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26 adjudication is withheld, any of the following offenses, or the
27 attempt thereof, which offense or attempted offense involves the
28 transmission of body fluids from one person to another:

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

30 (b) Section 826.04, relating to incest;

31 (c) Section 800.04, relating to lewd or lascivious
32 offenses committed upon or in the presence of persons less than
33 16 years of age;

34 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
35 relating to assault;

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

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

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

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

43 (i) Section 827.03(2)(a), relating to aggravated child
44 abuse;

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

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

49 (l) Section 827.071, relating to sexual performance by
50 person less than 18 years of age;

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51 ~~(m) Sections 796.07 and 796.08, relating to prostitution;~~
52 (n)~~(n)~~ Section 381.0041(11) (b), relating to donation of
53 blood, plasma, organs, skin, or other human tissue; or
54 (n)~~(e)~~ Sections 787.06(3) (b), (d), (f), and (g), relating
55 to human trafficking,
56
57 the court shall order the offender to undergo HIV testing, to be
58 performed under the direction of the Department of Health in
59 accordance with s. 381.004, unless the offender has undergone
60 HIV testing voluntarily or pursuant to procedures established in
61 s. 381.004(2) (h)6. or s. 951.27, or any other applicable law or
62 rule providing for HIV testing of criminal offenders or inmates,
63 subsequent to her or his arrest for an offense enumerated in
64 paragraphs (a) - (m) ~~(a) - (n)~~ for which she or he was convicted or
65 to which she or he pled nolo contendere or guilty. The results
66 of an HIV test performed on an offender pursuant to this
67 subsection are not admissible in any criminal proceeding arising
68 out of the alleged offense.

69 (3) An offender who has undergone HIV testing pursuant to
70 subsection (1), and to whom positive test results have been
71 disclosed pursuant to subsection (2), who commits a second or
72 subsequent offense enumerated in paragraphs (1) (a) - (m) ~~(1) (a) -~~
73 ~~(n)~~, commits criminal transmission of HIV, a misdemeanor of the
74 first felony of the third degree, punishable as provided in s.
75 775.082 or s. 775.083, ~~or s. 775.084~~. A person may be convicted

76 and sentenced separately for a violation of this subsection and
 77 for the underlying crime enumerated in paragraphs (1) (a) - (m)
 78 ~~(1) (a) - (n)~~.

79 (6) For an alleged violation of any offense enumerated in
 80 paragraphs (1) (a) - (m) ~~(1) (a) - (n)~~ for which the consent of the
 81 victim may be raised as a defense in a criminal prosecution, it
 82 is an affirmative defense to a charge of violating this section
 83 that the person exposed knew that the offender was infected with
 84 HIV, knew that the action being taken could result in
 85 transmission of the HIV infection, and consented to the action
 86 voluntarily with that knowledge.

87 Section 2. Section 796.08, Florida Statutes, is amended to
 88 read:

89 796.08 Screening for HIV and sexually transmissible
 90 diseases; ~~providing penalties.~~

91 (1) (a) As used in this section, the term ~~For the purposes~~
 92 ~~of this section,~~ "sexually transmissible disease" means a
 93 bacterial, viral, fungal, or parasitic disease, determined by
 94 rule of the Department of Health to be sexually transmissible, a
 95 threat to the public health and welfare, and a disease for which
 96 a legitimate public interest is served by providing for
 97 regulation and treatment.

98 (b) In considering which diseases are designated as
 99 sexually transmissible diseases, the Department of Health shall
 100 consider such diseases as chancroid, gonorrhoea, granuloma

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101 inguinale, lymphogranuloma venereum, genital herpes simplex,
102 chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory
103 disease (PID)/acute salpingitis, syphilis, and human
104 immunodeficiency virus infection for designation and shall
105 consider the recommendations and classifications of the Centers
106 for Disease Control and Prevention and other nationally
107 recognized authorities. Not all diseases that are sexually
108 transmissible need be designated for purposes of this section.

