

2021 Regular Session

HOUSE BILL NO. 238

BY REPRESENTATIVE MOORE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/SEX OFFENSES: Creates the crimes of felony and misdemeanor intentional exposure to a sexually transmitted disease

1 AN ACT

2 To enact R.S. 14:43.5.1 and 43.5.2, relative to sexually transmitted diseases; to create the
3 crimes of felony and misdemeanor intentional exposure to a sexually transmitted
4 disease; to provide elements of the crimes; to provide criminal penalties; to provide
5 relative to the electric monitoring of the offender; to authorize the Department of
6 Public Safety and Corrections to promulgate rules; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:43.5.1 and 43.5.2 are hereby enacted to read as follows:

9 §43.5.1. Felony intentional exposure to a sexually transmitted disease

10 A. No person shall intentionally expose another human to a sexually
11 transmitted disease without the knowing and lawful consent of the victim, if at the
12 time of exposure the infected person knew he had an incurable sexually transmitted
13 disease, through any of the following:

14 (1) Sexual intercourse or sodomy with another individual.

15 (2) Selling or donating one's own blood, blood products, semen, tissue,
16 organs, or other body fluids.

17 (3) Sharing with another individual a hypodermic needle, syringe, or both.

18 B.(1) Whoever commits the crime of felony intentional exposure to a
19 sexually transmitted disease shall be fined not more than five thousand dollars,
20 imprisoned with or without hard labor for not more than ten years, or both.

1 (2) Whoever commits the crime of felony intentional exposure to a sexually
2 transmitted disease and the victim is under the age of thirteen years when the
3 offender is eighteen years of age or older shall be imprisoned at hard labor for not
4 less than twenty-five years nor more than ninety-nine. At least twenty-five years of
5 the sentence imposed shall be served without benefit of parole, probation, or
6 suspension of sentence.

7 (3) Whoever commits the crime of felony intentional exposure to a sexually
8 transmitted disease and the victim is under the age of eighteen years where there is
9 an age difference greater than two years shall be fined not more than ten thousand
10 dollars, imprisoned with or without hard labor for not less than five nor more than
11 twenty-five years, or both. At least ten years of the sentence imposed shall be served
12 without benefit of parole, probation, or suspension of sentence.

13 (4) Whoever commits the crime of felony intentional exposure to a sexually
14 transmitted disease and the victim is sixty-five years of age or older shall be fined
15 not more than twenty thousand dollars, imprisoned with or without hard labor for not
16 more than twenty-five years, or both.

17 (5) Whoever commits the crime of felony intentional exposure to a sexually
18 transmitted disease and has been diagnosed as having an intellectual disability shall
19 be fined no more than ten thousand dollars, imprisoned with or without hard labor
20 for not more than fifteen years, or both.

21 C.(1) It is an affirmative defense, if proven by a preponderance of the
22 evidence, that the person exposed to a sexually transmitted disease knew the infected
23 person was infected and knew the action could result in infection with a sexually
24 transmitted disease and gave consent to the action with that knowledge.

25 (2) It is also an affirmative defense that the person infected with a sexually
26 transmitted disease disclosed his status to the victim and took practical means to
27 prevent transmission as advised by a physician or other healthcare provider or is a
28 healthcare provider who was following professionally accepted infection control
29 procedures.

1 D.(1) Upon completion of the term of imprisonment imposed in accordance
2 with Paragraph B of this Section, the offender shall be monitored by the Department
3 of Public Safety and Corrections through the use of electronic monitoring equipment
4 for the remainder of his natural life.

5 (2) Unless it is determined by the Department of Public Safety and
6 Corrections, pursuant to rules adopted in accordance with the provisions of this
7 Subsection, that the offender is unable to pay all or any portion of such costs, each
8 offender to be electronically monitored shall pay the costs of such monitoring.

9 (3) The costs attributable to the electronic monitoring of an offender who has
10 been determined unable to pay shall be borne by the department if, and only to the
11 extent that, sufficient funds are made available for such purpose whether by
12 appropriation of state funds or from any other source.

13 (4) The Department of Public Safety and Corrections shall develop, adopt,
14 and promulgate rules in the manner provided in the Administrative Procedure Act
15 that provide for the payment of such costs. Such rules shall contain specific
16 guidelines which shall be used to determine the ability of the offender to pay the
17 required costs and shall establish the reasonable costs to be charged. Such rules may
18 provide for a sliding scale of payment so that an offender who is able to pay a
19 portion, but not all, of such costs may be required to pay such portion.

20 §43.5.2. Misdemeanor intentional exposure to a sexually transmitted disease

21 A. No person shall intentionally expose another human to a sexually
22 transmitted disease without the knowing and lawful consent of the victim, if at the
23 time of exposure the infected person knew he had a curable sexually transmitted
24 disease, through any of the following:

25 (1) Sexual intercourse or sodomy with another individual.

26 (2) Selling or donating one's own blood, blood products, semen, tissue,
27 organs or other body fluids.

28 (3) Sharing with another individual a hypodermic needle, syringe, or both.

- 1 B. Whoever commits the crime of misdemeanor intentional exposure to a
 2 sexually transmitted disease shall be fined not more than five thousand dollars,
 3 imprisoned for not more than six months, or both.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 238 Original

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Moore

Abstract: Creates the crimes of felony and misdemeanor intentional exposure to a sexually transmitted disease, provides elements of the offenses and criminal penalties, provides relative to the electric monitoring of the offender, and authorizes the Dept. of Public Safety and Corrections to develop, adopt, and promulgate rules.

Proposed law creates the crimes of felony and misdemeanor intentional exposure to a sexually transmitted disease.

Proposed law provides the following penalties for felony intentional exposure to a sexually transmitted disease:

- (1) A fine of not more than \$5,000, imprisonment with or without hard labor for not more than 10 years, or both.
- (2) Imprisonment at hard labor for not less than 25 years nor more than 99 years when the victim is under the age of 13 years and the offender is 18 years of age or older. At least 25 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.
- (3) A fine of not more than \$10,000, imprisonment with or without hard labor for not less than five nor more than 25 years, or both when the victim is under the age of 18 and there is an age difference greater than two years. At least 10 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.
- (4) A fine of not more than \$20,000, imprisonment with or without hard labor for not more than 25 years, or both when the victim is 65 years of age or older.
- (5) A fine of not more than \$10,000, imprisonment with or without hard labor for not more than 15 years, or both when the offender been diagnosed as having an intellectual disability.

Proposed law provides penalties of a fine not more than \$5,000, imprisonment of not more than 6 months, or both for the crime of misdemeanor intentional exposure to a sexually transmitted disease.

Proposed law provides affirmative defenses to felony intentional exposure to a sexually transmitted disease.

Proposed law requires that the offender shall be monitored by the Dept. of Public Safety and Corrections through the use of electric monitoring for the remainder of his natural life upon completion of the term of imprisonment as provided by proposed law.

Proposed law requires the Dept. of Public Safety and Corrections to develop, adopt, and promulgate rules with regard to proposed law.

(Adds R.S. 14:43.5.1 and 43.5.2)