by striking the words
16 "persons, including the segregation of" and inserting
17 the following: "persons, ~~including the segregation~~
18 of. The sheriff or person in charge of the jail shall
19 also segregate".
20 7. Title page, line 1, by striking the words "a
21 person who assaults a peace officer" and inserting the
22 following: "testing a person for contagious or
23 infectious disease if the person assaults a person".
24 8. Title page, line 2, by inserting after the
25 word "fluids" the following: ", and providing a
26 penalty".

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 777 – Police, Infection Through Bodily Fluids (LSB 2933 HV)
Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)
Fiscal Note Version - New

Description

House File 777 requires a person in the custody of a peace officer, who commits certain assaults, to submit to the withdrawal of a bodily specimen for testing to determine if the person is infected with a contagious or infectious disease. A person who refuses to submit to the test commits a serious misdemeanor.

Background

1. House File 777 creates new crimes. There are no data with which to project the impact of the Bill.
2. In FY 2004, there were 378 convictions for assault on peace officers (serious misdemeanor); 126 convictions for assaults causing injury on a peace officer (aggravated misdemeanor); and 24 Class D felony assaults on peace officers.
3. The average State costs for one serious misdemeanor conviction ranges from \$101 (court costs) to \$4,100 (court costs, jury trial, indigent defense, prison, and parole). The maximum costs will be incurred across multiple years while the offender is supervised in the correctional system, either in prison or in the community.
4. Incarceration rates for serious misdemeanor convictions for violent offenses are 2.1% sentenced to prison while 57.3% are sentenced to jail. The average length of stay for those offenders sentenced to jail is 37 days.
5. The marginal cost for county jail operations is approximately \$15.00 per day.

Assumptions

1. It is likely that some of the convictions listed above would fall under the provisions of this Bill. However, that percentage is unknown due to a lack of data.
2. It is likely that some people will refuse the required test. However, that percentage cannot be calculated due to a lack of data.

Correctional Impact

The number of new serious misdemeanor convictions under HF 777 cannot be estimated due to a lack of data. However, it is anticipated that there will not be a significant number of new convictions.

These new convictions would be at the same level as the least serious assault charge (serious misdemeanor). Therefore, the possibility exists that more offenders would serve time in jail, but that number cannot be estimated.

Fiscal Impact

The fiscal impact of HF 777 cannot be determined due to insufficient information. The fiscal impact on county jail operations for one offender sentenced to jail is approximately \$555 (37 days x \$15.00 per day). The State's cost for one new serious misdemeanor conviction ranges from \$101 to \$4,100.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
Judicial Branch
Office of the State Public Defender
Office of the Attorney General

/s/ Holly M. Lyons

March 17, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 777
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 625)

(As Amended and Passed by the House March 23, 2005)

Re. Passed House, Date 4-19-05 Passed Senate, Date 4-13-05
Vote: Ayes 99 Nays 0 Vote: Ayes 50 Nays 0
Approved _____

A BILL FOR

1 An Act relating to testing a person for contagious or infectious
2 disease if the person assaults a person by exchanging or
3 attempting to exchange bodily fluids, and providing a penalty.

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

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House Amendments _____

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HOUSE FILE 777

S-3107

1 Amend House File 777, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, by inserting after line 5 the
4 following:

5 "5. For purposes of this section, "potentially
6 infected person" includes a care provider as defined
7 in section 139A.2."

By KEITH A. KREIMAN
TOM HANCOCK

DAVE MULDER
PAT WARD

S-3107 FILED APRIL 11, 2005

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HF 777

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1 Section 1. Section 356.48, Code 2005, is amended to read
2 as follows:

3 356.48 REQUIRED TEST.

