

By the Committee on Criminal Justice; and Senators Garcia and Campbell

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1 A bill to be entitled
2 An act relating to transmission of disease through
3 bodily fluids; amending s. 381.0041, F.S.;
4 reclassifying a criminal offense relating to the
5 donation of blood, plasma, organs, skin, or other
6 human tissue; providing an exception to allow such
7 donation when deemed medically appropriate by a
8 licensed physician; amending s. 384.23, F.S.; defining
9 the terms "sexual conduct" and "substantial risk of
10 transmission"; amending s. 384.24, F.S.; expanding the
11 scope of unlawful acts by a person infected with a
12 sexually transmissible disease; expanding the list of
13 sexually transmittable diseases; specifying that a
14 certain act is unlawful if the person committing the
15 act acts with the intent to transmit a specified
16 disease, engages in conduct that poses a substantial
17 risk of transmission of that disease to another person
18 who is unaware that the person who transmits the
19 disease is a carrier of the disease, and actually
20 transmits the disease; providing that certain actions
21 are not sufficient to establish intent on the part of
22 the person who transmits the disease; amending s.
23 384.34, F.S.; reclassifying specified criminal
24 offenses; eliminating a fine for specified rule
25 violations; amending s. 775.0877, F.S.; requiring that
26 a person who commits, rather than one who attempts to
27 commit, an offense involving the transmission of semen
28 or vaginal secretions must undergo HIV testing;
29 eliminating the application of the section to certain

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30 offenses; revising disclosure requirements;
31 reclassifying specified criminal offenses; amending s.
32 796.08, F.S.; requiring an infected arrestee to submit
33 to appropriate treatment; requiring the Department of
34 Health to pay any costs associated with the screening
35 of such arrestees; requiring that the medical services
36 include the offer of postexposure prophylaxis;
37 requiring the department to ensure that certain out-
38 of-pocket expenses to victims not exceed a specified
39 amount; eliminating requirements that persons
40 convicted of specified offenses undergo screening for
41 a sexually transmitted disease; amending s. 960.003,
42 F.S.; revising legislative findings; requiring that
43 the department refer such victims to medical services;
44 requiring that the medical services include the offer
45 of postexposure prophylaxis; requiring the department
46 to ensure that certain out-of-pocket expenses to
47 victims not exceed a specified amount; correcting
48 cross-references; amending s. 921.0022, F.S.;

49 conforming provisions to changes made by the act;
50 providing an effective date.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Paragraph (b) of subsection (11) of section
55 381.0041, Florida Statutes, is amended to read:

56 381.0041 Donation and transfer of human tissue; testing
57 requirements.—

58 (11)

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59 (b) Except when the donation is deemed medically
60 appropriate by a licensed physician, any person who has human
61 immunodeficiency virus infection, who knows he or she is
62 infected with human immunodeficiency virus, and who has been
63 informed that he or she may communicate this disease by donating
64 blood, plasma, organs, skin, or other human tissue who donates
65 blood, plasma, organs, skin, or other human tissue commits is
66 guilty of a misdemeanor felony of the first third degree,
67 punishable as provided in s. 775.082 or, s. 775.083, ~~or s.~~
68 ~~775.084.~~

69 Section 2. Section 384.23, Florida Statutes, is amended to
70 read:

71 384.23 Definitions.—As used in this chapter, the term:

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

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

75 (3) "Sexual conduct" means conduct between persons,
76 regardless of gender, which is capable of transmitting a
77 sexually transmissible disease, including, but not limited to,
78 contact between a:

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

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

81 (4) ~~(3)~~ "Sexually transmissible disease" means a bacterial,
82 viral, fungal, or parasitic disease determined by rule of the
83 department to be sexually transmissible, to be a threat to the
84 public health and welfare, and to be a disease for which a
85 legitimate public interest will be served by providing for
86 prevention, elimination, control, and treatment. The department
87 must, by rule, determine which diseases are to be designated as

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88 sexually transmissible diseases and shall consider the
89 recommendations and classifications of the Centers for Disease
90 Control and Prevention and other nationally recognized medical
91 authorities in that determination. Not all diseases that are
92 sexually transmissible need be designated for the purposes of
93 this act.

