

Virginia

Analysis

Virginia criminalizes a broad range of sexual activities where a person living with HIV (PLHIV) acts with the “intent” to transmit disease.

Virginia criminalizes oral sex, anal sex, and vaginal sex for PLHIV in a range of situations.¹ PLHIV who know their HIV status and engage in these activities with the intent to transmit disease to another person are guilty of a Class 6 felony, punishable by up to five years of prison or a fine of up to \$2,500 with up to a year in jail.²

To convict someone under this provision, the prosecution must prove that the defendant engaged in the sexual activity with the specific intent to transmit HIV.³ Actual transmission of HIV is not a required element of the offense. Hypothetically, an individual could disclose their HIV status to a partner but still be prosecuted under the felony provision if there were evidence to suggest that the individual intended to transmit HIV.

PLHIV must disclose their HIV status to a partner before engaging in certain sexual activities.

Even if a PLHIV has no intent to transmit disease, failure to disclose their HIV status prior to oral sex, anal sex, or vaginal sex is a Class 1 misdemeanor.⁴ A Class 1 misdemeanor carries a penalty of confinement in jail for up to 12 months and/or a fine of up to \$2,500.⁵ The misdemeanor provision of Virginia’s HIV exposure statute requires the prosecution to demonstrate that the individual did not disclose their HIV status.⁶ However, it is often challenging for a defendant to prove that disclosure did occur in response to an allegation that it did not because the relevant evidence is normally limited to the conflicting testimony of the defendant and the complainant.

Both the felony and misdemeanor provisions of the statute penalize conduct that involves negligible risk of HIV transmission—the Centers for Disease Control classifies both receptive and insertive oral sex as posing a “low” risk of transmission.⁷ Moreover, the statute does not provide for consideration of a

¹ VA. CODE ANN. § 18.2-67.4:1 (2016).

² VA. CODE ANN. §§ 18.2-67.4:1(A), 18.2-10(f) (2016).

³ VA. CODE ANN. § 18.2-67.4:1(A) (2016).

⁴ VA. CODE ANN. § 18.2-67.4:1(B) (2016).

⁵ VA. CODE ANN. § 18.2-11(a) (2016).

⁶ VA. CODE ANN. § 18.2-67.4:1(B) (2016).

⁷ CTR. FOR DISEASE CONTROL & PREVENTION, *HIV Transmission Risk, Estimated Per-Act Probability of Acquiring HIV from an Infected Source, by Exposure Act* (Dec. 4, 2015), available at <http://www.cdc.gov/hiv/risk/estimates/riskbehaviors.html> (last visited Nov. 30, 2016).

defendant's use of a condom or a defendant's low viral load, both of which can significantly reduce the risk of HIV transmission.

Prosecutions of PLHIV under Virginia's HIV statute include:

- In December 2015, a 28-year old HIV man living with HIV was convicted of infected sexual battery for having sex with a woman without disclosing his HIV status.⁸ He was sentenced to one year in prison.⁹ The conviction was ultimately dismissed, however, due to a one-year statute of limitations for misdemeanors.¹⁰
- In July 2012, a 56-year-old PLHIV was charged with infected sexual battery for failing to disclose his HIV status prior to engaging in unprotected sexual intercourse with his then-fiancée.¹¹
- In December 2011, a 52-year-old PLHIV pled guilty to carnal knowledge of a minor and engaging in sexual intercourse without disclosing his HIV status prior to having sex with a 14-year-old girl.¹² The second charge was reduced from a felony to a misdemeanor because there was no evidence the defendant intended to transmit HIV to the girl.¹³ The man was sentenced to seven years in prison for the two charges.¹⁴
- In October 2010, an PLHIV was charged with felony infected sexual battery for allegedly trying to infect two women with HIV.¹⁵
- In June 2010, a 45-year-old PLHIV pled guilty to misdemeanor prostitution before standing trial for an additional infected sexual battery charge.¹⁶ She was convicted of the lesser misdemeanor offense after the judge found that she did not intend to transmit HIV when she agreed to have sex with two undercover police officers.¹⁷

Virginia criminalizes the donation or sale of blood, bodily fluids, tissue, and organs by PLHIV.

