A bill to be entitled
An act relating to transmission of disease through
bodily fluids; providing a short title; amending s.
381.0041, F.S.; providing an exception to allow the
donation of blood, plasma, organs, skin, or other
human tissue by certain persons when deemed medically
appropriate by a licensed physician; reclassifying a
criminal offense relating to such donations; amending
s. 384.23, F.S.; defining the terms "sexual conduct"
and "substantial risk of transmission"; amending s.
384.24, F.S.; expanding the scope of unlawful acts by
a person infected with a sexually transmissible
disease; expanding the list of sexually transmissible
diseases to include human immunodeficiency virus
infections; specifying that a certain act is unlawful
if the person committing the offense acts with the
intent to transmit a specified disease, engages in
conduct that poses a substantial risk of transmission
of that disease to another person who is unaware that
the person who transmits the disease is a carrier of
the disease, and actually transmits the disease;
providing that certain actions are not sufficient to
establish intent on the part of the person who
transmits the disease; defining the term "behavioral
recommendations"; amending s. 384.34, F.S.;
reclassifying specified criminal offenses; eliminating
a fine for specified rule violations; amending ss.
775.0877 and 921.0022, F.S.; conforming provisions to
changes made by the act; providing an effective date.

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

Section 1. This act shall be known as the "HIV Prevention
Justice Act."

Section 2. 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
appropriate by a licensed physician, any person who has human
immunodeficiency virus infection, who knows he or she is
infected with human immunodeficiency virus, and who has been
informed that he or she may communicate this disease by donating
blood, plasma, organs, skin, or other human tissue who donates
blood, plasma, organs, skin, or other human tissue commits is
guilty of a misdemeanor felony of the first third
degree, punishable as provided in s. 775.082 or s. 775.083, or s.
775.084.

Section 3. Present subsection (3) of section 384.23,
Florida Statutes, is redesignated as subsection (4) and a new subsection (3) and subsection (5) are added to that section, to read:

384.23 Definitions.—

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

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

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

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

384.24 Unlawful acts.—

(1) It is unlawful for any person who has chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/acute salpingitis, or syphilis, or human immunodeficiency virus infection, when such person knows he or she is infected with one or more of these diseases and when such person has been informed that he or she may communicate this disease to another person through sexual conduct intercourse, to act with the intent to transmit the
disease, to engage in sexual conduct that poses a substantial risk of transmission to another person when the intercourse with any other person is unaware that the person is a carrier of the disease, and to transmit the disease to the other person unless such other person has been informed of the presence of the sexually transmissible disease and has consented to the sexual intercourse.

(2) A person does not act with the intent required in subsection (1) if he or she in good faith complies with a treatment regimen prescribed by his or her health care provider or with the behavioral recommendations of his or her health care provider or public health officials to limit the risk of transmission, or if he or she offers to comply with such behavioral recommendations, but that offer is rejected by the other person. For purposes of this section, the term "behavioral recommendations" includes, but is not limited to, the use of a prophylactic device to limit the risk of transmission of the disease. Evidence of the person's failure to comply with such a treatment regimen or such behavioral recommendations is not, in and of itself, sufficient to establish that he or she acted with the intent required under subsection (1).

It is unlawful for any person who has human immunodeficiency virus infection, when such person knows he or she is infected with this disease and when such person has been informed that he or she may communicate this disease to another person through sexual intercourse, to
have sexual intercourse with any other person, unless such other person has been informed of the presence of the sexually transmissible disease and has consented to the sexual intercourse.

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

384.34 Penalties.—
(1) Any person who violates s. 384.24 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

(3) Any person who maliciously disseminates any false information or report concerning the existence of any sexually transmissible disease commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Any person who violates the provisions of the department's rules pertaining to sexually transmissible diseases may be punished by a fine not to exceed $500 for each violation. Any penalties enforced under this subsection shall be in addition to other penalties provided by this chapter. The department may enforce this section and adopt rules necessary to administer this section.
(5) Any person who violates s. 384.24(2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who commits multiple violations of s. 384.24(2) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

Section 6. Subsections (1) and (3) of section 775.0877, Florida Statutes, are amended to read:

775.0877 Criminal transmission of HIV; procedures; penalties.—

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

(a) Section 794.011, relating to sexual battery;

(b) Section 826.04, relating to incest;
(c) Section 800.04, relating to lewd or lascivious
offenses committed upon or in the presence of persons less than
16 years of age;
(d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
relating to assault;
(e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),
relating to aggravated assault;
(f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),
relating to battery;
(g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),
relating to aggravated battery;
(h) Section 827.03(2)(c), relating to child abuse;
(i) Section 827.03(2)(a), relating to aggravated child
abuse;
(j) Section 825.102(1), relating to abuse of an elderly
person or disabled adult;
(k) Section 825.102(2), relating to aggravated abuse of an
elderly person or disabled adult;
(l) Section 827.071, relating to sexual performance by
person less than 18 years of age;
(m) Sections 796.07 and 796.08, relating to prostitution;
or
(n) Section 381.0041(11)(b), relating to donation of
blood, plasma, organs, skin, or other human tissue; or
(o) Sections 787.06(3)(b), (d), (f), and (g), relating to
human trafficking,
the court shall order the offender to undergo HIV testing, to be
performed under the direction of the Department of Health in
accordance with s. 381.004, unless the offender has undergone
HIV testing voluntarily or pursuant to procedures established in
s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
rule providing for HIV testing of criminal offenders or inmates,
subsequent to her or his arrest for an offense enumerated in
paragraphs (a)-(n) for which she or he was convicted or to which
she or he pled nolo contendere or guilty. The results of an HIV
test performed on an offender pursuant to this subsection are
not admissible in any criminal proceeding arising out of the
alleged offense.
(3) An offender who has undergone HIV testing pursuant to
subsection (1), and to whom positive test results have been
disclosed pursuant to subsection (2), who commits a second or
subsequent offense enumerated in paragraphs (1)(a)-(n), commits
criminal transmission of HIV, a misdemeanor or felony of the first
third degree, punishable as provided in s. 775.082 or s.
775.083, or s. 775.084. A person may be convicted and sentenced
separately for a violation of this subsection and for the
underlying crime enumerated in paragraphs (1)(a)-(n).