94 (5) "Substantial risk of transmission" means a reasonable
95 probability of disease transmission as proven by competent
96 medical or epidemiological evidence.

97 Section 3. Section 384.24, Florida Statutes, is amended to
98 read:

99 384.24 Unlawful acts.—

100 (1) It is unlawful for a ~~any~~ person who has chancroid,
101 gonorrhea, granuloma inguinale, lymphogranuloma venereum,
102 genital herpes simplex, chlamydia, nongonococcal urethritis
103 (NGU), pelvic inflammatory disease (PID)/acute salpingitis,
104 human papillomavirus, hepatitis, or syphilis, or human
105 immunodeficiency virus infection, when the ~~such~~ person knows he
106 or she is infected with one or more of these diseases and when
107 the ~~such~~ person has been informed that he or she may communicate
108 this disease to another person through sexual conduct
109 intercourse, to act with the intent to transmit the disease,
110 engage in conduct that poses a substantial risk of transmission
111 to another person when the other person is unaware that the
112 person is a carrier of the disease, and transmit the disease to
113 the other person ~~have sexual intercourse with any other person,~~
114 ~~unless such other person has been informed of the presence of~~
115 ~~the sexually transmissible disease and has consented to the~~
116 ~~sexual intercourse.~~

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117 (2) A person does not act with the intent required under
118 subsection (1) if he or she in good faith complies with a
119 treatment regimen prescribed by his or her health care provider
120 or with the behavioral recommendations of his or her health care
121 provider or public health officials, or if he or she offers to
122 comply, but that offer is rejected by the other person. For
123 purposes of this section, the term "behavioral recommendations"
124 includes, but is not limited to, the use of a prophylactic
125 device to measurably limit the risk of transmission of the
126 disease. Evidence of the person's failure to comply with such a
127 treatment regimen or such behavioral recommendations is not, in
128 and of itself, sufficient to establish that he or she acted with
129 the intent required under subsection (1) ~~It is unlawful for any~~
130 ~~person who has human immunodeficiency virus infection, when such~~
131 ~~person knows he or she is infected with this disease and when~~
132 ~~such person has been informed that he or she may communicate~~
133 ~~this disease to another person through sexual intercourse, to~~
134 ~~have sexual intercourse with any other person, unless such other~~
135 ~~person has been informed of the presence of the sexually~~
136 ~~transmissible disease and has consented to the sexual~~
137 ~~interecourse.~~

138 Section 4. Section 384.34, Florida Statutes, is amended to
139 read:

140 384.34 Penalties.—

141 (1) Any person who violates s. 384.24 ~~the provisions of s.~~
142 ~~384.24(1)~~ commits a misdemeanor of the first degree, punishable
143 as provided in s. 775.082 or s. 775.083.

144 (2) Any person who violates ~~the provisions of~~ s. 384.26 or
145 s. 384.29 commits a misdemeanor of the first degree, punishable

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146 as provided in s. 775.082 or s. 775.083.

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

152 ~~(4) Any person who violates the provisions of the~~
153 ~~department's rules pertaining to sexually transmissible diseases~~
154 ~~may be punished by a fine not to exceed \$500 for each violation.~~
155 ~~Any penalties enforced under this subsection shall be in~~
156 ~~addition to other penalties provided by this chapter. The~~
157 ~~department may enforce this section and adopt rules necessary to~~
158 ~~administer this section.~~

159 ~~(5) Any person who violates s. 384.24(2) commits a felony~~
160 ~~of the third degree, punishable as provided in s. 775.082, s.~~
161 ~~775.083, or s. 775.084. Any person who commits multiple~~
162 ~~violations of s. 384.24(2) commits a felony of the first degree,~~
163 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

164 ~~(4)~~(6) Any person who obtains information that identifies
165 an individual who has a sexually transmissible disease, who knew
166 or should have known the nature of the information and
167 maliciously, or for monetary gain, disseminates this information
168 or otherwise makes this information known to any other person,
169 except by providing it either to a physician or nurse employed
170 by the Department of Health or to a law enforcement agency,
171 commits a misdemeanor of the first degree ~~felony of the third~~
172 ~~degree~~, punishable as provided in s. 775.082 or s. 775.083, ~~or~~
173 ~~s. 775.084.~~