A person who donates or sells, attempts to donate or sell, or consents to donate or sell, blood, other bodily fluids, organs and tissues with the knowledge that the donor is/was infected HIV, may be

⁸ Vernon Freeman, Jr., *Judge dismisses charges against HIV positive man who didn't tell partners*, WTVR.COM, January 12, 2016, available at <http://wtvr.com/2016/01/12/judge-dismisses-charges-against-hiv-positive-man-who-didnt-tell-partners/>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Catie Beck, *Man charged with not telling sexual partner about STD*, WTVR.COM, July 30, 2012, available at <http://wtvr.com/2012/07/30/man-charged-with-not-telling-sexual-partner-about-std/>.

¹² Mark Bowes, *HIV-infected man given 7 years for sex with teen*, TIMES DISPATCH, Jan. 29, 2013, available at http://www.timesdispatch.com/news/hiv-infected-man-given-years-for-sex-with-teen/article_5628bc75-51c7-582b-bc8d-91874b443585.html?mode=jgm.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Man Accused of Infecting Women with HIV*, WTVR.COM CLIP SYNDICATE, Oct. 15, 2010, available at <http://www.clipsyndicate.com/video/play/1757927/man-accused-of-infecting-women-with-hiv>.

¹⁶ Jen McCaffery, *Va. Beach woman guilty of not disclosing HIV*, PILOT ONLINE.COM, June 10, 2010, available at <http://hamptonroads.com/2010/06/va-beach-woman-guilty-not-disclosing-hiv>.

¹⁷ *Id.*

punished with a Class 6 felony.¹⁸ However, the individual must have been instructed that blood, bodily fluids, organs, or tissues may transmit infection.¹⁹

PLHIV can be prosecuted under general criminal laws for HIV exposure.

Virginia has also prosecuted PLHIV for malicious or unlawful wounding, which is the shooting, stabbing, cutting or wounding of a person with the intent to “maim, disfigure, disable, or kill” that person.²⁰ If the person does so with malice, it is a Class 3 felony—otherwise, it is a Class 6 Felony.²¹ In April 2016, a 49-year-old HIV woman living with HIV was convicted of unlawful wounding after she bit her sister, whom prosecutors argued she was trying to infect with HIV.²² In a 1997 case, the defendant was convicted of malicious wounding after allegedly biting a store employee and breaking his skin following a shoplifting incident.²³ In affirming his conviction, the appellate court found that the defendant’s biting of the employee supported the inference that the defendant “intended to infect [him] with AIDS, a deadly disease” which satisfied the requisite statutory element of malicious intent.²⁴

PLHIV can be subjected to isolation.

The State Health Commissioner retains authority to mandate quarantine, isolation or treatment if such measures are determined necessary to “control the spread of any disease of public health importance.”²⁵ The Commissioner also has specifically enumerated authority to impose isolation for a “communicable disease of public health significance”²⁶ which is explicitly defined as including HIV.²⁷

If the Commissioner receives at least two reports or other medical evidence that a person with a communicable disease of public health significance is engaging in at-risk behavior, they may initiate an investigation.²⁸ At-risk behavior means a person has been informed that they are infected with a communicable disease of public health significance, is engaged in activities they know may transmit disease to others, and is not taking “appropriate precautions to protect the health of other persons.”²⁹ Upon a finding that a person is engaged in at-risk behavior, the Commissioner may order the person to report to the local health department to receive counseling on “the etiology, effects and prevention of the specific disease of public health significance.”³⁰

If a person persists in at-risk behavior in spite of counseling, the Commissioner may petition the general district court of the county or city where the person lives to order that the person appear before the

¹⁸ VA. CODE ANN. § 32.1-289.2 (2016).

¹⁹ *Id.*

²⁰ VA. CODE ANN. § 18.2-51 (2016).

²¹ *Id.*

²² Jonathan Edwards, *Woman with HIV convicted of biting sister during fight*, PILOTONLINE.COM, April 13, 2016, available at http://pilotonline.com/news/local/crime/woman-with-hiv-convicted-of-biting-sister-during-fight/article_fec896f4-aa0d-5c12-8b05-e07b8df24cec.html.

²³ *Hall v. Commonwealth*, 1997 Va. App. Lexis 782, (Va. Ct. App. 1997) (not for publication).

²⁴ *Id.* at *2, *6.

²⁵ VA. CODE ANN. § 32.1-43 (2016).

²⁶ VA. CODE ANN. § 32.1-48.04 (2016).

²⁷ VA. CODE ANN. § 32.1-48.01 (2016).

²⁸ VA. CODE ANN. § 32.1-48.02 (A) (2016).

²⁹ VA. CODE ANN. § 32.1-48.01 (2016).

