



208470

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2017	.	
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	.	
	.	

The Committee on Criminal Justice (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (11) of section
381.0041, Florida Statutes, is amended to read:

381.0041 Donation and transfer of human tissue; testing
requirements.—

(11)

(b) Except when the donation is deemed medically



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11 appropriate by a licensed physician, any person who has human
12 immunodeficiency virus infection, who knows he or she is
13 infected with human immunodeficiency virus, and who has been
14 informed that he or she may communicate this disease by donating
15 blood, plasma, organs, skin, or other human tissue who donates
16 blood, plasma, organs, skin, or other human tissue commits is
17 ~~guilty of a misdemeanor felony~~ of the first third degree,
18 punishable as provided in s. 775.082 or s. 775.083, ~~or s.~~
19 ~~775.084.~~

20 Section 2. Section 384.23, Florida Statutes, is amended to
21 read:

22 384.23 Definitions.—As used in this chapter, the term:

23 (1) "Department" means the Department of Health.

24 (2) "County health department" means agencies and entities
25 as designated in chapter 154.

26 (3) "Sexual conduct" means conduct between persons,
27 regardless of gender, which is capable of transmitting a
28 sexually transmissible disease, including, but not limited to,
29 contact between a:

30 (a) Penis and a vulva or an anus; or

31 (b) Mouth and a penis, a vulva, or an anus.

32 ~~(4)(3)~~ "Sexually transmissible disease" means a bacterial,
33 viral, fungal, or parasitic disease determined by rule of the
34 department to be sexually transmissible, to be a threat to the
35 public health and welfare, and to be a disease for which a
36 legitimate public interest will be served by providing for
37 prevention, elimination, control, and treatment. The department
38 must, by rule, determine which diseases are to be designated as
39 sexually transmissible diseases and shall consider the



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40 recommendations and classifications of the Centers for Disease
41 Control and Prevention and other nationally recognized medical
42 authorities in that determination. Not all diseases that are
43 sexually transmissible need be designated for the purposes of
44 this act.

45 (5) "Substantial risk of transmission" means a reasonable
46 probability of disease transmission as proven by competent
47 medical or epidemiological evidence.

48 Section 3. Section 384.24, Florida Statutes, is amended to
49 read:

50 384.24 Unlawful acts.—

51 (1) It is unlawful for a ~~any~~ person who has chancroid,
52 gonorrhea, granuloma inguinale, lymphogranuloma venereum,
53 genital herpes simplex, chlamydia, nongonococcal urethritis
54 (NGU), pelvic inflammatory disease (PID)/acute salpingitis,
55 human papillomavirus, hepatitis, ~~or~~ syphilis, or human
56 immunodeficiency virus infection, when the ~~such~~ person knows he
57 or she is infected with one or more of these diseases and when
58 the ~~such~~ person has been informed that he or she may communicate
59 this disease to another person through sexual conduct
60 intercourse, to act with the intent to transmit the disease,
61 engage in conduct that poses a substantial risk of transmission
62 to another person when the other person is unaware that the
63 person is a carrier of the disease, and transmit the disease to
64 the other person ~~have sexual intercourse with any other person,~~
65 unless ~~such other person has been informed of the presence of~~
66 the sexually transmissible disease and has consented to the
67 sexual intercourse.

68 (2) A person does not act with the intent required under



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69 subsection (1) if he or she in good faith complies with a
70 treatment regimen prescribed by his or her health care provider
71 or with the behavioral recommendations of his or her health care
72 provider or public health officials, or if he or she offers to
73 comply, but that offer is rejected by the other person. For
74 purposes of this section, the term "behavioral recommendations"
75 includes, but is not limited to, the use of a prophylactic
76 device to measurably limit the risk of transmission of the
77 disease. Evidence of the person's failure to comply with such a
78 treatment regimen or such behavioral recommendations is not, in
79 and of itself, sufficient to establish that he or she acted with
80 the intent required under subsection (1) ~~It is unlawful for any~~
81 person who has human immunodeficiency virus infection, when such
82 person knows he or she is infected with this disease and when
83 such person has been informed that he or she may communicate
84 this disease to another person through sexual intercourse, to
85 have sexual intercourse with any other person, unless such other
86 person has been informed of the presence of the sexually
87 transmissible disease and has consented to the sexual
88 intercourse.

