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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** SB 221                      **Hearing Date:** January 9, 2018  
**Author:** Wiener  
**Version:** January 3, 2018  
**Urgency:** No                                      **Fiscal:** No  
**Consultant:** EC

**Subject:** *Criminal Fines: HIV Prevention and Education Programs*

### HISTORY

Source: Author

Prior Legislation: SB 239 (Wiener), Chapter 537, Statutes of 2017

Support: Unknown

Opposition: None known

### PURPOSE

*The purpose of this bill is to authorize counties with funds collected from specific sex or controlled substances offenses, to expend these funds on human immunodeficiency virus (HIV) prevention and education programs.*

*Existing law* allows a judge to assess an additional fine in an amount not exceeding \$70 against any person who violates specified sex or controlled substance offenses, however, the court shall take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of their inability to pay the fine permitted. (Pen. Code, § 261.5, subd. (e)(3).)

*Former law*, repealed as of January 1, 2018, required that \$50 of each fine imposed for violations of specified offenses, be deposited in a special account in the county treasury. The \$50 fine applies to the following offenses: possessing or using a controlled substance or narcotic drug, selling of a hypodermic needle without a prescription, intravenous use of a controlled substance, rape, sodomy, and lewd acts on a minor. The funds would be used exclusively to pay for the reasonable costs of establishing and providing an acquired immune deficiency syndrome (AIDS) education program under the direction of the county of health department. (Pen. Code, § 1463.23.)

*This bill* would authorize counties with funds collected in pursuant to Penal Code section 1463.23 as it read of December 31, 2017, against any person who violates specific sex or controlled substances offenses, to expend the unencumbered balance of those funds on general HIV prevention and education programs.

## COMMENTS

### 1. Need for This Bill

According to the author:

SB 221 is a simple bill that clarifies for counties how they are authorized to spend money that was collected for HIV prevention, but no longer has reference in state law since Senate Bill 239 (2017) repealed that code section. Although counties will no longer be collecting fees to support this fund, those counties who still had money in their account need authorization in state law to spend it until the fund is exhausted. This bill has no fiscal impact on the state -- it simply provides direction to counties who used to participate in this program and need guidance on transitioning out of it.

### 2. Background

Former law, repealed as of January 1, 2018, made it a felony punishable by imprisonment in state prison to expose another person to HIV as it related to intentional transmission through sexual activity and tissue donation. Former law provided that a person, afflicted with a contagious, infectious, or communicable disease, who willfully exposes themselves to another person is guilty of a misdemeanor.

Passed in 2017, SB 239 reformed criminal penalties related to HIV so the punishments were in accordance with other penalties involving communicable diseases. The law, effective January 1, 2018, repeals those provisions and instead, makes the intentional transmission of an infection or communicable disease a misdemeanor punishable by imprisonment in a county if certain circumstances apply.

SB 239 repealed Penal Code section 1463.23 that authorized fees to be collected by the courts for specific HIV-associated sex or controlled substances offenses, to fund general HIV prevention and education programs. However, there are several counties in California that deposited this fine for this purpose until December 31, 2017.

This bill authorizes counties with money saved in this particular HIV prevention fund to spend that money until the fund is exhausted.

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