Section 7. Paragraph (e) of subsection (3) of section
921.0022, Florida Statutes, is amended to read:
Florida Statute Felony Degree Description

<table>
<thead>
<tr>
<th>Statute</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>316.027(2)(a)</td>
<td>3rd</td>
<td>Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.</td>
</tr>
<tr>
<td>316.1935(4)(a)</td>
<td>2nd</td>
<td>Aggravated fleeing or eluding.</td>
</tr>
<tr>
<td>316.80(2)</td>
<td>2nd</td>
<td>Unlawful conveyance of fuel; obtaining fuel fraudulently.</td>
</tr>
<tr>
<td>322.34(6)</td>
<td>3rd</td>
<td>Careless operation of motor vehicle with suspended license, resulting in death or</td>
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</tbody>
</table>
serious bodily injury.

327.30(5) 3rd Vessel accidents involving personal injury; leaving scene.

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 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
<table>
<thead>
<tr>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>379.367(4)</td>
<td>3rd</td>
<td>Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.</td>
</tr>
<tr>
<td>379.407(5)(b)3.</td>
<td>3rd</td>
<td>Possession of 100 or more undersized spiny lobsters.</td>
</tr>
<tr>
<td>381.0041(11)(b)</td>
<td>3rd</td>
<td>Donate blood, plasma, or organs knowing HIV positive.</td>
</tr>
<tr>
<td>440.10(1)(g)</td>
<td>2nd</td>
<td>Failure to obtain workers' compensation coverage.</td>
</tr>
<tr>
<td>440.105(5)</td>
<td>2nd</td>
<td>Unlawful solicitation for the purpose of making workers' compensation claims.</td>
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</table>

harvest of stone crabs while license is suspended or revoked.

CODING: Words **stricken** are deletions; words *underlined* are additions.
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.

790.01(2)  3rd  Carrying a concealed firearm.

790.162  2nd  Threat to throw or discharge destructive device.
<table>
<thead>
<tr>
<th>Code</th>
<th>Section</th>
<th>Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>790.163(1)</td>
<td>2nd</td>
<td>False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.</td>
<td></td>
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<tr>
<td>790.221(1)</td>
<td>2nd</td>
<td>Possession of short-barreled shotgun or machine gun.</td>
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<tr>
<td>790.23</td>
<td>2nd</td>
<td>Felons in possession of firearms, ammunition, or electronic weapons or devices.</td>
<td></td>
</tr>
<tr>
<td>796.05(1)</td>
<td>2nd</td>
<td>Live on earnings of a prostitute; 1st offense.</td>
<td></td>
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<tr>
<td>800.04(6)(c)</td>
<td>3rd</td>
<td>Lewd or lascivious conduct; offender less than 18 years of age.</td>
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<tr>
<td>800.04(7)(b)</td>
<td>2nd</td>
<td>Lewd or lascivious exhibition; offender 18 years of age or older.</td>
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<tr>
<td>806.111(1)</td>
<td>3rd</td>
<td>Possess, manufacture, or</td>
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dispense fire bomb with intent to damage any structure or property.

812.0145(2)(b) 2nd Theft from person 65 years of age or older; $10,000 or more but less than $50,000.

812.015(8) 3rd Retail theft; property stolen is valued at $300 or more and one or more specified acts.

812.019(1) 2nd Stolen property; dealing in or trafficking in.

812.131(2)(b) 3rd Robbery by sudden snatching.

812.16(2) 3rd Owning, operating, or conducting a chop shop.

817.034(4)(a)2. 2nd Communications fraud,
value $20,000 to $50,000.

817.234(11)(b)  2nd  Insurance fraud; property value $20,000 or more but less than $100,000.

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.

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.
<table>
<thead>
<tr>
<th>Section</th>
<th>Order</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>817.611(2)(a)</td>
<td>2nd</td>
<td>Traffic in or possess 5 to 14 counterfeit credit cards or related documents.</td>
</tr>
<tr>
<td>817.625(2)(b)</td>
<td>2nd</td>
<td>Second or subsequent fraudulent use of scanning device, skimming device, or rencoder.</td>
</tr>
<tr>
<td>825.1025(4)</td>
<td>3rd</td>
<td>Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.</td>
</tr>
<tr>
<td>827.071(4)</td>
<td>2nd</td>
<td>Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.</td>
</tr>
<tr>
<td>827.071(5)</td>
<td>3rd</td>
<td>Possess, control, or intentionally view any photographic material, motion...</td>
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</table>
picture, etc., which includes sexual conduct by a child.

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.

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

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

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

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; second or subsequent offense.

874.05(2)(a)  2nd  Encouraging or recruiting person under 13 years of age to join a criminal gang.

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).

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,
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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<tbody>
<tr>
<td>893.13(1)(d)1.</td>
<td>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.</td>
</tr>
<tr>
<td>893.13(1)(e)2.</td>
<td>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.</td>
</tr>
</tbody>
</table>
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 1,000 feet of public housing facility.

893.13(4)(b) 2nd  Use or hire of minor; deliver to minor other controlled substance.

893.1351(1) 3rd  Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

Section 8. This act shall take effect July 1, 2018.