

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 R.S. 15:541(24)(a), relative to the crime of
3 intentional exposure to HIV; to provide for a renaming of the offense of intentional
4 exposure to HIV; to provide for elements; to provide for definitions; to provide
5 relative to affirmative defenses; to provide for certain circumstances when the crime
6 of intentional transmission of HIV constitutes a sex offense; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

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

10 §43.5. Intentional ~~exposure to~~ transmission of HIV

11 A. No person with specific intent shall ~~intentionally expose~~ transmit to
12 another ~~to~~ person or attempt to transmit to another person the human
13 immunodeficiency virus (HIV) ~~through~~ without the knowing and lawful consent of
14 the victim when the offender knew that he was positive for HIV at the time of the
15 transmission and the contact posed a substantial likelihood of transmission as
16 follows:

17 (1) Through sexual contact.

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

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

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

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

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

14 ~~(a) A~~ A commissioned police officer, sheriff, deputy sheriff, marshal, deputy
15 marshal, correctional officer, constable, wildlife enforcement agent, ~~and~~ or probation
16 and parole officer, ~~any.~~

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

19 ~~(c) Any~~ Any firefighter regularly employed by a fire department of any
20 municipality, parish, or fire protection district of the state or any volunteer firefighter
21 of the state.

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

27 ~~E.C.(1) Whoever commits the crime of intentional exposure to HIV violates~~
28 the provisions of Paragraph (A)(1), (2), or (3) of this Section shall be fined not more

1 than five thousand dollars, imprisoned with or without hard labor for not more than
2 ten years, or both.

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

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

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

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

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

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

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

23 (d) That the defendant, at the time of the alleged transmission, was receiving
24 medical care for HIV and maintained a viral load consistent with levels recognized
25 by prevailing medical standards that effectively eliminated the risk of HIV
26 transmission through sexual contact.

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

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

3 Section 2. R.S. 15:541(24)(a) is hereby amended and reenacted to read as follows:

4 §541. Definitions

5 For the purposes of this Chapter, the definitions of terms in this Section shall
6 apply:

7 * * *

8 (24)(a) "Sex offense" means deferred adjudication, adjudication withheld,
9 or conviction for the perpetration or attempted perpetration of or conspiracy to
10 commit human trafficking when prosecuted under the provisions of R.S.
11 14:46.2(B)(2), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:89
12 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S.
13 14:89.2(B)(3) (crime against nature by solicitation), R.S. 14:80 (felony carnal
14 knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1
15 (pornography involving juveniles) which occurred prior to August 1, 2025, R.S.
16 14:81.2 (molestation of a juvenile or a person with a physical or mental disability),
17 R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:81.4 (prohibited
18 sexual conduct between an educator and student), R.S. 14:82.1 (prostitution; persons
19 under eighteen), R.S. 14:82.2(C)(4) or (5) (purchase of commercial sexual activity),
20 R.S. 14:83(B)(2) or (3) (soliciting for prostitutes), R.S. 14:92(A)(7) (contributing to
21 the delinquency of juveniles), R.S. 14:93.5 (sexual battery of persons with
22 infirmities), R.S. 14:106(A)(5) (obscenity by solicitation of a person under the age
23 of seventeen), R.S. 14:283 (video voyeurism), R.S. 14:41 (rape), R.S. 14:42
24 (aggravated or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S.
25 14:43 (simple or third degree rape), R.S. 14:43.1 (sexual battery), R.S. 14:43.2
26 (second degree sexual battery), R.S. 14:43.3 (oral sexual battery), R.S. 14:43.5(A)(1)
27 (intentional ~~exposure to~~ transmission of HIV), a second or subsequent conviction of
28 R.S. 14:283.1 (voyeurism), or a second or subsequent conviction of R.S. 14:89.3
29 (sexual abuse of an animal), committed on or after June 18, 1992, or committed prior

Proposed law defines the term "substantial likelihood of transmission".

Proposed law provides an affirmative defense to prosecution that the defendant, at the time of the alleged transmission, 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.

Present law (R.S. 15:541(24)(a)) defines the term "sex offense".

Proposed law amends present law to provide that intentional transmission of HIV is designated as a sex offense only when the offense involves sexual contact.

(Amends R.S. 14:43.5 and R.S. 15:541(24)(a))