89 Section 4. Section 384.34, Florida Statutes, is amended to
90 read:

91 384.34 Penalties.—

92 (1) Any person who violates s. 384.24 ~~the provisions of s.~~
93 ~~384.24(1)~~ commits a misdemeanor of the first degree, punishable
94 as provided in s. 775.082 or s. 775.083.

95 (2) Any person who violates ~~the provisions of~~ s. 384.26 or
96 s. 384.29 commits a misdemeanor of the first degree, punishable
97 as provided in s. 775.082 or s. 775.083.



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98 (3) Any person who maliciously disseminates any false
99 information or report concerning the existence of any sexually
100 transmissible disease commits a misdemeanor of the first degree
101 ~~felony of the third degree~~, punishable as provided in s. 775.082
102 ~~or s. 775.083 ss. 775.082, 775.083, and 775.084.~~

103 ~~(4) Any person who violates the provisions of the~~
104 ~~department's rules pertaining to sexually transmissible diseases~~
105 ~~may be punished by a fine not to exceed \$500 for each violation.~~
106 ~~Any penalties enforced under this subsection shall be in~~
107 ~~addition to other penalties provided by this chapter. The~~
108 ~~department may enforce this section and adopt rules necessary to~~
109 ~~administer this section.~~

110 ~~(5) Any person who violates s. 384.24(2) commits a felony~~
111 ~~of the third degree, punishable as provided in s. 775.082, s.~~
112 ~~775.083, or s. 775.084. Any person who commits multiple~~
113 ~~violations of s. 384.24(2) commits a felony of the first degree,~~
114 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

115 (4)~~(6)~~ Any person who obtains information that identifies
116 an individual who has a sexually transmissible disease, who knew
117 or should have known the nature of the information and
118 maliciously, or for monetary gain, disseminates this information
119 or otherwise makes this information known to any other person,
120 except by providing it either to a physician or nurse employed
121 by the Department of Health or to a law enforcement agency,
122 commits a misdemeanor of the first degree ~~felony of the third~~
123 ~~degree~~, punishable as provided in s. 775.082 or ~~s. 775.083, or~~
124 ~~s. 775.084.~~

125 Section 5. Section 775.0877, Florida Statutes, is amended
126 to read:



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127 775.0877 Criminal transmission of HIV; procedures;
128 penalties.-

129 (1) In any case in which a person has been convicted of or
130 has pled nolo contendere or guilty to, regardless of whether
131 adjudication is withheld, any of the following offenses, ~~or the~~
132 ~~attempt thereof~~, which offense ~~or attempted offense~~ involves the
133 transmission of semen or vaginal secretions ~~body fluids~~ from one
134 person to another:

135 (a) Section 794.011, relating to sexual battery;

136 (b) Section 826.04, relating to incest;

137 (c) Section 800.04, relating to lewd or lascivious offenses
138 committed upon or in the presence of persons less than 16 years
139 of age;

140 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
141 relating to assault;

142 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),
143 relating to aggravated assault;

144 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),
145 relating to battery;

146 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),
147 relating to aggravated battery;

148 (h) Section 827.03(2)(c), relating to child abuse;

149 (i) Section 827.03(2)(a), relating to aggravated child
150 abuse;

151 (j) Section 825.102(1), relating to abuse of an elderly
152 person or disabled adult;

153 (k) Section 825.102(2), relating to aggravated abuse of an
154 elderly person or disabled adult;

155 (l) Section 827.071, relating to sexual performance by



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156 person less than 18 years of age;
157 (m) Sections 796.07 and 796.08, relating to prostitution;
158 ~~(n) Section 381.0041(11)(b), relating to donation of blood,~~
159 ~~plasma, organs, skin, or other human tissue; or~~
160 (n) ~~(e)~~ Sections 787.06(3)(b), (d), (f), and (g), relating
161 to human trafficking,
162
163 the court shall order the offender to undergo HIV testing, to be
164 performed under the direction of the Department of Health in
165 accordance with s. 381.004, unless the offender has undergone
166 HIV testing voluntarily or pursuant to procedures established in
167 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
168 rule providing for HIV testing of criminal offenders or inmates,
169 subsequent to her or his arrest for an offense enumerated in
170 paragraphs (a)-(n) for which she or he was convicted or to which
171 she or he pled nolo contendere or guilty. The results of an HIV
172 test performed on an offender pursuant to this subsection are
173 not admissible in any criminal proceeding arising out of the
174 alleged offense.
175 (2) The results of the HIV test must be disclosed under the
176 direction of the Department of Health, to the offender who has
177 been convicted of or pled nolo contendere or guilty to an
178 offense specified in subsection (1) and to, the public health
179 agency of the county in which the conviction occurred and, if
180 different, the county of residence of the offender, and, upon
181 request pursuant to s. 960.003, to the victim or the victim's
182 legal guardian, or the parent or legal guardian of the victim if
183 the victim is a minor.
184 (3) An offender who has undergone HIV testing pursuant to