109 (2) A person arrested under s. 796.07 may request
110 screening for a sexually transmissible disease, including human
111 immunodeficiency virus, under direction of the Department of
112 Health and, ~~if infected, shall submit to appropriate treatment~~
113 ~~and counseling. A person who requests screening for a sexually~~
114 ~~transmissible disease under this subsection must pay any costs~~
115 ~~associated with such screening.~~

116 ~~(3) A person convicted under s. 796.07 of prostitution or~~
117 ~~procuring another to commit prostitution must undergo screening~~
118 ~~for a sexually transmissible disease, including, but not limited~~
119 ~~to, screening to detect exposure to the human immunodeficiency~~
120 ~~virus, under direction of the Department of Health. If the~~
121 ~~person is infected, he or she must submit to treatment and~~
122 ~~counseling prior to release from probation, community control,~~
123 ~~or incarceration. Notwithstanding the provisions of s. 384.29,~~
124 ~~the results of tests conducted pursuant to this subsection shall~~
125 ~~be made available by the Department of Health to the offender,~~

126 ~~medical personnel, appropriate state agencies, state attorneys,~~
 127 ~~and courts of appropriate jurisdiction in need of such~~
 128 ~~information in order to enforce the provisions of this chapter.~~

129 ~~(4) A person who commits prostitution or procures another~~
 130 ~~for prostitution and who, prior to the commission of such crime,~~
 131 ~~had tested positive for a sexually transmissible disease other~~
 132 ~~than human immunodeficiency virus infection and knew or had been~~
 133 ~~informed that he or she had tested positive for such sexually~~
 134 ~~transmissible disease and could possibly communicate such~~
 135 ~~disease to another person through sexual activity commits a~~
 136 ~~misdemeanor of the first degree, punishable as provided in s.~~
 137 ~~775.082 or s. 775.083. A person may be convicted and sentenced~~
 138 ~~separately for a violation of this subsection and for the~~
 139 ~~underlying crime of prostitution or procurement of prostitution.~~

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

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

142 ~~(b) Procures another for prostitution by engaging in~~
 143 ~~sexual activity in a manner likely to transmit the human~~
 144 ~~immunodeficiency virus,~~

145
 146 ~~and who, prior to the commission of such crime, had tested~~
 147 ~~positive for human immunodeficiency virus and knew or had been~~
 148 ~~informed that he or she had tested positive for human~~
 149 ~~immunodeficiency virus and could possibly communicate such~~
 150 ~~disease to another person through sexual activity commits~~

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151 ~~criminal transmission of HIV, a felony of the third degree,~~
152 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
153 ~~A person may be convicted and sentenced separately for a~~
154 ~~violation of this subsection and for the underlying crime of~~
155 ~~prostitution or procurement of prostitution.~~

156 Section 3. Paragraphs (a) and (b) of subsection (2) and
157 paragraph (a) of subsection (3) of section 960.003, Florida
158 Statutes, are amended to read:

159 960.003 Hepatitis and HIV testing for persons charged with
160 or alleged by petition for delinquency to have committed certain
161 offenses; disclosure of results to victims.—

162 (2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION
163 FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.—

164 (a) In any case in which a person has been charged by
165 information or indictment with or alleged by petition for
166 delinquency to have committed any offense enumerated in s.
167 775.0877(1)(a)-(m) ~~s. 775.0877(1)(a)-(n)~~, which involves the
168 transmission of body fluids from one person to another, upon
169 request of the victim or the victim's legal guardian, or of the
170 parent or legal guardian of the victim if the victim is a minor,
171 the court shall order such person to undergo hepatitis and HIV
172 testing within 48 hours after the information, indictment, or
173 petition for delinquency is filed. In the event the victim or,
174 if the victim is a minor, the victim's parent or legal guardian
175 requests hepatitis and HIV testing after 48 hours have elapsed

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176 from the filing of the indictment, information, or petition for
177 delinquency, the testing shall be done within 48 hours after the
178 request.

