
DIGEST

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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.