
DIGEST

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HB 275 Engrossed

2018 Regular Session

Jordan

Abstract: Amends the elements of the crime of intentional exposure to the AIDS virus to apply to the intentional exposure to HIV.

Present law provides that no person shall intentionally expose another to any acquired immunodeficiency syndrome (AIDS) virus through any means or contact, as defined by present law, without the knowing and lawful consent of the victim. Further provides for criminal penalties with enhanced penalties when the person exposed is a police officer.

Proposed law changes the elements to apply to the human immunodeficiency virus (HIV) instead of acquired immunodeficiency syndrome (AIDS), and further adds the requirement that at the time of the exposure the infected person knew he was HIV positive.

Proposed law removes the definition of "means or contact" and amends the definition of "police officer" to include licensed emergency medical services practitioners and firefighters.

Proposed law provides for the following affirmative defenses to the crime:

- (1) The person exposed to HIV knew the infected person was infected with HIV, knew the action could result in infection with HIV, and gave consent to the action with that knowledge.
- (2) The transfer of bodily fluid, tissue, or organs occurred after advice from a licensed physician that the accused was noninfectious and the accused disclosed his HIV-positive status to the victim.
- (3) The HIV-positive person disclosed his HIV-positive status to the victim and took practical means to prevent transmission as advised by a physician or other healthcare provider or is a healthcare provider who was following professionally accepted infection control procedures.

Proposed law provides affirmative defenses to the crime.

(Amends R.S. 14:43.5(A), (B), (C), (D), and (E); Adds R.S. 14:43.5(F))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Remove the proposed law definition of "intentional exposure".
2. Add as an element of the offense that the offender knew at the time of the exposure that he was HIV positive.
3. Provide that the definition of police officer also includes licensed emergency medical services practitioners and firefighters.
4. Make changes to certain affirmative defenses provided by proposed law to require the accused to disclose his HIV-positive status.
5. Make changes to the affirmative defense provided by proposed law which requires the victim to give consent to the action instead of "advance" consent.