

## CHAPTER 97-37

### House Bill No. 273

An act relating to sexually transmissible diseases; amending s. 384.24, F.S., relating to unlawful acts by a person infected with a sexually transmissible disease; revising provisions prohibiting such acts; amending s. 384.34, F.S.; providing third degree felony penalties for a person who violates specified provisions prohibiting sexual intercourse by a person who has human immunodeficiency virus infection; amending s. 796.08, F.S.; revising the category of offenses constituting criminal transmission of human immunodeficiency virus infection to include the offer to commit prostitution under specified circumstances when the person offering to commit prostitution has tested positive for human immunodeficiency virus infection; providing penalties; reenacting s. 775.0877(1)(m) and (7), F.S., to incorporate said amendment to s. 796.08, F.S., in a reference; providing an effective date.

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

Section 1. 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 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.

(2) 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 2. Subsection (1) of section 384.34, Florida Statutes, 1996 Supplement, is amended, and subsection (5) is added to said section, to read:

384.34 Penalties.—

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

(5) Any person who violates the provisions of s. 384.24(2) commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, 775.084, and 775.0877(7).

Section 3. Subsection (5) of section 796.08, Florida Statutes, 1996 Supplement, is amended to read:

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

(5) A person who:

(a) Commits or offers to commit prostitution; or

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

and who, prior to the commission of such crime, had tested positive for human immunodeficiency virus and knew or had been informed that he or she had tested positive for human immunodeficiency virus and could possibly communicate such disease to another person through sexual activity commits criminal transmission of HIV, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 775.0877(7). A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution or procurement of prostitution.

Section 4. For the purpose of incorporating the amendment to section 796.08, Florida Statutes, 1996 Supplement, in a reference thereto, paragraph (m) of subsection (1) and subsection (7) of section 775.0877, Florida Statutes, 1996 Supplement, are reenacted 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:

(m) Sections 796.03, 796.07, and 796.08, relating to prostitution, or

the court shall order the offender to undergo HIV testing, to be performed under the direction of the Department of Health and Rehabilitative Services in accordance with s. 381.004, unless the offender has undergone HIV testing voluntarily or pursuant to procedures established in s. 381.004(3)(i)6. or s. 951.27, or any other applicable law or rule providing for HIV testing of criminal offenders or inmates, subsequent to his arrest for an offense enumerated in paragraphs (a)-(n) for which he was convicted or to which 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.

(7) In addition to any other penalty provided by law for an offense enumerated in paragraphs (1)(a)-(n), the court may require an offender convicted of criminal transmission of HIV to serve a term of criminal quarantine community control, as described in s. 948.001.

Section 5. This act shall take effect October 1, 1997, and shall apply to offenses committed on or after that date.

Became a law without the Governor's approval May 1, 1997.

Filed in Office Secretary of State April 30, 1997.