

HOUSE BILL 1216

By Hall

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 13, Part 1, relative to criminal exposure to
certain pathogens.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-109, is amended in the first sentence of subsection (a) by deleting the language "(HIV)" and by substituting instead the language "(HIV), to hepatitis B virus (HBV), or to hepatitis C virus (HCV)."

SECTION 2. Tennessee Code Annotated, Section 39-13-109, is further amended in the first sentence of subsection (a) by deleting the language "HIV" and by substituting instead the language "HIV, with hepatitis B virus (HBV), or with hepatitis C virus (HCV)."

SECTION 3. Tennessee Code Annotated, Section 39-13-109, is amended in subdivision (a)(2) by deleting the language "HIV transmission" and by substituting instead the language "HIV, or hepatitis B virus (HBV) or hepatitis C virus (HCV) transmission."

SECTION 4. Tennessee Code Annotated, Section 39-13-109, is amended in subdivision (b)(2) by deleting the language "HIV transmission" and by substituting instead the language "HIV, hepatitis B virus (HBV), or hepatitis C virus (HCV) transmission."

SECTION 5. Tennessee Code Annotated, Section 39-13-109, is amended by designating the existing language of subsection (c) as subdivision (c)(1), and by adding the following new subdivisions thereto:

(2) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the person exposed to hepatitis B virus (HBV) knew that the infected person was infected with hepatitis B virus (HBV), knew that the action could result in infection with hepatitis B virus (HBV), and gave advance consent to the action with that knowledge.

(3) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the person exposed to hepatitis C virus (HCV) knew that the infected person was infected with hepatitis C virus (HCV), knew that the action could result in infection with hepatitis C virus (HCV), and gave advance consent to the action with that knowledge.

SECTION 6. Tennessee Code Annotated, Section 39-13-109, is amended by designating the existing language of subsection (d) as subdivision (d)(1), and by adding the following new subdivisions thereto:

(2) Nothing in this section shall be construed to require the actual transmission of hepatitis B virus (HBV) in order for a person to have committed the offense of criminal exposure to hepatitis B virus (HBV).

(3) Nothing in this section shall be construed to require the actual transmission of hepatitis C virus (HCV) in order for a person to have committed the offense of criminal exposure to hepatitis C virus (HCV).

SECTION 7. Tennessee Code Annotated, Section 39-13-109, is amended by deleting subsection (e) and by substituting instead the following:

(e)

(1) Criminal exposure of another to HIV is a Class C felony.

(2) Criminal exposure of another to hepatitis B virus (HBV) or hepatitis C virus (HCV) is a Class A misdemeanor, punishable by a fine only of not more than one thousand dollars (\$1,000). In addition, a victim of criminal exposure to hepatitis B virus (HBV) or hepatitis C virus (HCV) may maintain an action for the expenses and the actual loss of service resulting from such exposure.

SECTION 8. This act shall take effect July 1, 2011, the public welfare requiring it.