

Louisiana

Analysis

Any number of consensual sexual activities may result in prosecution and imprisonment for people living with HIV (PLHIV).

It is an unlawful act, punishable by up to 10 years in prison (with or without hard labor) and/or a \$5,000 fine for a PLHIV who knows their status to intentionally expose another to HIV through sexual contact.¹ Despite the language in the statute, Louisiana courts have found that neither the intent to expose another to HIV² nor actual transmission is required.³ “Sexual contact” is not specifically defined in the statute or elsewhere in Louisiana’s Criminal Code.⁴ However, the statute’s inclusion of exposure via “any means or contact”⁵ suggests that oral sex or other sexual activities posing no or very low risk of HIV transmission are encompassed within the scope of the law.

Effective August 1, 2018, the intentional exposure statute was amended to include three affirmative defenses. All three are contingent on a PLHIV first having disclosed their HIV status to the individual alleging some kind of exposure:

1. If a defendant can prove, by a preponderance of the evidence, that the exposed person was aware of the defendant’s HIV status, knew that the action could result in HIV transmission, and consented to the action with that knowledge;⁶
2. If the “transfer” of bodily fluid, tissue, or organs occurred following advice from a licensed physician that the defendant was non-infectious and the defendant had disclosed their HIV

¹ LA. REV. STAT. ANN. §§ 14:43.5(A), (E)(1) (2018).

² See, e.g., *State v. Roberts*, 844 So. 2d 263, 272 (La. Ct. App. 2003) (“La. R.S. 14:43.5 does not require the State to prove that a defendant acted with the specific intent to expose the victim to [HIV] . . . it requires the State to prove that the defendant intentionally committed an act proscribed by the statute which exposed the victim to [HIV].”)

³ See, e.g., *State v. Gamberella*, 633 So. 2d 595, 602 (La. Ct. App. 1993) (“By use of the word ‘expose’ rather than the word ‘transmit,’ the legislature obviously intended that the element of the offense be the risk of infection, rather than actual transmission of the virus.”); accord *Roberts*, 844 So. 2d at 272.

⁴ In Louisiana’s Code of Military Justice, “sexual contact” is defined as “[t]ouching or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person,” or “[a]ny touching, or causing another person to touch, either directly or through the clothing, any body part of any person, if done with an intent to arouse or gratify the sexual desire of any person.” LA. REV. STAT. ANN. § 29:220(E)(6)(2018). This latter prong of this definition is also consistent with the analysis that appears in *State v. Gamberella*, 633 So. 2d 595, 603 (La. Ct. App. 1993). Note that the definition from the Louisiana Code of Military Justice is merely intended to be illustrative of what is likely a broad conception of “sexual contact” under LA. REV. STAT. ANN. § 14:43.5. It would be problematic for a court to actually apply this definition in a prosecution under LA. REV. STAT. ANN. § 14:43.5 because the Code of Military Justice is intended to prohibit a much broader range of conduct than exposure to disease, as well as inappropriate sexual conduct more generally.

⁵ LA. REV. STAT. ANN. §§ 14:43.5(B) (2018) (emphasis added).

⁶ LA. REV. STAT. ANN. §§ 14:43.5(F)(1) (2018).

status to the complainant.⁷ Notably, “transfer” is not a term that appears or is defined elsewhere in the intentional exposure statute. Presumably, it is intended to encompass activities such as blood or organ donation, but can also be interpreted more generally to include various forms of exposure to bodily fluids;

3. If a PLHIV defendant disclosed their status and took “practical means to prevent transmission as advised by a physician or other healthcare provider” or is themselves a healthcare provider who was following “professionally accepted infection control procedures.”⁸

While disclosure of HIV status is a necessary element of all three affirmative defenses, it is often exceedingly difficult to prove, since most evidence is based on conflicting testimony, with one person’s word against another’s. In *State v. Gamberella*, a PLHIV was convicted of intentional HIV exposure despite his testimony that he disclosed his HIV status to his girlfriend and wore condoms during sex.⁹ The man’s girlfriend testified that after she became pregnant by the defendant following a condom failure, they engaged in unprotected sexual intercourse on multiple occasions.¹⁰ She testified that she didn’t know his HIV status during the entire relationship.¹¹ The defendant was convicted and sentenced to ten years in prison at hard labor.¹²