³⁰ VA. CODE ANN. § 32.1-48.02(B) (2016).

court to determine “whether isolation is necessary to protect the public health.”³¹ If is not possible to conveniently bring the person before the court, a temporary detention order may be issued—confinement may not occur in a jail and must not exceed 48 hours prior to a hearing.³² Any person ordered to appear before the court must also be informed of their right to counsel and will be appointed counsel by the court if necessary.³³

The court will issue an isolation order if it makes the following findings: 1) the person is infected with a communicable disease of public health significance; 2) the person is engaging in at-risk behavior; 3) the person has demonstrated an intentional disregard for the health of the public by engaging in behavior which has placed others at risk for infection and; 4) there is no other reasonable alternative means of reducing the risk to public health.³⁴ An isolation order may not exceed 120 days and may include additional requirements, such as participation in counseling.³⁵ A person subject to an isolation order has a right to appeal the order to the circuit court in which they reside. The appeal must be filed within 30 days of the order’s issuance and is heard by the circuit court de novo.³⁶ An order continuing the isolation is only granted if the above conditions are met.³⁷ As in the initial isolation hearing, the person under restriction has a right to counsel and will be appointed counsel by the court if necessary.³⁸

Persons convicted of certain crimes are required to undergo testing for HIV.

Persons convicted of certain crimes, including prostitution,³⁹ crimes against nature,⁴⁰ and some drug offenses⁴¹ if they involve sale, possession, or use of controlled substances for intravenous use or injection equipment, are required to be tested for HIV and hepatitis C.⁴² The information is intended to be used only to “protect the health and safety of individuals and the public in conformance with the regulations concerning patient privacy”⁴³ and is not admissible in any criminal proceeding related to drug use or prostitution.⁴⁴ However, it is not clear whether the information could be used in other kinds of prosecutions, such as proceedings against a PLHIV accused of sexual battery. Additionally, the Health Commissioner is authorized to release medical records if “pertinent to an investigation, research or study.”⁴⁵ The scope of these terms is not defined and it is unclear whether the Commissioner would have the discretion to release medical information to facilitate or support prosecution.

³¹ VA. CODE ANN. § 32.1-48.03(A) (2016).

³² VA. CODE ANN. § 32.1-48.03(B) (2016).

³³ VA. CODE ANN. § 32.1-48.03 (C) (2016).

³⁴ VA. CODE ANN. § 32.1-48.04(B) (2016).

³⁵ VA. CODE ANN. § 32.1-48.04(C) (2016).

³⁶ VA. CODE ANN. § 32.1-48.04(D) (2016).

³⁷ *Id.*

³⁸ *Id.*

³⁹ VA. CODE ANN. § 18.2-346 (2016).

⁴⁰ VA. CODE ANN. § 18.2-361 (2016).

⁴¹ VA. CODE ANN. §§ 18.2-265.1, 18.2-247 (2016).

⁴² VA. CODE ANN. §§ 18.2-346.1(A), 32.1-58 (2016) (2016).

⁴³ VA. CODE ANN. § 18.2-346.1(C) (2016).

⁴⁴ VA. CODE ANN. § 18.2-346.1(D) (2016).

⁴⁵ VA. CODE ANN. § 32.1-41 (2016).

A person who violates an order of the Health Commissioner may be punished.

Anyone who willfully violates, refuses, fails or neglects to comply with an order of the Health Commissioner is guilty of a Class 1 misdemeanor unless otherwise specified, punishable by up to year in jail and/or a fine of up to \$2,500.⁴⁶ A person refusing to comply with such an order may be compelled to obey through a proceeding in a court that may issue an injunction, mandamus, or other appropriate remedy.⁴⁷ Refusing to obey an injunction, mandamus or other remedy issued by a court can subject a defendant to a civil penalty of up to \$25,000.

A person with syphilis or hepatitis B may be prosecuted for engaging in certain sexual activities with the “intent” to transmit disease or after having failed to disclose their status.

The same statute criminalizing certain sexual conduct for a person with HIV who acts with the intention to transmit disease or fails to disclose their status also applies to syphilis and hepatitis B.⁴⁸

As above, a person with syphilis or hepatitis B who has oral sex, vaginal sex, or anal sex with the “intent to transmit the infection to another person” is guilty of a Class 6 felony, punishable by up to five years of prison or a fine of up to \$2,500 with up to a year in jail.⁴⁹ Engaging in one of these activities while infected with syphilis or hepatitis B without disclosing the existence of infection beforehand is a Class 1 misdemeanor, punishable by up to year in jail and/or a fine of up to \$2,500.⁵⁰

The same issues raised above apply to these health conditions—it is unclear what role, if any, disclosure would play for a felony intent-to-transmit charge. The statute also fails to address factors such as the use of a condom or level of infectiousness and whether or how they could operate as an affirmative defense to prosecution.