174 Section 5. Section 775.0877, Florida Statutes, is amended

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175 to read:

176 775.0877 Criminal transmission of HIV; procedures;
177 penalties.—

178 (1) In any case in which a person has been convicted of or
179 has pled nolo contendere or guilty to, regardless of whether
180 adjudication is withheld, any of the following offenses, ~~or the~~
181 ~~attempt thereof~~, which offense ~~or attempted offense~~ involves the
182 transmission of semen or vaginal secretions ~~body fluids~~ from one
183 person to another:

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

185 (b) Section 826.04, relating to incest;

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

189 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
190 relating to assault;

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

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

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

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

198 (i) Section 827.03(2)(a), relating to aggravated child
199 abuse;

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

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

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

206 (m) Sections 796.07 and 796.08, relating to prostitution;

207 ~~(n) Section 381.0041(11)(b), relating to donation of blood,~~
208 ~~plasma, organs, skin, or other human tissue; or~~

209 (n)~~(o)~~ Sections 787.06(3)(b), (d), (f), and (g), relating
210 to human trafficking,

211

212 the court shall order the offender to undergo HIV testing, to be
213 performed under the direction of the Department of Health in
214 accordance with s. 381.004, unless the offender has undergone
215 HIV testing voluntarily or pursuant to procedures established in
216 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
217 rule providing for HIV testing of criminal offenders or inmates,
218 subsequent to her or his arrest for an offense enumerated in
219 paragraphs (a)-(n) for which she or he was convicted or to which
220 she or he pled nolo contendere or guilty. The results of an HIV
221 test performed on an offender pursuant to this subsection are
222 not admissible in any criminal proceeding arising out of the
223 alleged offense.

224 (2) The results of the HIV test must be disclosed under the
225 direction of the Department of Health~~r~~ to the offender who has
226 been convicted of or pled nolo contendere or guilty to an
227 offense specified in subsection (1) and to~~r~~ the public health
228 agency of the county in which the conviction occurred and, if
229 different, the county of residence of the offender, and, upon
230 request pursuant to s. 960.003, to the victim or the victim's
231 legal guardian, or the parent or legal guardian of the victim if
232 the victim is a minor.

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233 (3) An offender who has undergone HIV testing pursuant to
234 subsection (1), and to whom positive test results have been
235 disclosed pursuant to subsection (2), who commits a second or
236 subsequent offense enumerated in paragraphs (1) (a)-(n) which
237 results in transmission of HIV to the victim ~~(1) (a)-(n)~~, commits
238 criminal transmission of HIV, a misdemeanor of the first degree
239 ~~felony of the third degree~~, punishable as provided in s. 775.082
240 ~~or~~ s. 775.083, ~~or s. 775.084~~. A person may be convicted and
241 sentenced separately for a violation of this subsection and for
242 the underlying crime enumerated in paragraphs (1) (a)-(n).

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

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

249 (5)(6) For an alleged violation of any offense enumerated
250 in paragraphs (1) (a)-(n) for which the consent of the victim may
251 be raised as a defense in a criminal prosecution, it is an
252 affirmative defense to a charge of violating this section that
253 the person exposed knew that the offender was infected with HIV,
254 knew that the action being taken could result in transmission of
255 the HIV infection, and consented to the action voluntarily with
256 that knowledge.

257 Section 6. Section 796.08, Florida Statutes, is amended to
258 read:

259 796.08 Screening for HIV and sexually transmissible
260 diseases; providing penalties.—

261 (1) (a) For the purposes of this section, the term "sexually

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262 transmissible disease" means a bacterial, viral, fungal, or
263 parasitic disease, determined by rule of the Department of
264 Health to be sexually transmissible, a threat to the public
265 health and welfare, and a disease for which a legitimate public
266 interest is served by providing for regulation and treatment.

