

HB 659 – Sexually Transmissible Diseases (Identical SB 1522)

This bill amends multiple statutes. First, it amends s. 381.0041, F.S., adding the following (new language in bold): “**Except when the donation is deemed medically appropriate by a licensed physician**, any person who has human immunodeficiency virus infection, who knows he or she is infected with human immunodeficiency virus, and who has been informed that he or she may communicate this disease by donating blood, plasma, organs, skin, or other human tissue who donates blood, plasma, organs, skin, or other human tissue **for use in another person.**” The current Level 5, 3rd degree felony is also reduced to a **1st degree misdemeanor**.

This bill also amends s. 384.23, F.S., defining “sexual conduct” and “substantial risk of transmission,” then adds new language under s. 384.24(1), F.S. and s. 384.24(2), F.S. (new language in bold): “It is unlawful for any person who has chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/acute salpingitis, syphilis, **or human immunodeficiency virus**, when such person knows he or she is infected with one or more of these diseases and when such person has been informed that he or she may communicate this disease to another person through sexual **conduct, to act with the intent to transmit the disease, to engage in sexual conduct that poses a substantial risk of transmission to another person when the other person is unaware that the person is a carrier of the disease, and to transmit the disease to the** other person.” Furthermore, it is now stated in subsection (2) that “a person does not act with the intent required under subsection (1) if he or she in good faith complies with a treatment regimen prescribed by his or her health care provider or with the behavioral recommendations of his or her health care provider or public health officials to limit the risk of transmission, or if he or she offers to comply with such behavioral recommendations but such offer is rejected by the other person with whom he or she is engaging in sexual conduct. For purposes of this subsection, the term ‘behavioral recommendations’ includes, but is not limited to, the use of a prophylactic device to limit the risk of transmission of the disease. Evidence of the person's failure to comply with such a treatment regimen or such behavioral recommendations is not, in and of itself, sufficient to establish that he or she acted with the intent required under subsection (1).”

This bill also amends s. 384.34, F.S., clarifying that the entirety of s. 384.24, F.S. is a 1st degree misdemeanor, while deleting the current Level 1, 3rd degree felony for a person who knows he or she has human immunodeficiency virus to have sex with someone who is not aware of the infection and the Level 7, 1st degree felony for multiple violations.

Finally, this bill amends s. 775.087, F.S., adding saliva as an exception to the transmission of bodily fluids and deleting “donation of blood, plasma, organs, skin, or other human tissue” from the list of offenses in which the criminal transmission of HIV can occur.” It also reduces the Level 1, 3rd degree felony to a **1st degree misdemeanor**

for “an offender who has undergone HIV testing...and to whom positive test results have been disclosed...who commits a second or subsequent offense.”

Per DOC, in FY 18-19, there were 4 new commitments to prison for the felonies impacted by this bill, and there were 5 new commitments in FY 19-20. In FY 20-21 there were no new commitments, and there was one new commitment in FY 21-22.

CONFERENCE ADOPTED ESTIMATE: Negative Insignificant

Requested by: House