On appeal, the defendant in *Gamberella* argued that the law failed to define such terms as “expose” and “sexual contact,” and therefore could prohibit activities posing no risk of HIV transmission, including kissing.¹³ The Court of Appeal of Louisiana rejected these arguments, holding that the statute described prohibited conduct with sufficient particularity.¹⁴ The court reasoned that the term “sexual contact” unambiguously refers to “numerous forms of behavior involving use of the sexual organs of one or more of the participants or involving other forms of physical contact for the purpose of satisfying or gratifying the ‘sexual desires’ of one of the participants.”¹⁵ This broad phrase provides limited clarification as to what types of sexual conduct may be prosecuted under the statute. Under the court’s definition, acts that don’t involve any exchange of bodily fluids or penetration could be prosecuted. The court’s findings also fail to provide insight as to whether or not the use of condoms or other forms of protection would be a defense to prosecution.

Cases under this section of the statute include:

- In *State v. Roberts*, a PLHIV received 10 years in prison at hard labor for exposing his rape victim to HIV.¹⁶ Although a dispute existed as to whether bodily fluids were exchanged, an appeals court found the defendant’s conviction could be sustained on evidence that he anally and vaginally raped his victim.¹⁷

⁷ LA. REV. STAT. ANN. §§ 14:43.5(F)(2) (2018).

⁸ LA. REV. STAT. ANN. §§ 14:43.5(F)(3) (2018).

⁹ *Gamberella*, 633 So. 2d at 598-99.

¹⁰ *Id.*

¹¹ *Id.* at 599.

¹² *Id.* at 598.

¹³ *Id.* at 602-03.

¹⁴ *Id.*

¹⁵ *Id.* at 603 (citing Cheney C. Joseph, Jr., *Developments in the Law 1986-1987: A Faculty Symposium*, 48 LA. L. REV. 257, 282 (1987)).

¹⁶ *Roberts*, *supra* note 2 at 264.

¹⁷ *Id.* at 270.

- In *State v. Serrano*, a PLHIV was sentenced to one year in prison at hard labor after he engaged in unprotected sex with his girlfriend without disclosing his HIV status.¹⁸
- In *State v. Turner*, a PLHIV received two concurrent five-year prison sentences after she pled guilty to engaging in “some sort of sexual contact” with two men.¹⁹ A sentencing court equated the woman’s activities to “pointing a gun to [the victims’] head[s] and pulling the trigger.”²⁰
- In 2009, a PLHIV was charged with attempted intentional exposure to AIDS after allegedly failing to disclose his HIV status to an undercover police officer during a prostitution bust.²¹
- In 2010, a PLHIV was charged with intentional exposure to the AIDS virus after engaging in unprotected sex with a man without disclosing her HIV status.²²
- In 2015 a 23-year-old PLHIV was charged with intentional exposure to the AIDS virus after engaging in a sexual relationship without disclosing his HIV status.²³
- In December 2017, a 37-year-old PLHIV was charged with intentional exposure after allegedly failing to disclose his status to a sexual partner whom he met on Facebook and had sex with on one occasion.²⁴
- In March 2018, a 24-year-old PLHIV was charged with intentional exposure and simple battery after he allegedly concealed his HIV status from a sexual partner.²⁵
- In June 2018, a PLHIV was charged with 12 counts of intentional exposure to HIV after he allegedly engaged in sex with a juvenile without disclosing his status.²⁶

Non-sexual forms of exposure to bodily fluids also can result in criminal liability for PLHIV.

It is an unlawful act, punishable by up to 10 years in prison (with or without hard labor) and/or a \$5,000 fine, to expose a person to HIV through “any means or contact” without the knowing and lawful consent of the person exposed.²⁷

If a PLHIV exposes a first responder to HIV through “any means or contact” while knowing that the person is acting in the performance of official duties, they may be punished with up to 11 years in prison (with or without hard labor) and/or a \$6,000 fine.²⁸ “First responder” includes police, probation

¹⁸ 715 So. 2d 602, 602-03 (La. Ct. App. 1998).