A person with an STI may be compelled to undergo mandatory examination or treatment.

A local health officer may direct a person infected with venereal disease—defined as syphilis, gonorrhea, chancroid, granuloma inguinale, lymphogranuloma venereum and any other sexually transmittable disease determined by the Board to be dangerous to the public health⁵¹—to undergo examination, testing, or treatment.⁵² Should a person infected with one of these conditions refuse to submit to examination, testing, treatment, or to continue treatment until cured, the health officer may petition an appropriate circuit court for an order compelling compliance.⁵³ Willful failure to obey such an order is punishable as for contempt of court.⁵⁴

⁴⁶ VA. CODE ANN. §§ 32.1-27(A), 18.2-11(a) (2016).

⁴⁷ VA. CODE ANN. §§ 32.1-27(B) (2016).

⁴⁸ VA. CODE ANN. § 18.2-67.4:1 (2016).

⁴⁹ VA. CODE ANN. §§ 18.2-67.4:1(A), 18.2-10(f) (2016).

⁵⁰ VA. CODE ANN. §§ 18.2-67.4:1 (B), 18.2-11(a) (2016).

⁵¹ VA. CODE ANN. § 32.1-55 (2016).

⁵² VA. CODE ANN. § 32.1-57(A) (2016).

⁵³ VA. CODE ANN. § 32.1-57(B) (2016)

⁵⁴ *Id.*

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, it should not be used as a substitute for legal advice.

Code of Virginia

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 18.2, CRIMES AND OFFENSES GENERALLY

VA. CODE ANN. § 18.2-67.4:1 (2016) **

Infected sexual battery; penalty

A. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, analingus or anal intercourse with the intent to transmit the infection to another person is guilty of a Class 6 felony.

B. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, analingus or anal intercourse with another person without having previously disclosed the existence of his infection to the other person is guilty of a Class 1 misdemeanor.

C. “HIV” means the human immunodeficiency virus or any other related virus that causes acquired immunodeficiency syndrome (AIDS).

Nothing in this section shall prevent the prosecution of any other crime against persons under Chapter 4 (§ 18.2-30 et seq.) of this title. Any person charged with a violation of this section alleging he is infected with HIV shall be subject to the testing provisions of § 18.2-62.

VA. CODE ANN. § 18.2-10 (2016) **

Punishment for conviction of felony; penalty

The authorized punishments for conviction of a felony are:

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

VA. CODE ANN. § 18.2-11 (2016) **

Punishment for conviction of misdemeanor

The authorized punishments for conviction of a misdemeanor are:

(a) For Class 1 misdemeanor, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.

TITLE 32.1, HEALTH

VA. CODE ANN. § 32.1-289.2 (2016) **

Donation or sale of blood, body fluids, organs and tissues by persons infected with human immunodeficiency virus

Any person who donates or sells, who attempts to donate or sell, or who consents to the donation or sale of blood, other body fluids, organs and tissues, knowing that the donor is, or was, infected with human immunodeficiency virus, and who has been instructed that such blood, body fluids, organs or tissues may transmit the infection, shall be guilty, upon conviction, of a Class 6 felony.

This section shall not be construed to prohibit the donation of infected blood, other body fluids, organs and tissues for use in medical or scientific research.

VA. CODE ANN. §18.2-346.1 (2016)

Testing of convicted prostitutes and injection drugs users for infection with human immunodeficiency viruses and hepatitis C; limited disclosure

A. As soon as practicable following conviction of any person for violation of § 18.2-346 or 18.2-361, or any violation of Article 1 (§ 18.2-247 et seq.) or 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 involving the possession, sale, or use of a controlled substance in a form amenable to intravenous use; or the possession, sale, or use of hypodermic syringes, needles, or other objects designed or intended for use in parenterally injecting controlled substances into the human body, such person shall be required to submit to testing for infection with human immunodeficiency viruses and hepatitis C. The convicted person shall receive counseling from personnel of the Department of Health concerning (i) the meaning of the test, (ii) acquired immunodeficiency syndrome and hepatitis C, and (iii) the transmission and prevention of infection with human immunodeficiency viruses and hepatitis

C. . . .

Such protected health information shall only be used to protect the health and safety of individuals and the public in conformance with the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, as such regulations may be amended.

