

2018 Regular Session

HOUSE BILL NO. 275

BY REPRESENTATIVE JORDAN AND SENATOR BARROW

1 AN ACT

2 To amend and reenact R.S. 14:43.5, relative to the crime of intentional exposure to the  
3 human immunodeficiency virus; to provide for the elements of the offense; to  
4 provide for definitions; to provide for affirmative defenses; and to provide for  
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:43.5 is hereby amended and reenacted to read as follows:

8 §43.5. Intentional exposure to ~~AIDS virus~~ HIV

9 A. No person shall intentionally expose another to ~~any acquired~~  
10 ~~immunodeficiency syndrome (AIDS)~~ the human immunodeficiency virus (HIV)  
11 through sexual contact without the knowing and lawful consent of the victim, if at  
12 the time of the exposure the infected person knew he was HIV positive.

13 B. No person shall intentionally expose another to ~~any acquired~~  
14 ~~immunodeficiency syndrome (AIDS) virus~~ HIV through any means or contact  
15 without the knowing and lawful consent of the victim, if at the time of the exposure  
16 the infected person knew he was HIV positive.

17 C. No person shall intentionally expose a ~~police officer~~ first responder to  
18 ~~any AIDS virus~~ HIV through any means or contact without the knowing and lawful  
19 consent of the ~~police officer~~ first responder when the offender knows at the time of  
20 the offense that he is HIV positive, and has reasonable grounds to believe the victim  
21 is a ~~police officer~~ first responder acting in the performance of his duty.

1 D. For purposes of this Section, ~~the following words have the following~~  
 2 ~~meanings:~~

3 (1) ~~"Means or contact" is defined as spitting, biting, stabbing with an AIDS~~  
 4 ~~contaminated object, or throwing of blood or other bodily substances.~~

5 (2) ~~"Police officer"~~ "first responder" includes a commissioned police officer,  
 6 sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable,  
 7 wildlife enforcement agent, and probation and parole officer, any licensed  
 8 emergency medical services practitioner as defined by R.S. 40:1131, and any  
 9 firefighter regularly employed by a fire department of any municipality, parish, or  
 10 fire protection district of the state or any volunteer firefighter of the state.

11 E.(1) Whoever commits the crime of intentional exposure to ~~AIDS virus~~  
 12 HIV shall be fined not more than five thousand dollars, imprisoned with or without  
 13 hard labor for not more than ten years, or both.

14 (2) Whoever commits the crime of intentional exposure to ~~AIDS virus~~ HIV  
 15 against a ~~police officer~~ first responder shall be fined not more than six thousand  
 16 dollars, imprisoned with or without hard labor for not more than eleven years, or  
 17 both.

18 F.(1) It is an affirmative defense, if proven by a preponderance of the  
 19 evidence, that the person exposed to HIV knew the infected person was infected with  
 20 HIV, knew the action could result in infection with HIV, and gave consent to the  
 21 action with that knowledge.

22 (2) It is also an affirmative defense that the transfer of bodily fluid, tissue,  
 23 or organs occurred after advice from a licensed physician that the accused was  
 24 noninfectious, and the accused disclosed his HIV-positive status to the victim.

1                   (3) It is also an affirmative defense that the HIV-positive person disclosed  
2                   his HIV-positive status to the victim, and took practical means to prevent  
3                   transmission as advised by a physician or other healthcare provider or is a healthcare  
4                   provider who was following professionally accepted infection control procedures.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_