



Florida Bill Comparison Guide

Three HIV-related bills were introduced in the Florida legislature in December 2021. This resource provides an overview of those bills: HB 787 (Transmission and Screening of HIV and Sexually Transmissible Diseases), HB 813 (Sexually Transmissible Diseases), and SB 1074 (HIV Prevention Justice Act). HB 813 and SB 1074 are identical bills. SB 787 primarily focuses prostitution-related offenses while HB 787 primarily focuses on the donation of blood, plasma, and tissue. The current state of the law and the various changes are explained in this resource.

STATUTE	NAME	CURRENT FLORIDA LAW	HOW DOES HB787 DIFFER?	HOW DOES HB813/SB1074 DIFFER?
FLA. STAT. ANN. § 775.0877 (2020).	Criminal Transmission of HIV	<p>The court will order that a person be tested for HIV if they commit any of the following and bodily fluid is involved:</p> <ul style="list-style-type: none"> a) Sexual battery, b) Incest, c) Lewd conduct upon or in the presence of a person less than 16 years old, d) Assault, e) Aggravated assault, f) Battery, g) Aggravated battery, h) Child abuse, i) Aggravated child abuse j) Abuse of the elderly or disabled, k) Aggravated abuse of the elderly or disabled l) Sexual offenses related to minors m) Prostitution, n) Donates blood/plasma while living with HIV, o) Human trafficking <p>Those results will be disclosed to that person. If a person tests positive and re-commits any of the above offenses (except human trafficking), that person will be charged with a 3rd degree felony. FL explicitly states that transmission is not required to be prosecuted. There is no <i>mens rea</i> requirement. Prosecutors do not have to prove that the person intentionally transmitted HIV to another. It is an affirmative defense that the other party knew of the person's health status and still consented to the contact.</p>	<p>This bill removes <i>prostitution</i>-related offenses from the list of crimes the court can order HIV testing for. If after undergoing testing, a PLHIV commits any of the other listed crimes (except human trafficking) more than once, they will be charged with 1st degree misdemeanor instead of a 3rd degree felony.</p>	<p>Under this bill, a PLHIV cannot be prosecuted if only saliva is involved. This bill removes <i>blood and tissue donation</i>-related offenses from the list of crimes the court can order HIV testing for. If after undergoing testing, a PLHIV commits any of the other listed crimes (except human trafficking) more than once, they will be charged with 1st degree misdemeanor instead of a 3rd degree felony.</p>
FLA. STAT. ANN. § 960.003 (2020).	HIV/Hepatitis Testing and Disclosure	<p>Upon being charged with certain sexual offenses, the person will be ordered to undergo HIV and Hepatitis testing within 48 hours. The other party may also request that the person undergo testing, which must be done within 48 hours of the request. Within 2 weeks of the court receiving those results, they must be disclosed to the person and may also be disclosed to the other party.</p>	<p>A person accused of <i>prostitution</i>-related offenses is not subjected to these testing and disclosure requirements.</p>	<p>A person accused of <i>blood and tissue donation</i> is not subjected to these testing and disclosure requirements.</p>

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FLA. STAT. ANN. § 98.0751 (2020).	Restoration of voting rights; termination of ineligibility subsequent to a felony conviction	A person who is convicted of a felony, except murder and felony sexual offenses, will automatically have their voting rights restored upon completion of their sentence. A person who has committed murder or a felony sexual offense will not have their right to vote restored unless their civil rights have been restored by clemency.	HB 787 removes prostitution-related offenses involving HIV from the list of “felony sexual offenses”, making it easier to restore one’s right to vote.	This bill does not address this provision. It remains the same as current FL law under this bill.
FLA. STAT. ANN. § 796.08 (2020).	Screening for HIV and sexually transmissible diseases; providing penalties	A person who is arrested for prostitution-related offenses may request a STI screening. That person must pay for any costs associated with that screening.	A person no longer has to pay costs associated with the STI screening. Those results will not be turned over to state attorneys, stage agencies, or the courts. If a PLHIV knows of their status and engages in prostitution, they will not be subjected to a 3rd degree felony solely based on their health status. A person who has an STI and engages in prostitution will not be subjected to a 1st degree misdemeanor solely based on their health status.	This bill does not address this provision. It remains the same as current FL law under this bill.
FLA. STAT. ANN. § 381.004 (2020).	HIV testing		The criminal law on HIV and STI screenings for prostitution-related arrests (796.08) is amended to eliminate criminal penalties and costs associated with the screening. The FL Public Health code is updated to reflect those new changes in regards to HIV testing.	This bill does not address this provision. It remains the same as current FL law under this bill.
FLA. STAT. ANN. § 381.0041 (2020).	Donation and Transfer of Human Tissue; Testing Requirements	Under current FL Health Code, if a PLHIV knows of their status and donates, blood, plasma, organs, skin, or other tissue, that person will be charged with a 3rd degree felony. Actual transmission is not required to be convicted. There is no <i>mens rea</i> requirement. Prosecution does not have to prove that a person intended to transmit HIV.	This bill does not address this provision. It remains the same as current FL law under this bill.	A PLHIV will not be subject to criminal penalties for donating blood, plasma, or tissue if that person received approval from a licensed physician to donate. Additionally, a PHLIV who donates but has not received advanced approval from a licensed physician will be charged with a 1st degree misdemeanor, not a 3rd degree felony.
FLA. STAT. ANN. § 384.23 (2020).	Definitions	The current definition does not include definitions for sexual conduct or a standard for risk of transmission.	This bill does not address this provision. It remains the same as current FL law under this bill.	Includes definition of “sexual conduct” that includes but is not limited to contact between a penis and vulva, penis and anus, or between mouth and penis, vulva, or anus. Includes definition of “substantial risk of transmission”, a probability of transmission as proven by competent medical evidence.

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FLA. STAT. ANN. § 384.24 (2020).	Unlawful Acts	Currently, the law only requires that a PLHIV have sex with another person. It does not matter if the person had no intent to transmit HIV. Additionally, using protective barriers to reduce the risk of transmission is not a defense to criminal exposure. A PLHIV charged with this crime will face a 3rd degree felony.	This bill does not address this provision. It remains the same as current FL law under this bill.	Includes HIV in the list of STIs that are unlawful to transmit. Creates a specific intent requirement. Needs to engage in conduct that creates a substantial risk of transmission as defined in 384.23. No intent if PLHIV adheres to treatment or behavioral recommendations of their doctor, such as using condoms. If the other party rejects that person's offer to use condoms or other such recommendations, then that person has not acted with intent to transmit an STI. If a PLHIV does not adhere to treatment or behavioral treatment is not enough, without other proof, to convict. Actual transmission still not required for conviction.
FLA. STAT. ANN. § 384.34 (2020).	Penalties	The current penalty for a PLHIV having consensual sex with another is a 3rd degree felony.	This bill does not address this provision. It remains the same as current FL law under this bill.	A PLHIV who has sex and intends to transmit HIV to another person will be subject to a 1st degree misdemeanor, rather than a 3rd degree felony.
FLA. STAT. ANN. § 921.0022 (2020).	Criminal Punishment Code; offense severity ranking chart	A PLHIV commits a 3rd degree felony if that person donates plasma, or tissue while aware of their health status.	This bill does not address this provision. It remains the same as current FL law under this bill.	Removes donating blood, plasma, or tissue while living with HIV as a 3rd degree felony in the criminal code.