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185 subsection (1), and to whom positive test results have been
186 disclosed pursuant to subsection (2), who commits a second or
187 subsequent offense enumerated in paragraphs (1)(a)-(n) which
188 results in transmission of HIV to the victim ~~(1)(a)-(n)~~, commits
189 criminal transmission of HIV, a misdemeanor of the first degree
190 ~~felony of the third degree~~, punishable as provided in s. 775.082
191 ~~or~~ s. 775.083, ~~or s. 775.084~~. A person may be convicted and
192 sentenced separately for a violation of this subsection and for
193 the underlying crime enumerated in paragraphs (1)(a)-(n).

194 (4) An offender may challenge the positive results of an
195 HIV test performed pursuant to this section and may introduce
196 results of a backup test performed at her or his own expense.

197 ~~(5) Nothing in this section requires that an HIV infection~~
198 ~~have occurred in order for an offender to have committed~~
199 ~~criminal transmission of HIV.~~

200 ~~(5)(6)~~ For an alleged violation of any offense enumerated
201 in paragraphs (1)(a)-(n) for which the consent of the victim may
202 be raised as a defense in a criminal prosecution, it is an
203 affirmative defense to a charge of violating this section that
204 the person exposed knew that the offender was infected with HIV,
205 knew that the action being taken could result in transmission of
206 the HIV infection, and consented to the action voluntarily with
207 that knowledge.

208 Section 6. Section 796.08, Florida Statutes, is amended to
209 read:

210 796.08 Screening for HIV and sexually transmissible
211 diseases; providing penalties.—

212 (1)(a) For the purposes of this section, the term "sexually
213 transmissible disease" means a bacterial, viral, fungal, or



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214 parasitic disease, determined by rule of the Department of
215 Health to be sexually transmissible, a threat to the public
216 health and welfare, and a disease for which a legitimate public
217 interest is served by providing for regulation and treatment.

218 (b) In considering which diseases are designated as
219 sexually transmissible diseases, the Department of Health shall
220 consider such diseases as chancroid, gonorrhoea, granuloma
221 inguinale, lymphogranuloma venereum, genital herpes simplex,
222 chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory
223 disease (PID)/acute salpingitis, syphilis, and human
224 immunodeficiency virus infection for designation and shall
225 consider the recommendations and classifications of the Centers
226 for Disease Control and Prevention and other nationally
227 recognized authorities. Not all diseases that are sexually
228 transmissible need be designated for purposes of this section.

229 (2) A person arrested under s. 796.07 shall be screened ~~may~~
230 ~~request screening~~ for a sexually transmissible disease under
231 direction of the Department of Health and, if infected, shall
232 submit to appropriate treatment and counseling. The Department
233 of Health shall ~~A person who requests screening for a sexually~~
234 ~~transmissible disease under this subsection must~~ pay any costs
235 associated with such screening. Such appropriate treatment and
236 counseling must include the offer of postexposure prophylaxis
237 (PEP) to prevent the acquisition of HIV. The Department of
238 Health shall ensure that any person electing to take PEP under
239 this subsection does not incur out-of-pocket expenses of more
240 than \$30 in obtaining this medication.