D. The results of the tests shall not be admissible in any criminal proceeding related to prostitution or drug use.

TITLE 32.1, HEALTH

VA. CODE ANN. § 32.1-27 (2016) **

Penalties, injunctions, civil penalties and charges for violations

A. Any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the Board or Commissioner or any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.

B. Any person violating or failing, neglecting, or refusing to obey any lawful regulation or order of the Board or Commissioner or any provision of this title may be compelled in a proceeding instituted in an appropriate court by the Board or Commissioner to obey such regulation, order or provision of this title

and to comply therewith by injunction, mandamus, or other appropriate remedy or, pursuant to § 32.1-27.1, imposition of a civil penalty or appointment of a receiver.

C. Without limiting the remedies which may be obtained in subsection B of this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection B shall be subject, in the discretion of the court, to a civil penalty not to exceed \$ 25,000 for each violation, which shall be paid to the general fund, except that civil penalties for environmental pollution shall be paid into the state treasury and credited to the Water Supply Assistance Grant Fund created pursuant to § 32.1-171.2. Each day of violation shall constitute a separate offense.

VA. CODE ANN. § 32.1-41 (2016)

Anonymity of patients and practitioners to be preserved in use of medical records

The Commissioner or his designee shall preserve the anonymity of each patient and practitioner of the healing arts whose records are examined pursuant to § 32.1-40 except that the Commissioner, in his sole discretion, may divulge the identity of such patients and practitioners if pertinent to an investigation, research or study. Any person to whom such identities are divulged shall preserve their anonymity.

VA. CODE ANN. § 32.1-43 (2016)

Authority of State Health Commissioner to require quarantine, etc.

The State Health Commissioner shall have the authority to require quarantine, isolation, immunization, decontamination, or treatment of any individual or group of individuals when he determines any such measure to be necessary to control the spread of any disease of public health importance and the authority to issue orders of isolation pursuant to Article 3.01 (§ 32.1-48.01 et seq.) of this chapter and orders of quarantine and orders of isolation under exceptional circumstances involving any communicable disease of public health threat pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter.

VA. CODE ANN. § 32.1-48.01 (2016)

Definitions

As used in this article, unless the context requires a different meaning:

"At-risk behavior" means engaging in acts which a person, who has been informed that he is infected with a communicable disease of public health significance, knows may infect other persons without taking appropriate precautions to protect the health of the other persons.

"Communicable disease of public health significance" means an illness of public health significance, as determined by the State Health Commissioner, caused by a specific or suspected infectious agent that may be transmitted directly or indirectly from one individual to another.

"Communicable disease of public health significance" shall include, but may not be limited to, infections caused by human immunodeficiency viruses, blood-borne pathogens, and tubercle bacillus. The State Health Commissioner may determine that diseases caused by other pathogens constitute communicable diseases of public health significance. Further, "a communicable disease of public health significance" shall become a "communicable disease of public health threat" upon the finding of

the State Health Commissioner of exceptional circumstances pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter

VA. CODE ANN. § 32.1-48.02 (2016)

Investigations of verified reports or medical evidence; counseling; outpatient and emergency treatment orders; custody upon emergency order; application of article.

A. Upon receiving at least two verified reports or upon receiving medical evidence that any person who is reputed to know that he is infected with a communicable disease of public health significance is engaging in at-risk behavior, the Commissioner or his designee may conduct an investigation through an examination of the records of the Department and other medical records to determine the disease status of the individual and that there is cause to believe he is engaging in at-risk behavior.

B. If the investigation indicates that the person has a communicable disease of public health significance caused by a non-airborne microorganism and that there is cause to believe he is engaging in at-risk behavior, the Commissioner or his designee may issue an order for such person to report to the local or district health department in the jurisdiction in which he resides to receive counseling on the etiology, effects and prevention of the specific disease of public health significance. The person conducting the counseling shall prepare and submit a report to the Commissioner or his designee on the counseling session or sessions in which he shall document that the person so counseled has been informed about the acts that constitute at-risk behavior, appropriate precautions, and the need to use appropriate precautions. The counselor shall also report any statements indicating the intentions or understanding of the person so counseled.

