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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **267**

01/11/2023 Authored by Finke; Hollins; Hanson, J.; Kozlowski; Curran and others
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to crime; repealing the crime of the transfer of an infectious agent for a
1.3 communicable disease from one person who knowingly harbors the agent to
1.4 another; repealing Minnesota Statutes 2022, section 609.2241.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **REPEALER.**

1.7 Minnesota Statutes 2022, section 609.2241, is repealed.

1.8 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
1.9 committed on or after that date.

609.2241 KNOWING TRANSFER OF COMMUNICABLE DISEASE.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given:

- (a) "Communicable disease" means a disease or condition that causes serious illness, serious disability, or death; the infectious agent of which may pass or be carried from the body of one person to the body of another through direct transmission.
- (b) "Direct transmission" means predominately sexual or blood-borne transmission.
- (c) "A person who knowingly harbors an infectious agent" refers to a person who receives from a physician or other health professional:
 - (1) advice that the person harbors an infectious agent for a communicable disease;
 - (2) educational information about behavior which might transmit the infectious agent; and
 - (3) instruction of practical means of preventing such transmission.
- (d) "Transfer" means to engage in behavior that has been demonstrated epidemiologically to be a mode of direct transmission of an infectious agent which causes the communicable disease.
- (e) "Sexual penetration" means any of the acts listed in section 609.341, subdivision 12, when the acts described are committed without the use of a latex or other effective barrier.

Subd. 2. **Crime.** It is a crime, which may be prosecuted under section 609.17, 609.185, 609.19, 609.221, 609.222, 609.223, 609.2231, or 609.224, for a person who knowingly harbors an infectious agent to transfer, if the crime involved:

- (1) sexual penetration with another person without having first informed the other person that the person has a communicable disease;
- (2) transfer of blood, sperm, organs, or tissue, except as deemed necessary for medical research or if disclosed on donor screening forms; or
- (3) sharing of nonsterile syringes or needles for the purpose of injecting drugs.

Subd. 3. **Affirmative defense.** It is an affirmative defense to prosecution, if it is proven by a preponderance of the evidence, that:

- (1) the person who knowingly harbors an infectious agent for a communicable disease took practical means to prevent transmission as advised by a physician or other health professional; or
- (2) the person who knowingly harbors an infectious agent for a communicable disease is a health care provider who was following professionally accepted infection control procedures.

Nothing in this section shall be construed to be a defense to a criminal prosecution that does not allege a violation of subdivision 2.

Subd. 4. **Health Department data.** Data protected by section 13.3805, subdivision 1, and information collected as part of a Health Department investigation under sections 144.4171 to 144.4186 may not be accessed or subpoenaed by law enforcement authorities or prosecutors without the consent of the subject of the data.