241 ~~(3) A person convicted under s. 796.07 of prostitution or~~
242 ~~procuring another to commit prostitution must undergo screening~~



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243 ~~for a sexually transmissible disease, including, but not limited~~
244 ~~to, screening to detect exposure to the human immunodeficiency~~
245 ~~virus, under direction of the Department of Health. If the~~
246 ~~person is infected, he or she must submit to treatment and~~
247 ~~counseling prior to release from probation, community control,~~
248 ~~or incarceration. Notwithstanding the provisions of s. 384.29,~~
249 ~~the results of tests conducted pursuant to this subsection shall~~
250 ~~be made available by the Department of Health to the offender,~~
251 ~~medical personnel, appropriate state agencies, state attorneys,~~
252 ~~and courts of appropriate jurisdiction in need of such~~
253 ~~information in order to enforce the provisions of this chapter.~~

254 ~~(3)(4)~~ A person who commits prostitution or procures
255 another for prostitution and who, prior to the commission of
256 such crime, had tested positive for a sexually transmissible
257 disease ~~other than human immunodeficiency virus infection~~ and
258 knew or had been informed that he or she had tested positive for
259 such sexually transmissible disease and could possibly
260 communicate such disease to another person through sexual
261 activity commits a misdemeanor of the first degree, punishable
262 as provided in s. 775.082 or s. 775.083. A person may be
263 convicted and sentenced separately for a violation of this
264 subsection and for the underlying crime of prostitution or
265 procurement of prostitution.

266 ~~(5) A person who:~~

267 ~~(a) Commits or offers to commit prostitution; or~~

268 ~~(b) Procures another for prostitution by engaging in sexual~~
269 ~~activity in a manner likely to transmit the human~~
270 ~~immunodeficiency virus,~~

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272 ~~and who, prior to the commission of such crime, had tested~~
273 ~~positive for human immunodeficiency virus and knew or had been~~
274 ~~informed that he or she had tested positive for human~~
275 ~~immunodeficiency virus and could possibly communicate such~~
276 ~~disease to another person through sexual activity commits~~
277 ~~criminal transmission of HIV, a felony of the third degree,~~
278 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
279 ~~A person may be convicted and sentenced separately for a~~
280 ~~violation of this subsection and for the underlying crime of~~
281 ~~prostitution or procurement of prostitution.~~

282 Section 7. Section 960.003, Florida Statutes, is amended to
283 read:

284 960.003 Preventive medical treatment and care for victims
285 of sexual assault involving the exchange of bodily fluids
286 presenting a substantial risk of transmission of HIV; hepatitis
287 and HIV testing for persons charged with or alleged by petition
288 for delinquency to have committed certain offenses; disclosure
289 of results to victims.-

290 (1) LEGISLATIVE FINDINGS ~~INTENT~~.—The Legislature finds that
291 victims of sexual assault involving the exchange of bodily
292 fluids that present a substantial risk of transmission of the
293 human immunodeficiency virus (HIV) should have access to
294 appropriate medical care and affordable postexposure prophylaxis
295 to prevent the acquisition of HIV. Further, a victim of a
296 criminal offense which involves the transmission of body fluids,
297 or which involves certain sexual offenses in which the victim is
298 a minor, disabled adult, or elderly person, is entitled to know
299 at the earliest possible opportunity whether the person charged
300 with or alleged by petition for delinquency to have committed



301 the offense has tested positive for hepatitis or human
302 immunodeficiency virus (HIV) infection. The Legislature finds
303 that to deny victims access to hepatitis and HIV test results
304 causes unnecessary mental anguish in persons who have already
305 suffered trauma. The Legislature further finds that since
306 medical science now recognizes that early diagnosis is a
307 critical factor in the treatment of hepatitis and HIV infection,
308 both the victim and the person charged with or alleged by
309 petition for delinquency to have committed the offense benefit
310 from prompt disclosure of hepatitis and HIV test results.

311 (2) REFERRAL TO MEDICAL SERVICES REQUIRED.—The Department
312 of Health shall refer for medical services any person who
313 alleges that he or she has been the victim of a sexual assault
314 involving an exchange of bodily fluids which presents a
315 substantial risk of transmission of the human immunodeficiency
316 virus (HIV). Such services must include the offer of
317 postexposure prophylaxis (PEP) to prevent the acquisition of
318 HIV. The Department of Health shall ensure that any person
319 electing to take PEP under this subsection does not incur out-
320 of-pocket expenses of more than \$30 in obtaining this
321 medication. The term "substantial risk of transmission" has the
322 same meaning as in s. 384.23.