4 1. A person confined to a jail or in the custody of a
5 peace officer, who bites another person, who causes an
6 exchange of bodily fluids with another person, or who causes
7 any bodily secretion to be cast upon another person, shall
8 submit to the withdrawal of a bodily specimen for testing to
9 determine if the person is infected with a contagious or
10 infectious disease as defined in section 141A.2. The bodily
11 specimen to be taken shall be determined by the attending
12 physician of that the jail or the county medical examiner.
13 The specimen taken shall be sent to the state hygienic
14 laboratory at the state university at Iowa City or some other
15 laboratory approved by the Iowa department of public health.
16 If a person to be tested pursuant to this section refuses to
17 submit to the withdrawal of a bodily specimen, ~~application may~~
18 ~~be made by~~ the sheriff, or person in charge of the jail to, or
19 any potentially infected person may file an application with
20 the district court for an order compelling the person that may
21 have caused an infection to submit to the withdrawal and, if
22 infected, to receive available treatment. An order
23 authorizing the withdrawal of a specimen for testing may be
24 issued only by a district judge or district associate judge
25 upon application by the sheriff, or person in charge of the
26 jail, or any other potentially infected person.

27 2. A person who fails to comply with an order issued
28 pursuant to this section is guilty of a serious misdemeanor.

29 3. Personnel at the jail shall be notified if a person
30 confined is found to have a contagious or infectious disease.

31 4. The sheriff, or person in charge of the jail, or any
32 other potentially infected person shall take any appropriate
33 measure to prevent the transmittal of a contagious or
34 infectious disease to other persons,--including-the-segregation
35 of. The sheriff or person in charge of the jail shall also

1 segregate a confined person who tests positive for acquired
2 immune deficiency syndrome from other confined persons.

3 ~~For purposes of this section, "infectious disease" means~~
4 ~~any infectious condition which if spread by contamination~~
5 ~~would place others at serious health risk.~~

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**SENATE AMENDMENT TO
HOUSE FILE 777**

H-1374

1 Amend House File 777, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 2, by inserting after line 5 the
4 following:
5 "5. For purposes of this section, "potentially
6 infected person" includes a care provider as defined
7 in section 139A.2."

RECEIVED FROM THE SENATE

H-1374 FILED APRIL 14, 2005

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HOUSE FILE 777

AN ACT

RELATING TO TESTING A PERSON FOR CONTAGIOUS OR INFECTIOUS DISEASE IF THE PERSON ASSAULTS A PERSON BY EXCHANGING OR ATTEMPTING TO EXCHANGE BODILY FLUIDS, AND PROVIDING A PENALTY.

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

Section 1. Section 356.48, Code 2005, is amended to read as follows:

356.48 REQUIRED TEST.

1. A person confined to a jail or in the custody of a peace officer, who bites another person, who causes an

exchange of bodily fluids with another person, or who causes any bodily secretion to be cast upon another person, shall submit to the withdrawal of a bodily specimen for testing to determine if the person is infected with a contagious or infectious disease as defined in section 141A.2. The bodily specimen to be taken shall be determined by the attending physician of that the jail or the county medical examiner. The specimen taken shall be sent to the state hygienic laboratory at the state university at Iowa City or some other laboratory approved by the Iowa department of public health. If a person to be tested pursuant to this section refuses to submit to the withdrawal of a bodily specimen, ~~application may be made by the sheriff, or person in charge of the jail to, or any potentially infected person may file an application with~~ the district court for an order compelling the person that may have caused an infection to submit to the withdrawal and, if infected, to receive available treatment. An order authorizing the withdrawal of a specimen for testing may be issued only by a district judge or district associate judge upon application by the sheriff, or person in charge of the jail, or any other potentially infected person.

2. A person who fails to comply with an order issued pursuant to this section is guilty of a serious misdemeanor.

3. Personnel at the jail shall be notified if a person confined is found to have a contagious or infectious disease.

4. The sheriff, or person in charge of the jail, or any other potentially infected person shall take any appropriate measure to prevent the transmittal of a contagious or infectious disease to other persons, including the segregation of. The sheriff or person in charge of the jail shall also segregate a confined person who tests positive for acquired immune deficiency syndrome from other confined persons.

~~For purposes of this section, "infectious disease" means any infectious condition which if spread by contamination would place others at serious health risk.~~

5. For purposes of this section, "potentially infected person" includes a care provider as defined in section 139A.2.

CHRISTOPHER C. RANTS
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 777, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 4/29, 2005

THOMAS J. VILSACK
Governor