¹⁹ 927 So. 2d 438, 439 (La. Ct. App. 2005).

²⁰ *Id.* at 441.

²¹ Matthew Pleasant, *Houma Man Accused of Attempted HIV Exposure*, DAILY COMET, June 21, 2009, available at <http://www.houmatoday.com/news/20090621/houma-man-accused-of-attempted-hiv-exposure>.

²² Michelle Hunter, *Metairie Woman Booked with Intentionally Exposing Man to AIDS Virus*, TIMES-PICAYUNE, Feb. 10, 2010, available at http://www.nola.com/crime/index.ssf/2010/02/metairie_woman_booked_with_int.html.

²³ *BRPD arrests man for intentionally spreading HIV/AIDS virus*, WAFB.COM (BATON ROUGE), June 17, 2015, available at <http://www.wafb.com/story/29342615/brpd-arrests-man-for-intentionally-spreading-hiv-aids-virus>.

²⁴ Michelle Hunter, *Harvey man booked with intentional AIDS exposure*, THE TIMES-PICAYUNE, Dec. 19, 2017, available at https://www.nola.com/crime/index.ssf/2017/12/harvey_man_booked_with_intenti.html.

²⁵ Raquel Derganz Baker, *Man accused of beating partner, exposing him to HIV*, WBRZ.COM, March 27, 2018, available at <http://www.wbrz.com/news/man-arrested-for-beating-exposing-partner-to-hiv>.

²⁶ Sylvia Masters, *New details released on man booked on 12 counts of intentional AIDS exposure*, KLFY.COM, June 12, 2018, available at <https://www.klfy.com/news/local/new-details-released-on-rayne-man-booked-monday-on-12-counts-intentional-aids-exposure/1234765454>.

²⁷ § 14:43.5(B), (E)(1) (2018) (emphasis added).

²⁸ § 14:43.5(C) (2018).

and parole officers, correctional employees, wildlife enforcement agents, emergency medical providers, and firefighters.²⁹ Neither the intent to transmit HIV nor actual transmission is required.³⁰

Under the terms of this statute, “means or contact” is not defined.”³¹ This statute thus presents the risk that incidental forms of exposure to saliva, urine, sweat, or other bodily substances posing absolutely no risk of HIV infection may result in criminal prosecution.

In *State v. Roberts*, for example, a PLHIV was convicted of intentionally exposing a woman to HIV after he raped and bit her.³² On appeal, the defendant argued that the state had failed to prove that (1) biting a person could expose that person to HIV, (2) the teeth of a PLHIV could be an “AIDS-contaminated” object, (3) his mouth contained saliva, and (4) his bite broke the victim’s skin.³³ The Court of Appeal of Louisiana rejected these arguments because the statute specifically noted biting to be an included offense.³⁴ The court did not consider that the Center for Disease Control (CDC) has long maintained that there exists only a remote possibility that HIV could be transmitted through a bite and such transmission would have to involve various aggravating factors, such as severe trauma, extensive tissue damage, and the presence of blood.³⁵ The CDC has also concluded that spitting alone does not transmit HIV.³⁶ Louisiana’s statute and its application ignore these scientific findings, leading to prosecutions for behavior that has at most a remote possibility of transmitting HIV.

Other spitting cases include:

- In 2013, a PLHIV was charged under the criminal exposure statute after spitting on a police officer.³⁷
- In 2014, a PLHIV was accused of intentional exposure after he was arrested for driving while intoxicated and allegedly spat on the prisoner next to him in the patrol car.³⁸ The charge was later dropped, but there were at least six other such arrests in East Baton Rouge Parish from 2005-2014 for spitting.³⁹

²⁹ § 14:43.5(D) (2018).

³⁰ See, e.g., *Roberts*, 844 So. 2d at 272; *Gamberella*, 633 So. 2d at 602.

³¹ Prior to the 2018 changes, “means or contact” was defined more narrowly as “spitting, biting, stabbing with an AIDS-contaminated object (e.g., a used needle), or throwing blood or other bodily substances.”

³² *Roberts*, 844 So. 2d at 265-69.

³³ *Id.* at 270-71.

³⁴ *Id.* at 271.