323 (3) ~~(2)~~ TESTING OF PERSON CHARGED WITH OR ALLEGED BY
324 PETITION FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.—

325 (a) In any case in which a person has been charged by
326 information or indictment with or alleged by petition for
327 delinquency to have committed any offense enumerated in s.
328 775.0877(1)(a)-(n), which involves the transmission of body
329 fluids from one person to another, upon request of the victim or



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330 the victim's legal guardian, or of the parent or legal guardian
331 of the victim if the victim is a minor, the court shall order
332 such person to undergo hepatitis and HIV testing within 48 hours
333 after the information, indictment, or petition for delinquency
334 is filed. In the event the victim or, if the victim is a minor,
335 the victim's parent or legal guardian requests hepatitis and HIV
336 testing after 48 hours have elapsed from the filing of the
337 indictment, information, or petition for delinquency, the
338 testing shall be done within 48 hours after the request.

339 (b) However, when a victim of any sexual offense enumerated
340 in s. 775.0877(1)(a)-(n) is under the age of 18 at the time the
341 offense was committed or when a victim of any sexual offense
342 enumerated in s. 775.0877(1)(a)-(n) or s. 825.1025 is a disabled
343 adult or elderly person as defined in s. 825.1025 regardless of
344 whether the offense involves the transmission of bodily fluids
345 from one person to another, then upon the request of the victim
346 or the victim's legal guardian, or of the parent or legal
347 guardian, the court shall order such person to undergo hepatitis
348 and HIV testing within 48 hours after the information,
349 indictment, or petition for delinquency is filed. In the event
350 the victim or, if the victim is a minor, the victim's parent or
351 legal guardian requests hepatitis and HIV testing after 48 hours
352 have elapsed from the filing of the indictment, information, or
353 petition for delinquency, the testing shall be done within 48
354 hours after the request. The testing shall be performed under
355 the direction of the Department of Health in accordance with s.
356 381.004. The results of a hepatitis and HIV test performed on a
357 defendant or juvenile offender pursuant to this subsection shall
358 not be admissible in any criminal or juvenile proceeding arising



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359 out of the alleged offense.

360 (c) If medically appropriate, followup HIV testing shall be
361 provided when testing has been ordered under paragraph (a) or
362 paragraph (b). The medical propriety of followup HIV testing
363 shall be based upon a determination by a physician and does not
364 require an additional court order. Notification to the victim,
365 or to the victim's parent or legal guardian, and to the
366 defendant of the results of each followup test shall be made as
367 soon as practicable in accordance with this section.

368 (4)~~(3)~~ DISCLOSURE OF RESULTS.—

369 (a) The results of the test shall be disclosed no later
370 than 2 weeks after the court receives such results, under the
371 direction of the Department of Health, to the person charged
372 with or alleged by petition for delinquency to have committed or
373 to the person convicted of or adjudicated delinquent for any
374 offense enumerated in s. 775.0877(1)(a)-(n), which involves the
375 transmission of body fluids from one person to another, and,
376 upon request, to the victim or the victim's legal guardian, or
377 the parent or legal guardian of the victim if the victim is a
378 minor, and to public health agencies pursuant to s. 775.0877. If
379 the alleged offender is a juvenile, the test results shall also
380 be disclosed to the parent or guardian. When the victim is a
381 victim as described in paragraph (3)(b) ~~(2)(b)~~, the test results
382 must also be disclosed no later than 2 weeks after the court
383 receives such results, to the person charged with or alleged by
384 petition for delinquency to have committed or to the person
385 convicted of or adjudicated delinquent for any offense
386 enumerated in s. 775.0877(1)(a)-(n), or s. 825.1025 regardless
387 of whether the offense involves the transmission of bodily



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388 fluids from one person to another, and, upon request, to the
389 victim or the victim's legal guardian, or the parent or legal
390 guardian of the victim, and to public health agencies pursuant
391 to s. 775.0877. Otherwise, hepatitis and HIV test results
392 obtained pursuant to this section are confidential and exempt
393 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
394 State Constitution and shall not be disclosed to any other
395 person except as expressly authorized by law or court order.

396 (b) At the time that the results are disclosed to the
397 victim or the victim's legal guardian, or to the parent or legal
398 guardian of a victim if the victim is a minor, the same
399 immediate opportunity for face-to-face counseling which must be
400 made available under s. 381.004 to those who undergo hepatitis
401 and HIV testing shall also be afforded to the victim or the
402 victim's legal guardian, or to the parent or legal guardian of
403 the victim if the victim is a minor.