267 (b) In considering which diseases are designated as
268 sexually transmissible diseases, the Department of Health shall
269 consider such diseases as chancroid, gonorrhea, granuloma
270 inguinale, lymphogranuloma venereum, genital herpes simplex,
271 chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory
272 disease (PID)/acute salpingitis, syphilis, and human
273 immunodeficiency virus infection for designation and shall
274 consider the recommendations and classifications of the Centers
275 for Disease Control and Prevention and other nationally
276 recognized authorities. Not all diseases that are sexually
277 transmissible need be designated for purposes of this section.

278 (2) A person arrested under s. 796.07 shall be screened ~~may~~
279 ~~request screening~~ for a sexually transmissible disease under
280 direction of the Department of Health and, if infected, shall
281 submit to appropriate treatment and counseling. The Department
282 of Health shall ~~A person who requests screening for a sexually~~
283 ~~transmissible disease under this subsection must~~ pay any costs
284 associated with such screening. Such appropriate treatment and
285 counseling must include the offer of postexposure prophylaxis
286 (PEP) to prevent the acquisition of HIV. The Department of
287 Health shall ensure that any person electing to take PEP under
288 this subsection does not incur out-of-pocket expenses of more
289 than \$30 in obtaining this medication.

290 ~~(3) A person convicted under s. 796.07 of prostitution or~~

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291 ~~procuring another to commit prostitution must undergo screening~~
292 ~~for a sexually transmissible disease, including, but not limited~~
293 ~~to, screening to detect exposure to the human immunodeficiency~~
294 ~~virus, under direction of the Department of Health. If the~~
295 ~~person is infected, he or she must submit to treatment and~~
296 ~~counseling prior to release from probation, community control,~~
297 ~~or incarceration. Notwithstanding the provisions of s. 384.29,~~
298 ~~the results of tests conducted pursuant to this subsection shall~~
299 ~~be made available by the Department of Health to the offender,~~
300 ~~medical personnel, appropriate state agencies, state attorneys,~~
301 ~~and courts of appropriate jurisdiction in need of such~~
302 ~~information in order to enforce the provisions of this chapter.~~

303 (3) ~~(4)~~ A person who commits prostitution or procures
304 another for prostitution and who, prior to the commission of
305 such crime, had tested positive for a sexually transmissible
306 disease ~~other than human immunodeficiency virus infection~~ and
307 knew or had been informed that he or she had tested positive for
308 such sexually transmissible disease and could possibly
309 communicate such disease to another person through sexual
310 activity commits a misdemeanor of the first degree, punishable
311 as provided in s. 775.082 or s. 775.083. A person may be
312 convicted and sentenced separately for a violation of this
313 subsection and for the underlying crime of prostitution or
314 procurement of prostitution.

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

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

317 ~~(b) Procures another for prostitution by engaging in sexual~~
318 ~~activity in a manner likely to transmit the human~~
319 ~~immunodeficiency virus,~~

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320
321 ~~and who, prior to the commission of such crime, had tested~~
322 ~~positive for human immunodeficiency virus and knew or had been~~
323 ~~informed that he or she had tested positive for human~~
324 ~~immunodeficiency virus and could possibly communicate such~~
325 ~~disease to another person through sexual activity commits~~
326 ~~criminal transmission of HIV, a felony of the third degree,~~
327 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
328 ~~A person may be convicted and sentenced separately for a~~
329 ~~violation of this subsection and for the underlying crime of~~
330 ~~prostitution or procurement of prostitution.~~

331 Section 7. Section 960.003, Florida Statutes, is amended to
332 read:

333 960.003 Preventive medical treatment and care for victims
334 of sexual assault involving the exchange of bodily fluids
335 presenting a substantial risk of transmission of HIV; hepatitis
336 and HIV testing for persons charged with or alleged by petition
337 for delinquency to have committed certain offenses; disclosure
338 of results to victims.-

339 (1) LEGISLATIVE FINDINGS ~~INTENT~~.—The Legislature finds that
340 victims of sexual assault involving the exchange of bodily
341 fluids that present a substantial risk of transmission of the
342 human immunodeficiency virus (HIV) should have access to
343 appropriate medical care and affordable postexposure prophylaxis
344 to prevent the acquisition of HIV. Further, a victim of a
345 criminal offense which involves the transmission of body fluids,
346 or which involves certain sexual offenses in which the victim is
347 a minor, disabled adult, or elderly person, is entitled to know
348 at the earliest possible opportunity whether the person charged