VA. CODE ANN. § 32.1-48.03 (2016)

Petition or hearing; temporary detention

A. Upon receiving a verified report or upon receiving medical evidence that any person who has been counseled pursuant to § 32.1-48.02 has continued to engage in at-risk behavior, the Commissioner or his designee may petition the general district court of the county or city in which such person resides to order the person to appear before the court to determine whether isolation is necessary to protect the public health from the risk of infection with a communicable disease of public health significance.

B. If such person cannot be conveniently brought before the court, the court may issue an order of temporary detention. The officer executing the order of temporary detention shall order such person to remain confined in his home or another's residence or in some convenient and willing institution or other willing place for a period not to exceed 48 hours prior to a hearing. An electronic device may be used to enforce such detention in the person's home or another's residence. The institution or other place of temporary detention shall not include a jail or other place of confinement for persons charged with criminal offenses.

If the specified 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, such person may be detained until the next day which is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

C. Any person ordered to appear before the court pursuant to this section shall be informed of his right to be represented by counsel. The court shall provide the person with reasonable opportunity to employ counsel at his own expense, if so requested. If the person is not represented by counsel, the court shall

appoint an attorney-at-law to represent him. Counsel so appointed shall be paid a fee of \$ 75 and his necessary expenses.

VA. CODE ANN. § 32.1-48.04 (2016)

Isolation hearing; conditions; order for isolation; right to appeal

A. The isolation hearing shall be held within 48 hours of the execution of any temporary detention order issued or, if the 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the isolation hearing shall be the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

Prior to the hearing, the court shall fully inform the person who is infected with the communicable disease of public health significance of the basis for his detention, if any, the basis upon which he may be isolated, and the right of appeal of its decision.

B. An order for isolation in the person's home or another's residence or an institution or other place, including a jail when no other reasonable alternative is available, may be issued upon a finding by the court that the following conditions are met:

1. The person is infected with a communicable disease of public health significance.
2. The person is engaging in at-risk behavior.
3. The person has demonstrated an intentional disregard for the health of the public by engaging in behavior which has placed others at risk for infection with the communicable disease of public health significance.
4. There is no other reasonable alternative means of reducing the risk to public health.

C. Any order for isolation in the person's home or another's residence or an institution or other place shall be valid for no more than 120 days, or for a shorter period of time if the Commissioner or his designee, or the court upon petition, determines that the person no longer poses a substantial threat to the health of others. Orders for isolation in the person's home or another's residence may be enforced through the use of electronic devices. Orders for isolation may include additional requirements such as participation in counseling or education programs. The court may, upon finding that the person no longer poses a substantial threat to the health of others, issue an order solely for participation in counseling or educational programs.

D. Isolation orders shall not be renewed without affording the person all rights conferred in this article.

Any person under an isolation order pursuant to this section shall have the right to appeal such order to the circuit court in the jurisdiction in which he resides. Such appeal shall be filed within 30 days from the date of the order. Notwithstanding the provisions of § 19.2-241 relating to the time within which the court shall set criminal cases for trial, any appeal of an isolation order shall be given priority over all other pending matters before the court, except those matters under appeal pursuant to § 37.2-821, and shall be heard as soon possible by the court. The clerk of the court from which an appeal is taken shall immediately transmit the record to the clerk of the appellate court.

The appeal shall be heard de novo. An order continuing the isolation shall only be entered if the conditions set forth in subsection B are met at the time the appeal is heard.

If the person under an isolation order is not represented by counsel, the judge shall appoint an attorney-at-law to represent him. Counsel so appointed shall be paid a fee of \$ 150 and his necessary expenses. The order of the court from which the appeal is taken shall be defended by the attorney for the Commonwealth.

VA. CODE ANN. § 32.1-55 (2016)

Definition

As used in this article, "venereal disease" includes syphilis, gonorrhea, chancroid, granuloma inguinale, lymphogranuloma venereum and any other sexually transmittable disease determined by the Board to be dangerous to the public health.

VA. CODE ANN. § 32.1-57 (2016)

Examination, testing and treatment; failure to comply with order of examination

A. A local health director may require any person suspected of being infected with any venereal disease to submit to examination, testing and treatment if necessary.

B. If any such person refuses to submit to an examination, testing or treatment or to continue treatment until found to be cured by proper test, the local health director may apply to the appropriate circuit court for an order compelling such examination, testing or treatment. Any person willfully failing to comply with such order shall be punishable as for contempt of court

VA. CODE ANN. §32.1-58 (2016)

Persons convicted of certain crimes to be examined, tested, and treated

Each person convicted of a violation of § 18.2-346 or § 18.2-361 shall be examined and tested for venereal disease and treated if necessary