404 (4) POSTCONVICTION TESTING.—If, for any reason, the testing
405 requested under subsection (3) ~~(2)~~ has not been undertaken, then
406 upon request of the victim or the victim's legal guardian, or
407 the parent or legal guardian of the victim if the victim is a
408 minor, the court shall order the offender to undergo hepatitis
409 and HIV testing following conviction or delinquency
410 adjudication. The testing shall be performed under the direction
411 of the Department of Health, and the results shall be disclosed
412 in accordance with the provisions of subsection (3).

413 (5) EXCEPTIONS.—Subsections (3) and (5) ~~(2) and (4)~~ do not
414 apply if:

415 (a) The person charged with or convicted of or alleged by
416 petition for delinquency to have committed or been adjudicated



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417 delinquent for an offense described in subsection (3) ~~(2)~~ has
418 undergone hepatitis and HIV testing voluntarily or pursuant to
419 procedures established in s. 381.004(2)(h)6. or s. 951.27, or
420 any other applicable law or rule providing for hepatitis and HIV
421 testing of criminal defendants, inmates, or juvenile offenders,
422 subsequent to his or her arrest, conviction, or delinquency
423 adjudication for the offense for which he or she was charged or
424 alleged by petition for delinquency to have committed; and

425 (b) The results of such hepatitis and HIV testing have been
426 furnished to the victim or the victim's legal guardian, or the
427 parent or legal guardian of the victim if the victim is a minor.

428 (6) TESTING DURING INCARCERATION, DETENTION, OR PLACEMENT;
429 DISCLOSURE.—In any case in which a person convicted of or
430 adjudicated delinquent for an offense described in subsection
431 (3) ~~(2)~~ has not been tested under subsection (3) ~~(2)~~, but
432 undergoes hepatitis and HIV testing during his or her
433 incarceration, detention, or placement, the results of the
434 initial hepatitis and HIV testing shall be disclosed in
435 accordance with subsection (4) ~~(3)~~. Except as otherwise
436 requested by the victim or the victim's legal guardian, or the
437 parent or guardian of the victim if the victim is a minor, if
438 the initial test is conducted within the first year of the
439 imprisonment, detention, or placement, the request for
440 disclosure shall be considered a standing request for any
441 subsequent hepatitis and HIV test results obtained within 1 year
442 after the initial hepatitis and HIV tests are performed, and
443 need not be repeated for each test administration. Where the
444 inmate or juvenile offender has previously been tested pursuant
445 to subsection (3) ~~(2)~~ the request for disclosure under this



446 subsection shall be considered a standing request for subsequent
447 hepatitis and HIV results conducted within 1 year of the test
448 performed pursuant to subsection (3) ~~(2)~~. If the hepatitis and
449 HIV testing is performed by an agency other than the Department
450 of Health, that agency shall be responsible for forwarding the
451 test results to the Department of Health for disclosure in
452 accordance with the provisions of subsection (4) ~~(3)~~. This
453 subsection shall not be limited to results of hepatitis and HIV
454 tests administered subsequent to June 27, 1990, but shall also
455 apply to the results of all hepatitis and HIV tests performed on
456 inmates convicted of or juvenile offenders adjudicated
457 delinquent for sex offenses as described in subsection (3) ~~(2)~~
458 during their incarceration, detention, or placement prior to
459 June 27, 1990.

460 Section 8. Paragraph (e) of subsection (3) of section
461 921.0022, Florida Statutes, is amended to read:

462 921.0022 Criminal Punishment Code; offense severity ranking
463 chart.—

464 (3) OFFENSE SEVERITY RANKING CHART

465 (e) LEVEL 5

Florida Statute	Felony Degree	Description
467 316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.



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468	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
469	316.80 (2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
470	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
471	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
472	379.365 (2) (c) 1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in



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supplying, or giving
away stone crab trap
tags or certificates;
making, altering,
forging, counterfeiting,
or reproducing stone
crab trap tags;
possession of forged,
counterfeit, or
imitation stone crab
trap tags; and engaging
in the commercial
harvest of stone crabs
while license is
suspended or revoked.

473

379.367(4)

3rd

Willful molestation of a
commercial harvester's
spiny lobster trap,
line, or buoy.

474

379.407(5)(b)3.

3rd

Possession of 100 or
more undersized spiny
lobsters.

