

One Hundred Second Legislature - First Session - 2011

Introducer's Statement of Intent

LB226

Chairperson: Senator Brad Ashford

Committee: Judiciary

Date of Hearing: February 04, 2011

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 226 creates the criminal offense of assault with a bodily fluid against a public safety officer. The primary goal of LB 226 is to protect public safety officers from those who assault an officer with a bodily fluid that poses a serious threat of the three most common infectious diseases.

In particular, LB 226 makes it a Class I misdemeanor for any person to knowingly and intentionally strike or attempt to strike a public safety officer who is engaged in the performance of his or her official duties with a bodily fluid. Additionally, a violation under LB 226 constitutes a Class IIIA felony if the perpetrator knows he or she is infected with HIV, hepatitis B or hepatitis C. A Class I misdemeanor carries a penalty of not more than one year imprisonment and a \$1,000 fine. A Class IIIA felony carries a penalty of up to five years imprisonment and a \$10,000 fine.

Furthermore, LB 226 provides a judicial mechanism for testing for these communicable diseases. Upon a showing of probable cause by affidavit to a judge, a judge shall grant an order or issue a search warrant authorizing the performance of medical testing and release of medical records that may be necessary to determine the existence of one of the aforementioned communicable diseases at the time of the commission of the crime.

For purposes of this bill, public safety officer includes any of the following persons who are engaged in the performance of their official duties at the time of the offense: A peace officer; a probation officer; an employee of a county, city or village jail; an employee of the Department of Correctional Services; an employee of the secure youth confinement facility operated by the Department of Correctional Services; a state, county or local employee of a youth rehabilitation and treatment center or an employee of the Office of Juvenile Services, if the person is committed to a youth facility, center, or office; or an employee of the Department of Health and Human Services if the person committing the offense is committed as a dangerous sex offender.

Principal Introducer: _____

Senator Mike Gloor