³⁵ CTR. FOR DISEASE CONTROL & PREVENTION, *HIV Risk Behaviors, Estimated Per-Act Probability of Acquiring HIV from an Infected Source, by Exposure Act*, (Dec. 4, 2015) available at <http://www.cdc.gov/hiv/policies/law/risk.html> (last visited July 30, 2018).

³⁶ CTR. FOR DISEASE CONTROL & PREVENTION, *HIV Transmission, Can I get HIV from being spit on or scratched by an HIV-infected person?* (July 23, 2018) available at <http://www.cdc.gov/hiv/basics/transmission.html> (last visited July 30, 2018.).

³⁷ Gerron Jordan, *Lake Charles man accused of intentional AIDS exposure*, KPLC, June, 19, 2013, available at <http://www.kplctv.com/story/22303105/lake-charles-man-accused-of-intentional-aids-exposure-by-spitting>.

³⁸ Daniel Bethencourt, *Little-known Louisiana law allows HIV-exposure arrests for spitting, but CDC says disease can't spread that way*, THE ADVOCATE, Nov. 10, 2014, available at http://www.theadvocate.com/baton_rouge/news/crime_police/article_024e2e9a-66a3-59ae-bfe7-c254efcb9653.html.

³⁹ *Id.*

- In December 2017, a 40-year-old PLHIV was arrested after he allegedly spit in an elderly woman's face.⁴⁰

Persons convicted under the State “intentional exposure to AIDS virus” law are required to register as sex offenders.⁴¹

Anyone who violates the “intentional exposure to AIDS virus” statute is considered a sex offender and must register and provide notification as such.⁴² Registered sex offenders are not eligible for diminished sentences for good behavior;⁴³ nor are they eligible for probation, parole, or suspension of sentence, except on condition that they be prohibited from any unsupervised business or volunteer work consisting of a “significant amount of direct contact with potential victims who are minor children.”⁴⁴ The Code of Louisiana does not define “potential victims.”

Attempted murder prosecutions have been used for intentional exposure to HIV.⁴⁵

PLHIV in Louisiana may be prosecuted for HIV exposure under general criminal laws, including attempted murder. In the past, these prosecutions have arisen from the rare and extreme cases where a person attempts to purposefully infect someone else with the virus. In *State v. Caine*,⁴⁶ a PLHIV was convicted of attempted second-degree murder after he allegedly stuck a store clerk with a syringe full of clear liquid and said, “I’ll give you AIDS.”⁴⁷ The syringe was never recovered, and it is not known whether the clear liquid contained HIV.⁴⁸ However, because of the defendant’s HIV status, pulling a needle out of his pocket while having “track marks” on his arm suggesting a history of drug use was sufficient for the Court of Appeal of Louisiana to find it likely that the needle was infected with HIV, and affirmed the defendant’s sentence of 50 years in prison at hard labor.⁴⁹

HIV status can affect the severity of a sentence upon conviction.

Sentencing courts sometimes see HIV status as a relevant consideration when measuring the impact of a crime on the victim.

⁴⁰ Bridge Mire, *Gibson man accused of exposing woman to AIDS*, HOUMATODAY.COM, Dec. 19, 2017, available at <http://www.houmatoday.com/news/20171219/gibson-man-accused-of-exposing-woman-to-aids>

⁴¹ The specific sex offender registration requirements are complex and numerous, and registration entails a number of specific restrictions, with criminal penalties for their violation. See LA. REV. STAT. ANN. §§ 15:542 – 15:553 (2018). Readers are encouraged to consult the Code of Louisiana for details.

⁴² LA. REV. STAT. ANN. §§ 15:536(A), 15:541(24)(a); 15:542(A)(1)(a) (2018).

⁴³ § 15:537(A) (2018).

⁴⁴ § 15:538. (2018).