179 (b) However, when a victim of any sexual offense
180 enumerated in s. 775.0877(1)(a)-(m) ~~s. 775.0877(1)(a)-(n)~~ is
181 under the age of 18 at the time the offense was committed or
182 when a victim of any sexual offense enumerated in s.
183 775.0877(1)(a)-(m) ~~s. 775.0877(1)(a)-(n)~~ or s. 825.1025 is a
184 disabled adult or elderly person as defined in s. 825.1025
185 regardless of whether the offense involves the transmission of
186 bodily fluids from one person to another, then upon the request
187 of the victim or the victim's legal guardian, or of the parent
188 or legal guardian, the court shall order such person to undergo
189 hepatitis and HIV testing within 48 hours after the information,
190 indictment, or petition for delinquency is filed. In the event
191 the victim or, if the victim is a minor, the victim's parent or
192 legal guardian requests hepatitis and HIV testing after 48 hours
193 have elapsed from the filing of the indictment, information, or
194 petition for delinquency, the testing shall be done within 48
195 hours after the request. The testing shall be performed under
196 the direction of the Department of Health in accordance with s.
197 381.004. The results of a hepatitis and HIV test performed on a
198 defendant or juvenile offender pursuant to this subsection shall
199 not be admissible in any criminal or juvenile proceeding arising
200 out of the alleged offense.

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201 (3) DISCLOSURE OF RESULTS.—

202 (a) The results of the test shall be disclosed no later
203 than 2 weeks after the court receives such results, under the
204 direction of the Department of Health, to the person charged
205 with or alleged by petition for delinquency to have committed or
206 to the person convicted of or adjudicated delinquent for any
207 offense enumerated in s. 775.0877(1)(a)-(m) ~~s. 775.0877(1)(a)-~~
208 ~~(n)~~, which involves the transmission of body fluids from one
209 person to another, and, upon request, to the victim or the
210 victim's legal guardian, or the parent or legal guardian of the
211 victim if the victim is a minor, and to public health agencies
212 pursuant to s. 775.0877. If the alleged offender is a juvenile,
213 the test results shall also be disclosed to the parent or
214 guardian. When the victim is a victim as described in paragraph
215 (2)(b), the test results must also be disclosed no later than 2
216 weeks after the court receives such results, to the person
217 charged with or alleged by petition for delinquency to have
218 committed or to the person convicted of or adjudicated
219 delinquent for any offense enumerated in s. 775.0877(1)(a)-(m)
220 ~~s. 775.0877(1)(a)-(n)~~, or s. 825.1025 regardless of whether the
221 offense involves the transmission of bodily fluids from one
222 person to another, and, upon request, to the victim or the
223 victim's legal guardian, or the parent or legal guardian of the
224 victim, and to public health agencies pursuant to s. 775.0877.
225 Otherwise, hepatitis and HIV test results obtained pursuant to

226 | this section are confidential and exempt from the provisions of
 227 | s. 119.07(1) and s. 24(a), Art. I of the State Constitution and
 228 | shall not be disclosed to any other person except as expressly
 229 | authorized by law or court order.

230 | Section 4. Paragraph (b) of subsection (2) of section
 231 | 98.0751, Florida Statutes, is amended to read:

232 | 98.0751 Restoration of voting rights; termination of
 233 | ineligibility subsequent to a felony conviction.—

234 | (2) For purposes of this section, the term:

235 | (b) "Felony sexual offense" means any of the following:

236 | 1. Any felony offense that serves as a predicate to
 237 | registration as a sexual offender in accordance with s.

238 | 943.0435;

239 | 2. Section 491.0112;

240 | 3. Section 784.049(3) (b);

241 | 4. Section 794.08;

242 | ~~5. Section 796.08;~~

243 | 5.6. Section 800.101;

244 | ~~6.7.~~ Section 826.04;

245 | ~~7.8.~~ Section 847.012;

246 | ~~8.9.~~ Section 872.06(2);

247 | ~~9.10.~~ Section 944.35(3) (b) 2.;

248 | ~~10.11.~~ Section 951.221(1); or

249 | ~~11.12.~~ Any similar offense committed in another

250 | jurisdiction which would be an offense listed in this paragraph

251 if it had been committed in violation of the laws of this state.

252 Section 5. Paragraph (h) of subsection (2) of section
 253 381.004, Florida Statutes, is amended to read:

254 381.004 HIV testing.—

255 (2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
 256 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

257 (h) Paragraph (a) does not apply:

258 1. When testing for sexually transmissible diseases is
 259 required by state or federal law, or by rule, including the
 260 following situations:

261 a. HIV testing pursuant to s. 796.08 ~~of persons convicted~~
 262 ~~of prostitution or of procuring another to commit prostitution.~~

263 b. HIV testing of inmates pursuant to s. 945.355 before
 264 their release from prison by reason of parole, accumulation of
 265 gain-time credits, or expiration of sentence.

