

2026 Regular Session

HOUSE BILL NO. 808

BY REPRESENTATIVE MCMAHEN

CRIME/SEX OFFENSES: Provides relative to the intentional exposure to HIV

1 AN ACT

2 To amend and reenact R.S. 14:43.5 and to enact Code of Criminal Procedure Article 726.1,
3 relative to the crime of intentional exposure to HIV; to provide for elements; to
4 provide for definitions; to provide relative to affirmative defenses; to provide relative
5 to notice for medical conditions; and to provide for 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 HIV

9 A. No person shall intentionally expose another person to the human
10 immunodeficiency virus (HIV) ~~through~~ without the knowing and lawful consent of
11 the victim when the offender knew that he was positive for HIV at the time of the
12 exposure and the contact posed a substantial likelihood of transmission as follows:

13 (1) Through sexual contact,

14 (2) Through the sharing of hypodermic needles or syringes ~~without the~~
15 ~~knowing and lawful consent of the victim, if at the time of the exposure the infected~~
16 ~~person knew he was HIV positive.~~

17 (3) ~~No person shall intentionally expose another to HIV through~~ Through
18 ~~any means or contact without the knowing and lawful consent of the victim, if at the~~
19 ~~time of the exposure the infected person knew he was HIV positive~~ that poses a
20 substantial likelihood of transmission.

1 ~~(4) No person shall intentionally expose a first responder to HIV through~~
 2 ~~Through any means or contact without the knowing and lawful consent of the first~~
 3 ~~responder when~~ that poses a substantial likelihood of transmission if the offender
 4 ~~knows at the time of the offense that he is HIV positive, and has reasonable grounds~~
 5 ~~to believe the victim is a first responder acting in the performance of his duty~~ official
 6 ~~duties.~~

7 ~~D. B.~~ For the purposes of this Section, the following terms have the
 8 following meanings:

9 (1) "first First responder" includes a any of the following:

10 (a) A commissioned police officer, sheriff, deputy sheriff, marshal, deputy
 11 marshal, correctional officer, constable, wildlife enforcement agent, ~~and~~ or probation
 12 and parole officer, ~~any.~~

13 (b) Any licensed emergency medical services practitioner as defined ~~by~~ in
 14 R.S. 40:1131, ~~and any.~~

15 (c) Any firefighter regularly employed by a fire department of any
 16 municipality, parish, or fire protection district of the state or any volunteer firefighter
 17 of the state.

18 (2) "Substantial likelihood of transmission" means conduct that includes
 19 contact with blood, semen, or vaginal fluid that carries a significant probability of
 20 HIV transmission according to current and generally accepted medical and scientific
 21 evidence and standards. It does not include conduct that poses a negligible or
 22 theoretical risk of HIV transmission.

23 E. C.(1) Whoever ~~commits the crime of intentional exposure to HIV~~ violates
 24 the provisions of Paragraph (A)(1), (2), or (3) of this Section shall be fined not more
 25 than five thousand dollars, imprisoned with or without hard labor for not more than
 26 ten years, or both.

27 (2) Whoever ~~commits the crime of intentional exposure to HIV against a first~~
 28 ~~responder~~ violates the provisions of Paragraph (A)(4) of this Section shall be fined
 29 not more than six thousand dollars, imprisoned with or without hard labor for not
 30 more than eleven years, or both.

1 F. D.(1) Any of the following shall be an affirmative defense, if proven by
2 a preponderance of the evidence, ~~that~~ to a violation of this Section:

3 (a) That the ~~person exposed to HIV~~ victim knew the ~~infected person~~
4 defendant was ~~infected with HIV~~ positive for HIV, knew the ~~action~~ means, contact,
5 or conduct could result in ~~infection with~~ the transmission of HIV, and gave consent
6 to the ~~action~~ means, contact, or conduct with that knowledge.

7 (2) ~~(b) It is also an affirmative defense that~~ That the transfer of bodily fluid,
8 tissue, or organs ~~blood, semen, or vaginal fluid~~ occurred after advice from a licensed
9 physician that the ~~accused~~ defendant was noninfectious; and the ~~accused~~ defendant
10 disclosed his HIV-positive status to the victim.