⁴⁵ See *State v. Schmidt*, 771 So. 2d 131 (La. Ct. App. 2000), writ denied, 798 So. 2d 105 (La. 2001), cert. denied, 535 U.S. 905 (2002) (affirming the conviction of a Louisiana doctor to 50 years in prison at hard labor for injecting his ex-lover with HIV and Hepatitis C. The doctor extracted blood from two patients and transferred it to the woman, who believed she was getting an injection of a vitamin supplement. This case was not based on the doctor’s HIV status and as such is not reflective of prosecutions against PLHIV.); see also *State v. Schmidt*, 699 So. 2d 448 (La. Ct. App. 1997), writ denied, 706 So. 2d 451 (La. 1997) (denying writ application concerning two pre-trial evidentiary rulings regarding admissibility of DNA evidence); *Schmidt v. Hubert*, No. 05-2168, 2008 WL 4491467 (W.D. La. Oct. 6, 2008) (denying habeas corpus petition challenging conviction).

⁴⁶ 652 So. 2d 611 (La. Ct. App. 1995), writ denied, 661 So. 2d 1358 (La. 1995).

⁴⁷ *Id.* at 613.

⁴⁸ *Id.* at 616-17.

⁴⁹ *Id.*

In *State v. Richmond*,⁵⁰ the Court of Appeal of Louisiana rejected an argument from a PLHIV engaged in sex work that a five-year sentence was excessive for her conviction of a crime against nature by soliciting unnatural oral copulation for compensation.⁵¹ The court noted that a five-year sentence was harsh in light of no admitted evidence of past convictions, but the trial judge, with wide discretion on sentencing, supported the sentence by stating that the woman committed prostitution with knowledge of her HIV status and should be punished for the danger she posed to others “who are not ill right now, who can be protected.”⁵² The trial court compared the woman’s actions to imposing a death sentence for others “because of what [she carries] around inside [her] body.”⁵³ The Louisiana Court of Appeal affirmed the defendant’s sentence of five years in prison based in part on the fact she was currently serving two years of probation for a previous conviction for solicitation for oral sex.⁵⁴

The Louisiana Department of Health may assist the State in prosecuting PLHIV.

Although the results of HIV tests are generally kept confidential, medical information may be released upon court order or other discovery device.⁵⁵ The person whose medical records are requested is entitled to adequate notice to allow them to prepare a written or personal response, “unless there is a clear and imminent danger to an individual.”⁵⁶ No other procedural safeguards are explicitly in place, except for the provision that courts must, “weigh the compelling need for disclosure against the privacy interest of the protected individual and against the public interest which may not be served by disclosure which deters future testing or treatment or which may lead to discrimination,”⁵⁷ although there is no guidance for implementing that balancing test.

Persons with venereal disease may be subject to isolation or quarantine.⁵⁸

The department of public health has the authority to require people with a venereal disease to submit to treatment for such a time and under such restrictions as seem reasonable and proper to the department.⁵⁹ “Venereal diseases” are defined as “syphilis, gonorrhea, chancroid, or any other infectious disease primarily transmitted from one person to another by means of a sexual act.”⁶⁰ Additionally, the Louisiana Department of Health may quarantine or isolate anyone “suspected of being cases or carriers of a communicable disease, or who have been exposed to a communicable disease, and who in the opinion of the state health officer may cause serious threat to public health.”⁶¹ There are no procedural safeguards explicitly in place for “suspected carriers.”

⁵⁰ 708 So. 2d 1272 (La. Ct. App. 1998).

⁵¹ *Id.* at 1273.

⁵² *Id.* at 1275.

⁵³ *Id.*

⁵⁴ *Id.* at 1276.

⁵⁵ LA. ADMIN. CODE tit. 48 § 13505(G)(4) (2018).

⁵⁶ LA. ADMIN. CODE tit. 48 §§ 509(F), 13505(B) (2018).

⁵⁷ *Id.*

⁵⁸ LA. REV. STAT. ANN. § 40:1121.5 (2018).

⁵⁹ *Id.*

⁶⁰ § 40:1121.1 (2018).

⁶¹ LA. ADMIN. CODE tit. 51:II § 117 (2018).

Important note: *While we have made an effort to ensure that this information is current, the law is always changing and we cannot guarantee the accuracy of the information provided. This information may or may not be applicable to your specific situation and, as such, should not be used as a substitute for legal advice.*

Code of Louisiana

Note: Provisions imposing punitive restrictions or listing criminal sentences are denoted with ** and are generally listed first. Thereafter, provisions within a particular title are listed numerically.

