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HOUSE BILL NO. 141**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice
on January 27, 2000)

(Patron Prior to Substitute—Delegate McClure)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-67.4:1, relating to infected sexual battery; penalty.

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 18.2-67.4:1 as follows:**

§ 18.2-67.4:1. Infected sexual battery.

Any person who, knowing he is infected with HIV, has sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse shall be guilty of infected sexual battery, unless his partner consented to the sexual activity and (i) his partner in the sexual activity knew that he was infected, or (ii) prior to the sexual activity he advised his partner he was infected with HIV.

If a person commits infected sexual battery he is guilty of a Class 1 misdemeanor. However, if such person commits infected sexual battery with the intent to transmit the infection he shall be guilty of a Class 6 felony.

Any person convicted of a second offense which occurs after he has been previously convicted under this section shall be guilty of a Class 5 felony. Any person convicted of a third or subsequent offense and which occurs after he has been at least twice previously convicted shall be guilty of a Class 4 felony. For the purposes of this section, a conviction under a substantially similar law of any other state or the United States shall be considered a prior conviction.

As used in this section:

"HIV" means the human immunodeficiency virus or any other related virus that causes acquired immunodeficiency syndrome (AIDS).

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 in FY 2010.