

By Senator Pizzo

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1                   A bill to be entitled  
2       An act relating to HIV prevention; providing a short  
3       title; amending s. 381.0041, F.S.; providing that it  
4       is a felony for certain persons who have human  
5       immunodeficiency virus (HIV) infection to donate human  
6       tissue to persons who are not HIV infected, with an  
7       exception; amending s. 384.23, F.S.; providing  
8       definitions; amending s. 384.24, F.S.; expanding the  
9       scope of unlawful acts by a person infected with a  
10      sexually transmissible disease; providing that certain  
11      actions are not sufficient evidence to establish  
12      intent on the part of the person who transmits the  
13      disease; providing a definition; amending s. 384.34,  
14      F.S.; providing applicability of criminal penalties  
15      for specified violations; removing a fine for  
16      specified rule violations; providing an effective  
17      date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21       Section 1. This act may be cited as the "HIV Prevention  
22 Justice Act."

23       Section 2. Paragraph (b) of subsection (11) of section  
24 381.0041, Florida Statutes, is amended to read:

25       381.0041 Donation and transfer of human tissue; testing  
26 requirements.-

27       (11)

28       (b) Any person who has human immunodeficiency virus  
29 infection, who knows he or she is infected with human

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30 immunodeficiency virus, and who has been informed that he or she  
31 may communicate this disease by donating blood, plasma, organs,  
32 skin, or other human tissue who donates blood, plasma, organs,  
33 skin, or other human tissue for use in another person commits ~~is~~  
34 ~~guilty of~~ a felony of the third degree, punishable as provided  
35 in s. 775.082, s. 775.083, or s. 775.084. This paragraph does  
36 not apply if the donation is made specifically for a recipient  
37 who knows that the donor is infected with human immunodeficiency  
38 virus.

39 Section 3. Section 384.23, Florida Statutes, is amended to  
40 read:

41 384.23 Definitions.—As used in this chapter:

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

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

45 (3) "Sexual conduct" means conduct between persons,  
46 regardless of gender, which is capable of transmitting a  
47 sexually transmissible disease, including, but not limited to,  
48 contact between a:

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

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

51 (4) ~~(3)~~ "Sexually transmissible disease" means a bacterial,  
52 viral, fungal, or parasitic disease determined by rule of the  
53 department to be sexually transmissible, to be a threat to the  
54 public health and welfare, and to be a disease for which a  
55 legitimate public interest will be served by providing for  
56 prevention, elimination, control, and treatment. The department  
57 must, by rule, determine which diseases are to be designated as  
58 sexually transmissible diseases and shall consider the

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59 recommendations and classifications of the Centers for Disease  
60 Control and Prevention and other nationally recognized medical  
61 authorities in that determination. Not all diseases that are  
62 sexually transmissible need be designated for the purposes of  
63 this act.

64 (5) "Substantial risk of transmission" means a reasonable  
65 probability of disease transmission as proven by competent  
66 medical or epidemiological evidence.

67 Section 4. Section 384.24, Florida Statutes, is amended to  
68 read:

69 384.24 Unlawful acts.—

70 (1) It is unlawful for any person who has chancroid,  
71 gonorrhea, granuloma inguinale, lymphogranuloma venereum,  
72 genital herpes simplex, chlamydia, nongonococcal urethritis  
73 (NGU), pelvic inflammatory disease (PID)/acute salpingitis, or  
74 syphilis, when such person knows that he or she is infected with  
75 one or more of these diseases and ~~when such person~~ has been  
76 informed that he or she could ~~may~~ communicate this disease to  
77 another person through sexual conduct ~~intercourse~~, to act with  
78 the intent to transmit the disease, to engage in ~~have~~ sexual  
79 conduct that poses a substantial risk of transmission to another  
80 person when the ~~intercourse with any~~ other person is unaware  
81 that the person is a carrier of the disease, and to transmit the  
82 disease to the, ~~unless such other person has been informed of~~  
83 ~~the presence of the sexually transmissible disease and has~~  
84 ~~consented to the sexual intercourse.~~