TITLE 14, CRIMINAL LAW

LA. REV. STAT. ANN. § 14:43.5 (2018) **

Intentional exposure to HIV

(A) No person shall intentionally expose another to the human immunodeficiency virus (HIV) through sexual contact without the knowing and lawful consent of the victim, if at the time of the exposure the infected person knew he was HIV positive.

B) No person shall intentionally expose another to HIV through any means or contact without the knowing and lawful consent of the victim, if at the time of the exposure the infected person knew he was HIV positive.

.C) No person shall intentionally expose a first responder to HIV through any means or contact without the knowing and lawful consent of the first responder when the offender knows at the time of the offense that he is HIV positive, and has reasonable grounds to believe the victim is a first responder acting in the performance of his duty.

(D) For purposes of this Section,

“first responder” includes a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, and probation and parole officer, any licensed emergency medical services practitioner as defined by [R.S. 40:1131](#), and any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state or any volunteer firefighter of the state.

(E)

(1) Whoever commits the crime of intentional exposure to HIV shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than ten years, or both.

.2) Whoever commits the crime of intentional exposure to HIV against a first responder shall be fined not more than six thousand dollars, imprisoned with or without hard labor for not more than eleven years, or both.

(F)

(1) It is an affirmative defense, if proven by a preponderance of the evidence, that the person exposed to HIV knew the infected person was infected with HIV, knew the action could result in infection with HIV, and gave consent to the action with that knowledge.

(2) It is also an affirmative defense that the transfer of bodily fluid, tissue, or organs occurred after advice from a licensed physician that the accused was noninfectious, and the accused disclosed his HIV-positive status to the victim.

(3) It is also an affirmative defense that the HIV-positive person disclosed his HIV-positive status to the victim, and took practical means to prevent transmission as advised by a physician or other healthcare provider or is a healthcare provider who was following professionally accepted infection control procedures.

LA. REV. STAT. ANN. § 14:10 (2018)

Criminal intent

Criminal intent may be specific or general:

(1) Specific criminal intent is that state of mind which exists when the circumstances indicate that the offender actively desired the prescribed criminal consequences to follow his act or failure to act.

(2) General Criminal intent is present whenever there is specific intent, and also when the circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act.

LA. REV. STAT. ANN. § 14:11 (2018)

Criminal Intent; how expressed

The definitions of some crimes require a specific criminal intent, while in others no intent is required. Some crimes consist merely of criminal negligence that produces criminal consequences. However, in the absence of qualifying provisions, the terms “intent” and “intentional” have reference to “general criminal intent.”

TITLE 15, CRIMINAL PROCEDURE

LA. REV. STAT. ANN. § 15:536 (2018)

Definitions

(A) For purposes of this Chapter, “sexual offender” means a person who has violated R.S. 14:89 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:93.5 (sexual battery of the persons with infirmities), or any provision of Subpart C or Part II, or Subpart A(1) of Part V, of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950.

LA. REV. STAT. ANN. § 15:537 (2018)

Sentencing of sexual offenders; serial sexual offenders

(A) If a person is convicted of or pleads guilty to, or where adjudication has been deferred or withheld for a violation of R.S. 14:78 (incest), R.S. 14:78.1 (aggravated incest), R.S. 14:80 (felony carnal knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:89 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:93.5 (sexual battery of persons with infirmities), or any provision of Subpart C of Part II of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, and is sentenced to imprisonment for a stated number of years or months, the person shall not be eligible for diminution of sentence for good behavior.

LA. REV. STAT. ANN. § 15:538 (2018)

Conditions of probation, parole, and suspension or diminution of sentence.

(B) No sexual offender shall be eligible for probation, parole, or suspension of sentence unless, as a condition thereof, the sexual offender is prohibited from engaging in any unsupervised business or volunteer work activity which provides goods, services, instruction, or care to and requires the offender to engage in a significant amount of direct contact with potential victims who are minor children.

LA. REV. STAT. ANN. § 15:541 (2018)

Definitions.

For the purposes of this Chapter, the definitions of terms in this Section shall apply:

(3) “Bureau” means the Louisiana Bureau of Criminal Identification and Information as established in Chapter 6 of this Title.