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349 with or alleged by petition for delinquency to have committed
350 the offense has tested positive for hepatitis or human
351 immunodeficiency virus (HIV) infection. The Legislature finds
352 that to deny victims access to hepatitis and HIV test results
353 causes unnecessary mental anguish in persons who have already
354 suffered trauma. The Legislature further finds that since
355 medical science now recognizes that early diagnosis is a
356 critical factor in the treatment of hepatitis and HIV infection,
357 both the victim and the person charged with or alleged by
358 petition for delinquency to have committed the offense benefit
359 from prompt disclosure of hepatitis and HIV test results.

360 (2) REFERRAL TO MEDICAL SERVICES REQUIRED.—The Department
361 of Health shall refer for medical services any person who
362 alleges that he or she has been the victim of a sexual assault
363 involving an exchange of bodily fluids which presents a
364 substantial risk of transmission of the human immunodeficiency
365 virus (HIV). Such services must include the offer of
366 postexposure prophylaxis (PEP) to prevent the acquisition of
367 HIV. The Department of Health shall ensure that any person
368 electing to take PEP under this subsection does not incur out-
369 of-pocket expenses of more than \$30 in obtaining this
370 medication. The term "substantial risk of transmission" has the
371 same meaning as in s. 384.23.

372 (3)~~(2)~~ TESTING OF PERSON CHARGED WITH OR ALLEGED BY
373 PETITION FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.—

374 (a) In any case in which a person has been charged by
375 information or indictment with or alleged by petition for
376 delinquency to have committed any offense enumerated in s.
377 775.0877(1)(a)-(n), which involves the transmission of body

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378 fluids from one person to another, upon request of the victim or
379 the victim's legal guardian, or of the parent or legal guardian
380 of the victim if the victim is a minor, the court shall order
381 such person to undergo hepatitis and HIV testing within 48 hours
382 after the information, indictment, or petition for delinquency
383 is filed. In the event the victim or, if the victim is a minor,
384 the victim's parent or legal guardian requests hepatitis and HIV
385 testing after 48 hours have elapsed from the filing of the
386 indictment, information, or petition for delinquency, the
387 testing shall be done within 48 hours after the request.

388 (b) However, when a victim of any sexual offense enumerated
389 in s. 775.0877(1)(a)-(n) is under the age of 18 at the time the
390 offense was committed or when a victim of any sexual offense
391 enumerated in s. 775.0877(1)(a)-(n) or s. 825.1025 is a disabled
392 adult or elderly person as defined in s. 825.1025 regardless of
393 whether the offense involves the transmission of bodily fluids
394 from one person to another, then upon the request of the victim
395 or the victim's legal guardian, or of the parent or legal
396 guardian, the court shall order such person to undergo hepatitis
397 and HIV testing within 48 hours after the information,
398 indictment, or petition for delinquency is filed. In the event
399 the victim or, if the victim is a minor, the victim's parent or
400 legal guardian requests hepatitis and HIV testing after 48 hours
401 have elapsed from the filing of the indictment, information, or
402 petition for delinquency, the testing shall be done within 48
403 hours after the request. The testing shall be performed under
404 the direction of the Department of Health in accordance with s.
405 381.004. The results of a hepatitis and HIV test performed on a
406 defendant or juvenile offender pursuant to this subsection shall

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407 not be admissible in any criminal or juvenile proceeding arising
408 out of the alleged offense.

409 (c) If medically appropriate, followup HIV testing shall be
410 provided when testing has been ordered under paragraph (a) or
411 paragraph (b). The medical propriety of followup HIV testing
412 shall be based upon a determination by a physician and does not
413 require an additional court order. Notification to the victim,
414 or to the victim's parent or legal guardian, and to the
415 defendant of the results of each followup test shall be made as
416 soon as practicable in accordance with this section.

