

2026 Regular Session

HOUSE BILL NO. 808

BY REPRESENTATIVES MCMAHEN AND MANDIE LANDRY

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 B: (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                    ~~C. (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  
 30 notify the district attorney in writing of such intention and file a copy of the notice

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

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

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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: \_\_\_\_\_