(24)

(a) “Sex offense” means deferred adjudication, adjudication withheld, or conviction for the perpetration of or conspiracy to commit human trafficking when prosecuted under the provisions of R.S. 14:46.2(B)(2), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:89 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:89.2(B)(3) (crime against nature by solicitation), R.S. 14:80 (felony carnal knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:81.4 (prohibited sexual conduct between an educator and student), R.S. 14:82.1 (prostitution; persons under eighteen), R.S. 14:82.2(C)(4) and (5) (persons with infirmities), R.S. 14:92(A)(7) (contributing to the delinquency of juveniles), R.S. 14:93.5 (sexual battery of persons with infirmities), R.S. 14:106(A)(5) (obscenity by solicitation of a person under the age of seventeen), R.S. 14:283 (video voyeurism), R.S. 14:41 (rape), R.S. 14:42 (aggravated or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43 (simple or third degree rape), R.S. 14:43.1 (sexual battery), R.S. 14:43.2 (second degree sexual battery), R.S. 14:43.3 (oral sexual battery), R.S. 14:43.5 (intentional exposure to AIDS virus), or a second or subsequent conviction of R.S. 14:283.1 (voyeurism), committed on or after June 18, 1992. A conviction for any offense provided in this definition includes a conviction for the offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to an offense provided for in this Chapter, unless the tribal court or foreign conviction was not obtained with sufficient safeguards for fundamental fairness and due process for the accused as provided by the federal guidelines adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

TITLE 40, PUBLIC HEALTH AND SAFETY

LA. REV. STAT. ANN. § 40:1121.1 (2018)

Definition

In this Subpart, “venereal disease” means syphilis, gonorrhea, chancroid, or any other infectious disease primarily transmitted from one person to another by means of a sexual act.

LA. REV. STAT. ANN. § 40:1121.2 (2018) **

Infection of others prohibited

It is unlawful for any person to inoculate or infect another person in any manner with a venereal disease or to do any act which will expose another to inoculation or infection with a venereal disease.

LA. REV. STAT. ANN. § 40:1121.4 (2018)

Examination of persons suspected of being infected.

The Department of Health and Hospitals, hereinafter referred to as the "department," through an authorized medical representative appointed for that purpose, may give a physical examination to any person suspected of being infected with a venereal disease. The examination shall be given under conditions thought reasonable by the department. No person shall fail or refuse to submit to this examination.

LA. REV. STAT. ANN. § 40:1121.5 (2018)

Isolation, quarantine, or internment of persons affected.

Any person affected with a venereal disease is subject to isolation, quarantine, or internment, on the order of the department, and shall submit to any treatment for such a time and under such restrictions as seems reasonable and proper to the department.

LA. REV. STAT. ANN. § 40:1121.10 (2018)

Rules and regulations.

The secretary of the Department of Health and Hospitals shall make all necessary rules and regulations for the carrying out of the purposes of this Subpart. These rules and regulations shall be printed in pamphlet or folder form in sufficient numbers for free distribution among physicians, sanitariums, and the general public.

LA. REV. STAT. ANN. § 40:1121.11 (2018) **

Penalty.

Whoever violates any provision of this Subpart or any rule or regulation made hereunder shall, for the first offense, be fined not less than ten dollars nor more than two hundred dollars. For the second offense, he shall be fined not less than twenty-five dollars nor more than four hundred dollars. For each subsequent offense, he shall be fined not less than fifty dollars nor more than five hundred dollars or imprisoned for not less than ten days nor more than six months, or both.

Administrative Code

TITLE 48, PUBLIC HEALTH – GENERAL

LA. ADMIN. CODE TIT. 48 § 509 (2018)

Disclosures without the Patient's Consent

(F) Disclosures Pursuant to Court Orders and Subpoenas. Nothing in these rules in [sic] intended to impede the disclosure of medical information pursuant to an order of a court of competent jurisdiction, a

subpoena, or other discovery device including, but not limited to, interrogatories, depositions, requests for production, and requests for admissions, where a patient's condition is at issue in or relevant to a judicial proceeding. The superintendent shall take reasonable measures to ascertain whether a patient's condition is at issue or relevant before disclosure is made.