85 (2) It is unlawful for any person who has human  
86 immunodeficiency virus infection, when such person knows he or  
87 she is infected with human immunodeficiency virus ~~this disease~~

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88 and ~~when such person~~ has been informed that he or she could ~~may~~  
89 communicate this disease to another person through sexual  
90 conduct intercourse, to act with the intent to transmit the  
91 disease, to engage in have sexual conduct that poses a  
92 substantial risk of transmission to another person when the  
93 intercourse with any other person is unaware that the person is  
94 a carrier of the disease, and to transmit the disease to the,  
95 ~~unless such other person has been informed of the presence of~~  
96 ~~the sexually transmissible disease and has consented to the~~  
97 ~~sexual intercourse.~~

98 (3) A person does not act with the intent set forth in  
99 subsection (1) or subsection (2) if he or she complies in good  
100 faith with a treatment regimen prescribed by his or her health  
101 care provider or with the behavioral recommendations of his or  
102 her health care provider or public health officials to limit the  
103 risk of transmission, or if he or she offers to comply with such  
104 behavioral recommendations, but such offer is rejected by the  
105 other person with whom he or she is engaging in sexual conduct.  
106 Evidence of the person's failure to comply with such a treatment  
107 regimen or such behavioral recommendations is not, in and of  
108 itself, sufficient to establish that he or she acted with the  
109 intent set forth in subsection (1) or subsection (2). For  
110 purposes of this subsection, the term "behavioral  
111 recommendations" includes, but is not limited to, the use of a  
112 prophylactic device to limit the risk of transmission of the  
113 disease.

114 Section 5. Section 384.34, Florida Statutes, is amended to  
115 read:

116 384.34 Penalties.—

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

120 (2) Any person who violates s. 384.24(2) commits a  
121 misdemeanor of the first degree, punishable as provided in s.  
122 775.082 or s. 775.083. Any person who is convicted of a  
123 violation of s. 384.24(2) based on conduct occurring after July  
124 1, 2020, and who subsequently commits a second or subsequent  
125 violation of s. 384.24(2), commits a felony of the third degree,  
126 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

127 (3)~~(2)~~ Any person who violates ~~the provisions of~~ s. 384.26  
128 or s. 384.29 commits a misdemeanor of the first degree,  
129 punishable as provided in s. 775.082 or s. 775.083.

130 (4)~~(3)~~ Any person who maliciously disseminates any false  
131 information or report concerning the existence of any sexually  
132 transmissible disease commits a felony of the third degree,  
133 punishable as provided in ss. 775.082, 775.083, and 775.084.

134 ~~(4) Any person who violates the provisions of the~~  
135 ~~department's rules pertaining to sexually transmissible diseases~~  
136 ~~may be punished by a fine not to exceed \$500 for each violation.~~  
137 ~~Any penalties enforced under this subsection shall be in~~  
138 ~~addition to other penalties provided by this chapter. The~~  
139 ~~department may enforce this section and adopt rules necessary to~~  
140 ~~administer this section.~~

141 ~~(5) Any person who violates s. 384.24(2) commits a felony~~  
142 ~~of the third degree, punishable as provided in s. 775.082, s.~~  
143 ~~775.083, or s. 775.084. Any person who commits multiple~~  
144 ~~violations of s. 384.24(2) commits a felony of the first degree,~~  
145 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

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146        (5)~~(6)~~ Any person who obtains information that identifies  
147        an individual who has a sexually transmissible disease, who knew  
148        or should have known the nature of the information and  
149        maliciously, or for monetary gain, disseminates this information  
150        or otherwise makes this information known to any other person,  
151        except by providing it either to a physician or nurse employed  
152        by the Department of Health or to a law enforcement agency,  
153        commits a felony of the third degree, punishable as provided in  
154        s. 775.082, s. 775.083, or s. 775.084.

155        Section 6. This act shall take effect July 1, 2020.