

2018 Regular Session

HOUSE BILL NO. 275

BY REPRESENTATIVE JORDAN

CRIME: Prohibits the intentional exposure to HIV

1 AN ACT

2 To amend and reenact R.S. 14:43.5(A), (B), (C), (D), and (E) and to enact R.S. 14:43.5(F),
3 relative to the crime of intentional exposure to the human immunodeficiency virus;
4 to provide for the elements of the offense; to provide for definitions; to provide for
5 affirmative defenses; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:43.5(A), (B), (C), (D), and (E) are hereby amended and reenacted
8 and R.S. 14:43.5(F) is hereby enacted to read as follows:

9 §43.5. Intentional exposure to ~~AIDS virus~~ HIV

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

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

18 C. No person shall intentionally expose a police officer to ~~any AIDS virus~~
19 HIV through any means or contact without the knowing and lawful consent of the
20 police officer when the offender knows, at the time of the offense that he is HIV

1 positive, and has reasonable grounds to believe the victim is a police officer acting
2 in the performance of his duty.

3 D. For purposes of this Section, ~~the following words have the following~~
4 ~~meanings:~~

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

7 (2) ~~"Police~~ "police officer" includes a commissioned police officer, sheriff,
8 deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife
9 enforcement agent, and probation and parole officer. "Police officer" shall also
10 include any licensed emergency medical services practitioner as defined by R.S.
11 40:1131 and any firefighter regularly employed by a fire department of any
12 municipality, parish, or fire protection district of the state or any volunteer firefighter
13 of the state.

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

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

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

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

27 (3) It is also an affirmative defense that the HIV-positive person disclosed
28 his HIV-positive status to the victim, and took practical means to prevent

- 1 transmission as advised by a physician or other healthcare provider or is a healthcare
 2 provider who was following professionally accepted infection control procedures.
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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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.