417 (4)~~(3)~~ DISCLOSURE OF RESULTS.—

418 (a) The results of the test shall be disclosed no later
419 than 2 weeks after the court receives such results, under the
420 direction of the Department of Health, to the person charged
421 with or alleged by petition for delinquency to have committed or
422 to the person convicted of or adjudicated delinquent for any
423 offense enumerated in s. 775.0877(1)(a)-(n), which involves the
424 transmission of body fluids from one person to another, and,
425 upon request, to the victim or the victim's legal guardian, or
426 the parent or legal guardian of the victim if the victim is a
427 minor, and to public health agencies pursuant to s. 775.0877. If
428 the alleged offender is a juvenile, the test results shall also
429 be disclosed to the parent or guardian. When the victim is a
430 victim as described in paragraph (3)(b) ~~(2)(b)~~, the test results
431 must also be disclosed no later than 2 weeks after the court
432 receives such results, to the person charged with or alleged by
433 petition for delinquency to have committed or to the person
434 convicted of or adjudicated delinquent for any offense
435 enumerated in s. 775.0877(1)(a)-(n), or s. 825.1025 regardless

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436 of whether the offense involves the transmission of bodily
437 fluids from one person to another, and, upon request, to the
438 victim or the victim's legal guardian, or the parent or legal
439 guardian of the victim, and to public health agencies pursuant
440 to s. 775.0877. Otherwise, hepatitis and HIV test results
441 obtained pursuant to this section are confidential and exempt
442 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
443 State Constitution and shall not be disclosed to any other
444 person except as expressly authorized by law or court order.

445 (b) At the time that the results are disclosed to the
446 victim or the victim's legal guardian, or to the parent or legal
447 guardian of a victim if the victim is a minor, the same
448 immediate opportunity for face-to-face counseling which must be
449 made available under s. 381.004 to those who undergo hepatitis
450 and HIV testing shall also be afforded to the victim or the
451 victim's legal guardian, or to the parent or legal guardian of
452 the victim if the victim is a minor.

453 (4) POSTCONVICTION TESTING.—If, for any reason, the testing
454 requested under subsection (3) ~~(2)~~ has not been undertaken, then
455 upon request of the victim or the victim's legal guardian, or
456 the parent or legal guardian of the victim if the victim is a
457 minor, the court shall order the offender to undergo hepatitis
458 and HIV testing following conviction or delinquency
459 adjudication. The testing shall be performed under the direction
460 of the Department of Health, and the results shall be disclosed
461 in accordance with the provisions of subsection (3).

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

464 (a) The person charged with or convicted of or alleged by

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465 petition for delinquency to have committed or been adjudicated
466 delinquent for an offense described in subsection (3) ~~(2)~~ has
467 undergone hepatitis and HIV testing voluntarily or pursuant to
468 procedures established in s. 381.004(2)(h)6. or s. 951.27, or
469 any other applicable law or rule providing for hepatitis and HIV
470 testing of criminal defendants, inmates, or juvenile offenders,
471 subsequent to his or her arrest, conviction, or delinquency
472 adjudication for the offense for which he or she was charged or
473 alleged by petition for delinquency to have committed; and

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

477 (6) TESTING DURING INCARCERATION, DETENTION, OR PLACEMENT;
478 DISCLOSURE.—In any case in which a person convicted of or
479 adjudicated delinquent for an offense described in subsection
480 (3) ~~(2)~~ has not been tested under subsection (3) ~~(2)~~, but
481 undergoes hepatitis and HIV testing during his or her
482 incarceration, detention, or placement, the results of the
483 initial hepatitis and HIV testing shall be disclosed in
484 accordance with subsection (4) ~~(3)~~. Except as otherwise
485 requested by the victim or the victim's legal guardian, or the
486 parent or guardian of the victim if the victim is a minor, if
487 the initial test is conducted within the first year of the
488 imprisonment, detention, or placement, the request for
489 disclosure shall be considered a standing request for any
490 subsequent hepatitis and HIV test results obtained within 1 year
491 after the initial hepatitis and HIV tests are performed, and
492 need not be repeated for each test administration. Where the
493 inmate or juvenile offender has previously been tested pursuant