475

~~381.0041(11)(b)~~

~~3rd~~

~~Donate blood, plasma, or
organs knowing HIV
positive.~~

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477	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
478	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
479	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
480	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
481	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
	790.01 (2)	3rd	Carrying a concealed



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482			firearm.
	790.162	2nd	Threat to throw or discharge destructive device.
483			
	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
484			
	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
485			
	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
486			
	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
487			
	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
488			
	800.04 (7) (b)	2nd	Lewd or lascivious



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489			exhibition; offender 18 years of age or older.
489	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
490			
490	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
491			
491	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
492			
492	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
493			
493	812.131(2)(b)	3rd	Robbery by sudden snatching.
494			
494	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
495			
495	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to



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496			\$50,000.
	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
497			
	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
498			
	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.
499			
	817.611 (2) (a)	2nd	Traffic in or possess 5



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to 14 counterfeit credit
cards or related
documents.

500

817.625 (2) (b)

2nd

Second or subsequent
fraudulent use of
scanning device or
reencoder.

501

825.1025 (4)

3rd

Lewd or lascivious
exhibition in the
presence of an elderly
person or disabled
adult.

502

827.071 (4)

2nd

Possess with intent to
promote any photographic
material, motion
picture, etc., which
includes sexual conduct
by a child.

503

827.071 (5)

3rd

Possess, control, or
intentionally view any
photographic material,
motion picture, etc.,
which includes sexual
conduct by a child.

504



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505	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
506	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
507	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
508	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
509	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang;



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510

874.05 (2) (a)

2nd

second or subsequent
offense.

Encouraging or
recruiting person under
13 years of age to join
a criminal gang.

511

893.13 (1) (a) 1.

2nd

Sell, manufacture, or
deliver cocaine (or
other s. 893.03 (1) (a),
(1) (b), (1) (d), (2) (a),
(2) (b), or (2) (c) 4.
drugs).

512

893.13 (1) (c) 2.

2nd

Sell, manufacture, or
deliver cannabis (or
other s. 893.03 (1) (c),
(2) (c) 1., (2) (c) 2.,
(2) (c) 3., (2) (c) 5.,
(2) (c) 6., (2) (c) 7.,
(2) (c) 8., (2) (c) 9., (3),
or (4) drugs) within
1,000 feet of a child
care facility, school,
or state, county, or
municipal park or
publicly owned
recreational facility or



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community center.

513

893.13(1)(d)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.

514

893.13(1)(e)2.

2nd

Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

515

893.13(1)(f)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within



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536 transmission"; amending s. 384.24, F.S.; expanding the
537 scope of unlawful acts by a person infected with a
538 sexually transmissible disease; expanding the list of
539 sexually transmittable diseases; specifying that a
540 certain act is unlawful if the person committing the
541 act acts with the intent to transmit a specified
542 disease, engages in conduct that poses a substantial
543 risk of transmission of that disease to another person
544 who is unaware that the person who transmits the
545 disease is a carrier of the disease, and actually
546 transmits the disease; providing that certain actions
547 are not sufficient to establish intent on the part of
548 the person who transmits the disease; amending s.
549 384.34, F.S.; reclassifying specified criminal
550 offenses; eliminating a fine for specified rule
551 violations; amending s. 775.0877, F.S.; requiring that
552 a person who commits, rather than one who attempts to
553 commit, an offense involving the transmission of semen
554 or vaginal secretions must undergo HIV testing;
555 eliminating the application of the section to certain
556 offenses; revising disclosure requirements;
557 reclassifying specified criminal offenses; amending s.
558 796.08, F.S.; requiring an infected arrestee to submit
559 to appropriate treatment; requiring the Department of
560 Health to pay any costs associated with the screening
561 of such arrestees; requiring that the medical services
562 include the offer of postexposure prophylaxis;
563 requiring the department to ensure that certain out-
564 of-pocket expenses to victims not exceed a specified



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565 amount; eliminating requirements that persons
566 convicted of specified offenses undergo screening for
567 a sexually transmitted disease; amending s. 960.003,
568 F.S.; revising legislative findings; requiring that
569 the department refer such victims to medical services;
570 requiring that the medical services include the offer
571 of postexposure prophylaxis; requiring the department
572 to ensure that certain out-of-pocket expenses to
573 victims not exceed a specified amount; correcting
574 cross-references; amending s. 921.0022, F.S.;;
575 conforming provisions to changes made by the act;
576 providing an effective date.