

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)(1), and (E) and to enact R.S.
3 14:43.5(F), relative to the crime of intentional exposure to the human
4 immunodeficiency virus; to provide for the elements of the offense; to provide for
5 definitions; to provide for 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)(1), and (E) are hereby amended and
8 reenacted 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.

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.

16 C. No person shall intentionally expose a police officer to ~~any AIDS virus~~
17 HIV through any means or contact without the knowing and lawful consent of the
18 police officer when the offender has reasonable grounds to believe the victim is a
19 police officer 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.~~ "Intentional
5 exposure" means that a person knows at the time of the exposure that he is HIV
6 positive, has not disclosed his HIV-positive status, and acts with the specific intent
7 to transmit HIV to the other person.

8 * * *

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

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

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

19 (2) It is also an affirmative defense that the transfer of body fluid, tissue, or
20 organs occurred after advice from a licensed physician that the accused was
21 noninfectious.

22 (3) It is also an affirmative defense that the HIV-positive person took
23 practical means to prevent transmission as advised by a physician or other healthcare
24 provider or is a healthcare provider who was following professionally accepted
25 infection control procedures.

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 Original

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 without the knowing and lawful consent of the victim.

Proposed law changes the elements from acquired immunodeficiency syndrome (AIDS) virus to the human immunodeficiency virus (HIV).

Proposed law amends the definition of "intentional exposure" to include a person who knows at the time of the exposure that he is HIV positive, has not disclosed his HIV-positive status, and acts with the specific intent to transmit HIV to the other person.

Proposed law provides affirmative defenses to the crime.

(Amends R.S. 14:43.5(A), (B), (C), (D)(1), and (E); Adds R.S. 14:43.5(F))