11 (3) ~~(c) It is also an affirmative defense that~~ That the HIV-positive person
12 disclosed defendant either:

13 (i) Disclosed his HIV-positive status to the victim; and took practical means
14 to prevent transmission as advised by a physician or other healthcare provider ~~or is.~~

15 (ii) Is a healthcare provider who was following professionally accepted
16 infection control procedures.

17 (d) That the defendant, at the time of the alleged transmission, disclosed to
18 the victim that the defendant was receiving medical care for HIV and maintained a
19 viral load consistent with levels recognized by prevailing medical standards that
20 effectively eliminated the risk of HIV transmission through sexual contact.

21 (2) The defendant bears the burden of proof for asserting any affirmative
22 defense provided in this Subsection.

23 E. Nothing in this Section shall be construed to criminalize conduct that
24 poses no medically recognized risk of HIV transmission.

25 Section 2. Code of Criminal Procedure Article 726.1 is hereby enacted to read as
26 follows:

27 Art. 726.1. Notice of medical condition

28 A. If a defendant intends to introduce documents or testimony relating to a
29 medical condition or related treatment on the basis of an affirmative defense, he shall

1 notify the district attorney in writing of such intention and file a copy of the notice
 2 with the clerk not later than ten days prior to trial or in a reasonable time as the court
 3 may permit. The court may, for cause shown, allow late filing of the notice or grant
 4 additional time to the parties to prepare for trial or issue any other orders as may be
 5 appropriate. Upon motion of either party, the court shall order that such records be
 6 filed under seal. Nothing in this Article shall be construed to relieve a defendant of
 7 any obligation imposed pursuant to Article 725.

8 B. If the defendant fails to provide notice as required by Paragraph A of this
 9 Article, the court may exclude the introduction of any documents or testimony of any
 10 witness offered by the defendant on the issue of medical condition or related
 11 treatment.

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 808 Engrossed

2026 Regular Session

McMahan

Abstract: Provides relative to the crime of intentional exposure to HIV.

Present law (R.S. 14:43.5) provides for the crime of intentional exposure to HIV and provides for penalties.

Proposed law retains the definition for "first responder" and penalties, but amends present law as follows:

- (1) Prohibits a person from intentionally exposing another person to HIV without the knowing and lawful consent of the victim when the offender knew that he was positive for HIV at the time of the exposure and the contact posed a substantial likelihood of transmission under certain circumstances.
- (2) Provides for circumstances that violate proposed law as follows:
 - (a) Through sexual contact.
 - (b) Through the sharing of hypodermic needles or syringes.
 - (c) Through any means or contact that poses a substantial likelihood of transmission.
 - (d) Through any means or contact that poses a substantial likelihood of transmission if the offender has reasonable grounds to believe the victim is a first responder acting in the performance of his official duties.

Proposed law defines "substantial likelihood of transmission".

Proposed law provides for an affirmative defense to prosecution if the defendant, at the time of the alleged transmission, disclosed to the victim that the defendant was receiving medical care for HIV and maintained a viral load that effectively eliminated the risk of HIV transmission through sexual contact.

Proposed law provides that the defendant bears the burden of proof for asserting any affirmative defense provided in present law.

Proposed law provides that nothing in proposed law shall be construed to criminalize conduct that poses no medically recognized risk of HIV transmission.

Proposed law permits a defendant to introduce documents or testimony relating to a medical condition or related treatment on the basis of an affirmative defense, provides for notification procedures and time periods, provides for duties of the defendant, and provides for duties and authorized actions of the court.

(Amends R.S. 14:43.5; Adds C.Cr.P. Art. 726.1)

Summary of Amendments Adopted by House

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

1. Clarify the elements of present law as follows:
 - (a) Restore the present law name of the offense from intentional transmission of HIV to intentional exposure to HIV.
 - (b) Remove the requirement that the defendant have specific intent.
 - (c) Change the means of contact from "transmission" to "exposure".
2. Clarify that the defendant, in order to assert the affirmative defense provided in proposed law, disclosed to the victim that the defendant was receiving medical care for HIV.
3. Permit a defendant to introduce documents or testimony relating to a medical condition or related treatment on the basis of an affirmative defense and provide for related notification procedures, time periods, and duties of the defendant.
4. Provide for duties and authorized actions of the court relative to the introduction of any documents or testimony of any witness offered by the defendant on the issue of medical condition or related treatment.
5. Remove provisions of present and proposed law relative to sex offender registration.
6. Make technical changes.