266 c. Testing for HIV by a medical examiner in accordance
 267 with s. 406.11.

268 d. HIV testing of pregnant women pursuant to s. 384.31.

269 2. To those exceptions provided for blood, plasma, organs,
 270 skin, semen, or other human tissue pursuant to s. 381.0041.

271 3. For the performance of an HIV-related test by licensed
 272 medical personnel in bona fide medical emergencies if the test
 273 results are necessary for medical diagnostic purposes to provide
 274 appropriate emergency care or treatment to the person being
 275 tested and the patient is unable to consent, as supported by

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276 | documentation in the medical record. Notification of test
277 | results in accordance with paragraph (c) is required.

278 | 4. For the performance of an HIV-related test by licensed
279 | medical personnel for medical diagnosis of acute illness where,
280 | in the opinion of the attending physician, providing
281 | notification would be detrimental to the patient, as supported
282 | by documentation in the medical record, and the test results are
283 | necessary for medical diagnostic purposes to provide appropriate
284 | care or treatment to the person being tested. Notification of
285 | test results in accordance with paragraph (c) is required if it
286 | would not be detrimental to the patient. This subparagraph does
287 | not authorize the routine testing of patients for HIV infection
288 | without notification.

289 | 5. If HIV testing is performed as part of an autopsy for
290 | which consent was obtained pursuant to s. 872.04.

291 | 6. For the performance of an HIV test upon a defendant
292 | pursuant to the victim's request in a prosecution for any type
293 | of sexual battery where a blood sample is taken from the
294 | defendant voluntarily, pursuant to court order for any purpose,
295 | or pursuant to s. 775.0877, s. 951.27, or s. 960.003; however,
296 | the results of an HIV test performed shall be disclosed solely
297 | to the victim and the defendant, except as provided in ss.
298 | 775.0877, 951.27, and 960.003.

299 | 7. If an HIV test is mandated by court order.

300 | 8. For epidemiological research pursuant to s. 381.0031,

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301 for research consistent with institutional review boards created
302 by 45 C.F.R. part 46, or for the performance of an HIV-related
303 test for the purpose of research, if the testing is performed in
304 a manner by which the identity of the test subject is not known
305 and may not be retrieved by the researcher.

306 9. If human tissue is collected lawfully without the
307 consent of the donor for corneal removal as authorized by s.
308 765.5185 or enucleation of the eyes as authorized by s. 765.519.

309 10. For the performance of an HIV test upon an individual
310 who comes into contact with medical personnel in such a way that
311 a significant exposure has occurred during the course of
312 employment, within the scope of practice, or during the course
313 of providing emergency medical assistance to the individual. The
314 term "medical personnel" includes a licensed or certified health
315 care professional; an employee of a health care professional or
316 health care facility; employees of a laboratory licensed under
317 chapter 483; personnel of a blood bank or plasma center; a
318 medical student or other student who is receiving training as a
319 health care professional at a health care facility; and a
320 paramedic or emergency medical technician certified by the
321 department to perform life-support procedures under s. 401.23.

322 a. The occurrence of a significant exposure shall be
323 documented by medical personnel under the supervision of a
324 licensed physician and recorded only in the personnel record of
325 the medical personnel.

326 b. Costs of an HIV test shall be borne by the medical
327 personnel or the employer of the medical personnel. However,
328 costs of testing or treatment not directly related to the
329 initial HIV tests or costs of subsequent testing or treatment
330 may not be borne by the medical personnel or the employer of the
331 medical personnel.

332 c. In order to use the provisions of this subparagraph,
333 the medical personnel must be tested for HIV pursuant to this
334 section or provide the results of an HIV test taken within 6
335 months before the significant exposure if such test results are
336 negative.

337 d. A person who receives the results of an HIV test
338 pursuant to this subparagraph shall maintain the confidentiality
339 of the information received and of the persons tested. Such
340 confidential information is exempt from s. 119.07(1).

341 e. If the source of the exposure is not available and will
342 not voluntarily present himself or herself to a health facility
343 to be tested for HIV, the medical personnel or the employer of
344 such person acting on behalf of the employee may seek a court
345 order directing the source of the exposure to submit to HIV
346 testing. A sworn statement by a physician licensed under chapter
347 458 or chapter 459 that a significant exposure has occurred and
348 that, in the physician's medical judgment, testing is medically
349 necessary to determine the course of treatment constitutes
350 probable cause for the issuance of an order by the court. The

351 results of the test shall be released to the source of the
352 exposure and to the person who experienced the exposure.

