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

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

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

Section 2. Paragraph (b) of subsection (11) of section
3 381.0041, Florida Statutes, is amended to read:
4 381.0041 Donation and transfer of human tissue; testing
(11) (b) 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 for use in another person commits is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This paragraph does not apply if the donation is made specifically for a recipient who knows that the donor is infected with human immunodeficiency virus.

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

384.23 Definitions.—As used in this chapter:
(1) "Department" means the Department of Health.
(2) "County health department" means agencies and entities as designated in chapter 154.
(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.
"Sexually transmissible disease" means a bacterial, viral, fungal, or parasitic disease determined by rule of the department to be sexually transmissible, to be a threat to the public health and welfare, and to be a disease for which a legitimate public interest will be served by providing for prevention, elimination, control, and treatment. The department must, by rule, determine which diseases are to be designated as sexually transmissible diseases and shall consider the recommendations and classifications of the Centers for Disease Control and Prevention and other nationally recognized medical authorities in that determination. Not all diseases that are sexually transmissible need be designated for the purposes of this act.

"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, when such person knows that he or she is infected with one or more of these diseases and when such person has been
informed that he or she could 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, unless such other person has been informed of the presence of the sexually transmissible disease and has consented to the sexual intercourse.

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

(3) A person does not act with the intent set forth in subsection (1) or subsection (2) if he or she complies in good faith 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 such offer is rejected by the other person with whom he or she is engaging in sexual conduct. 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 set forth in subsection (1) or subsection (2). For purposes of this subsection, 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.

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

384.34 Penalties.—
(1) Any person who violates the provisions of s. 384.24(1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(2) Any person who violates s. 384.24(2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who is convicted of a violation of s. 384.24(2) based on conduct occurring after July 1, 2020, and who subsequently commits a second or subsequent violation of 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.

(3)(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.

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

(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.

(5)(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 felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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