LA. ADMIN. CODE TIT. 48 § 13505 (2018)

Disclosures of HIV-Related Test Results

(B) Disclosure of HIV Test Results without the Subject's Consent. HIV test results may be released to the following entities without authorization from the subject (or the person authorized by law to consent to health care for the subject);

(6) to a federal, state, parish, or local health officer when the disclosure is mandated by federal or state law;

(8) to any person to whom disclosure is ordered by a court of competent jurisdiction;

(9) to an employee or agent of the Board of Parole of the Department of Public Safety and Corrections (or of its office of parole) to the extent the employee or agent is authorized to access records containing HIV test results;

(G) Court Authorization for Disclosure of Confidential HIV Test Results

(1) Only a court of competent jurisdiction shall issue and [sic] order for the disclosure of confidential HIV test results.

(2) A court may grant an order for disclosure if:

(a) there is a compelling need for adjudication;

(b) there is clear and imminent danger to the individual;

(c) there is clear and imminent danger to the public health;

(d) the applicant is lawfully entitled to the disclosure

(3) The court order authorizing disclosure shall direct communications to be sealed and shall direct further proceedings to be conducted in camera so as to protect the subject's confidentiality.

(4) Adequate notice shall be given to those from whom disclosure is requested to allow them to prepare a written or personal response unless there is a clear and imminent danger to an individual. A court must weigh the compelling need for disclosure against the privacy interest of the protected individual and against the public interest which may not be served by disclosure which deters future testing or treatment or which may lead to discrimination.

TITLE 51, PUBLIC HEALTH – SANITARY CODE

LA. ADMIN. CODE TIT. 51:II § 101 (2018)

Definitions

(A) Unless otherwise specifically provided herein, the following words and terms used in this Part and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

Communicable Disease--an illness due to a specific infectious agent or its toxic products, which arises through transmission of that agent or its products from a reservoir to susceptible host, either directly as from an infected person or animals, or indirectly through the agency of an intermediate plant or animal host, a vector or the inanimate environment.

Contact--any person who has been in such association with an infected person or animal or with a contaminated environment as to have had opportunity to acquire the infection.

Isolation--the separation for the period of communicability of infected persons from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent from infected persons to persons who are susceptible or who may spread the agent to others.

Quarantine--the limitation of freedom of movement of such well persons or domestic animals as have been exposed to a communicable disease for a period of time equal to the longest usual incubation period of the disease, in such manner as to prevent effective contact with those not so exposed.

LA. ADMIN. CODE TIT. 51:II § 117 (2018)

Disease Control Measures Including Isolation/Quarantine

(A) Individuals suspected of being cases or carriers of a communicable disease, or who have been exposed to a communicable disease, and who in the opinion of the state health officer may cause serious threat to public health, shall either submit to examination by a physician and to the collection of appropriate specimens as may be necessary or desirable in ascertaining the infectious status of the individual, or be placed in isolation or under quarantine as long as his or her status remains undetermined. Specimens collected in compliance with this Section shall be examined either by a state laboratory free of charge or by a laboratory approved by the state health officer at the individual's own expense.

(B) It shall be the duty of the state health officer or his or her duly authorized representative to promptly institute necessary control measures whenever a case of communicable disease occurs.

(C) The state health officer or his or her duly authorized representative is hereby empowered and it is made his or her duty, whenever a case of communicable disease occurs in any household or place, and it is in his or her opinion, necessary or advisable that persons residing therein shall be kept from contact with the public, to declare the house, building, apartment, room, or place where the case occurs, a place of quarantine, and to require that only persons so authorized by the state health officer shall leave or enter said quarantined place during the period of quarantine.

(E) It is a violation of this code for any person to enter or leave any quarantined area in the state of Louisiana, or to enter from any quarantined area without the state of Louisiana except by permission of the state health officer.

(F) No person shall interfere with, conceal, mutilate or tear down any notices or placard placed on any house, building, or premises by the state health officer. Such placards shall be removed only on authority of the state health officer.

(G) Whenever in the judgment of the state health officer, it is necessary to protect the public health against a serious health hazard, the state health officer may take complete charge of any case of communicable disease occurring therein and may carry on such measures to prevent its spread as he or she may believe necessary and as are provided for by this Code.