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494 to subsection (3) ~~(2)~~ the request for disclosure under this
 495 subsection shall be considered a standing request for subsequent
 496 hepatitis and HIV results conducted within 1 year of the test
 497 performed pursuant to subsection (3) ~~(2)~~. If the hepatitis and
 498 HIV testing is performed by an agency other than the Department
 499 of Health, that agency shall be responsible for forwarding the
 500 test results to the Department of Health for disclosure in
 501 accordance with the provisions of subsection (4) ~~(3)~~. This
 502 subsection shall not be limited to results of hepatitis and HIV
 503 tests administered subsequent to June 27, 1990, but shall also
 504 apply to the results of all hepatitis and HIV tests performed on
 505 inmates convicted of or juvenile offenders adjudicated
 506 delinquent for sex offenses as described in subsection (3) ~~(2)~~
 507 during their incarceration, detention, or placement prior to
 508 June 27, 1990.

509 Section 8. Paragraph (e) of subsection (3) of section
 510 921.0022, Florida Statutes, is amended to read:

511 921.0022 Criminal Punishment Code; offense severity ranking
 512 chart.—

513 (3) OFFENSE SEVERITY RANKING CHART

514 (e) LEVEL 5

515

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

516

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leaving scene.

517

316.1935(4)(a)

2nd

Aggravated fleeing or eluding.

518

316.80(2)

2nd

Unlawful conveyance of fuel; obtaining fuel fraudulently.

519

322.34(6)

3rd

Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

520

327.30(5)

3rd

Vessel accidents involving personal injury; leaving scene.

521

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

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supply, aiding in
 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.

522

379.367 (4)

3rd

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

523

379.407 (5) (b) 3.

3rd

Possession of 100 or
 more undersized spiny
 lobsters.

524

~~381.0041(11) (b)~~

3rd

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

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525
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440.10 (1) (g)

2nd

Failure to obtain workers' compensation coverage.

440.105 (5)

2nd

Unlawful solicitation for the purpose of making workers' compensation claims.

440.381 (2)

2nd

Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.

624.401 (4) (b) 2.

2nd

Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

626.902 (1) (c)

2nd

Representing an unauthorized insurer; repeat offender.

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790.01(2)

3rd

Carrying a concealed
firearm.

790.162

2nd

Threat to throw or
discharge destructive
device.

790.163(1)

2nd

False report of bomb,
explosive, weapon of
mass destruction, or use
of firearms in violent
manner.

790.221(1)

2nd

Possession of short-
barreled shotgun or
machine gun.

790.23

2nd

Felons in possession of
firearms, ammunition, or
electronic weapons or
devices.

796.05(1)

2nd

Live on earnings of a
prostitute; 1st offense.

800.04(6)(c)

3rd

Lewd or lascivious
conduct; offender less
than 18 years of age.

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538	591-02665-17 800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
539	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
540	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
541	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
542	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
543	812.131 (2) (b)	3rd	Robbery by sudden snatching.
544	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
	817.034 (4) (a) 2.	2nd	Communications fraud,

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value \$20,000 to
\$50,000.

545

817.234 (11) (b)

2nd

Insurance fraud;
property value \$20,000
or more but less than
\$100,000.

546

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.

547

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.

548

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817.611 (2) (a)

2nd

Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

549

817.625 (2) (b)

2nd

Second or subsequent fraudulent use of scanning device or reencoder.

550

825.1025 (4)

3rd

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

551

827.071 (4)

2nd

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

552

827.071 (5)

3rd

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

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553

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.

554

843.01 3rd Resist officer with violence to person; resist arrest with violence.

555

847.0135 (5) (b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

556

847.0137 (2) & (3) 3rd Transmission of pornography by electronic device or equipment.

557

847.0138 (2) & (3) 3rd Transmission of material harmful to minors to a minor by electronic device or equipment.

558

874.05 (1) (b) 2nd Encouraging or recruiting another to

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join a criminal gang;
second or subsequent
offense.

559

874.05 (2) (a)

2nd

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

560

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).

561

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

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recreational facility or
community center.

562

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.

563

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.

564

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

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(2)(c)4. drugs) within
1,000 feet of public
housing facility.

565

893.13(4)(b)

2nd

Use or hire of minor;
deliver to minor other
controlled substance.

566

893.1351(1)

3rd

Ownership, lease, or
rental for trafficking
in or manufacturing of
controlled substance.

567

568

569

Section 9. This act shall take effect July 1, 2017.