353 11. For the performance of an HIV test upon an individual
354 who comes into contact with nonmedical personnel in such a way
355 that a significant exposure has occurred while the nonmedical
356 personnel provides emergency medical assistance during a medical
357 emergency. For the purposes of this subparagraph, a medical
358 emergency means an emergency medical condition outside of a
359 hospital or health care facility that provides physician care.
360 The test may be performed only during the course of treatment
361 for the medical emergency.

362 a. The occurrence of a significant exposure shall be
363 documented by medical personnel under the supervision of a
364 licensed physician and recorded in the medical record of the
365 nonmedical personnel.

366 b. Costs of any HIV test shall be borne by the nonmedical
367 personnel or the employer of the nonmedical personnel. However,
368 costs of testing or treatment not directly related to the
369 initial HIV tests or costs of subsequent testing or treatment
370 may not be borne by the nonmedical personnel or the employer of
371 the nonmedical personnel.

372 c. In order to use the provisions of this subparagraph,
373 the nonmedical personnel shall be tested for HIV pursuant to
374 this section or shall provide the results of an HIV test taken
375 within 6 months before the significant exposure if such test

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376 results are negative.

377 d. A person who receives the results of an HIV test
378 pursuant to this subparagraph shall maintain the confidentiality
379 of the information received and of the persons tested. Such
380 confidential information is exempt from s. 119.07(1).

381 e. If the source of the exposure is not available and will
382 not voluntarily present himself or herself to a health facility
383 to be tested for HIV, the nonmedical personnel or the employer
384 of the nonmedical personnel acting on behalf of the employee may
385 seek a court order directing the source of the exposure to
386 submit to HIV testing. A sworn statement by a physician licensed
387 under chapter 458 or chapter 459 that a significant exposure has
388 occurred and that, in the physician's medical judgment, testing
389 is medically necessary to determine the course of treatment
390 constitutes probable cause for the issuance of an order by the
391 court. The results of the test shall be released to the source
392 of the exposure and to the person who experienced the exposure.

393 12. For the performance of an HIV test by the medical
394 examiner or attending physician upon an individual who expired
395 or could not be resuscitated while receiving emergency medical
396 assistance or care and who was the source of a significant
397 exposure to medical or nonmedical personnel providing such
398 assistance or care.

399 a. HIV testing may be conducted only after appropriate
400 medical personnel under the supervision of a licensed physician

401 documents in the medical record of the medical personnel or
402 nonmedical personnel that there has been a significant exposure
403 and that, in accordance with the written protocols based on the
404 National Centers for Disease Control and Prevention guidelines
405 on HIV postexposure prophylaxis and in the physician's medical
406 judgment, the information is medically necessary to determine
407 the course of treatment for the medical personnel or nonmedical
408 personnel.

409 b. Costs of an HIV test performed under this subparagraph
410 may not be charged to the deceased or to the family of the
411 deceased person.

412 c. For this subparagraph to be applicable, the medical
413 personnel or nonmedical personnel must be tested for HIV under
414 this section or must provide the results of an HIV test taken
415 within 6 months before the significant exposure if such test
416 results are negative.

417 d. A person who receives the results of an HIV test
418 pursuant to this subparagraph shall comply with paragraph (e).

419 13. For the performance of an HIV-related test medically
420 indicated by licensed medical personnel for medical diagnosis of
421 a hospitalized infant as necessary to provide appropriate care
422 and treatment of the infant if, after a reasonable attempt, a
423 parent cannot be contacted to provide consent. The medical
424 records of the infant must reflect the reason consent of the
425 parent was not initially obtained. Test results shall be

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426 | provided to the parent when the parent is located.

427 | 14. For the performance of HIV testing conducted to
428 | monitor the clinical progress of a patient previously diagnosed
429 | to be HIV positive.

430 | 15. For the performance of repeated HIV testing conducted
431 | to monitor possible conversion from a significant exposure.

432 | Section 6. This act shall take effect July 1, 2022.