

[First Reprint]

SENATE, No. 3707

STATE OF NEW JERSEY
219th LEGISLATURE

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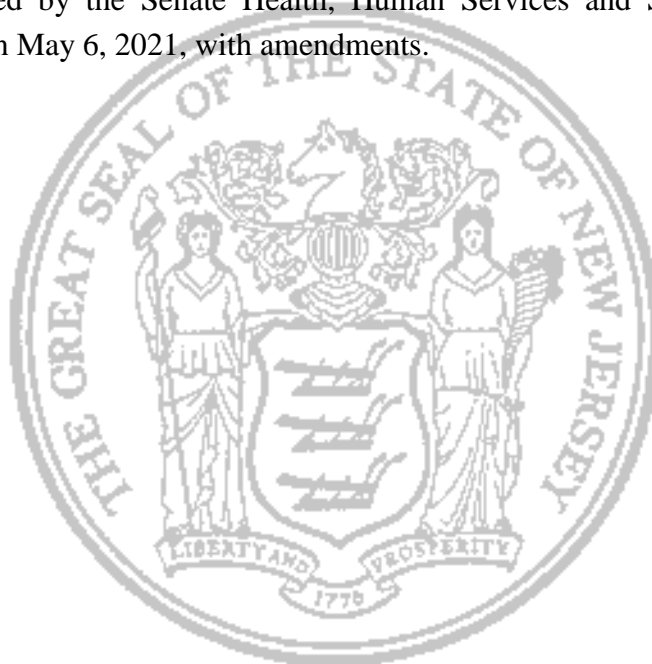
Senator Weinberg

SYNOPSIS

Reduces offense of deliberately transmitting a sexually-transmitted infection to a disorderly persons offense and revises elements of the offense.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on May 6, 2021, with amendments.



(Sponsorship Updated As Of: 12/2/2021)

1 AN ACT concerning purposely transmitting a disease by engaging in
 2 an act of sexual penetration and amending N.J.S.2C:34-5.

3
 4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6
 7 1. N.J.S.2C:34-5 is amended to read as follows:

8 2C:34-5. **【Diseased person】** Purposely transmitting a disease
 9 by committing an act of sexual penetration.

10 a. (1) A person is guilty of a **【crime of the fourth degree】**
 11 disorderly persons offense **【who, knowing that he or she is infected**
 12 with a venereal disease such as chancroid, gonorrhea, syphilis,
 13 herpes virus, or any of the varieties or stages of such diseases,
 14 commits an act of sexual penetration without the informed consent
 15 of the other person】 if the person purposely transmits ¹【an
 16 infectious or communicable disease】 a sexually-transmitted
 17 infection¹ and all of the following apply:

18 (a) the person knows that he or she is diagnosed with ¹【an
 19 infectious or transmissible disease】 sexually-transmitted infection¹ ;

20 (b) the person acts with the specific intent to transmit the
 21 ¹【infectious or communicable disease】 sexually-transmitted
 22 infection¹ to another person;

23 (c) the person does not take or attempt to take means to prevent
 24 the transmission of the ¹【infectious or communicable disease】
 25 sexually-transmitted infection¹ ; and

26 (d) the person transmits the ¹【infectious or communicable
 27 disease to another person】 sexually-transmitted infection¹ .

28 (2) A failure to take or attempt to take means to prevent the
 29 transmission of ¹【an infectious or communicable disease】 sexually-
 30 transmitted infection¹ is not by itself sufficient to prove that the
 31 person acted with specific intent to transmit the ¹【infectious or
 32 communicable disease pursuant to】 sexually-transmitted infection
 33 for the purposes of¹ paragraph (1) of this subsection.

34 (3) This section shall not apply to a woman with ¹【an infectious
 35 or communicable disease】 a sexually-transmitted infection¹ who
 36 transmits the ¹【disease】 infection¹ to her child prenatally or during
 37 childbirth.

38 b. **【A person is guilty of a crime of the third degree who,**
 39 knowing that he or she is infected with human immune deficiency
 40 virus (HIV) or any other related virus identified as a probable
 41 causative agent of acquired immune deficiency syndrome (AIDS),
 42 commits an act of sexual penetration without the informed consent
 43 of the other person.】 (Deleted by amendment, P.L. , c. (pending
 44 before the Legislature as this bill))

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted May 6, 2021.

1 c. ¹As used in this section:

2 (1) “Conduct that poses a substantial risk of transmission”
3 means engaging in an act of sexual penetration in a manner that
4 poses a substantial risk of the transmission of an infectious or
5 communicable disease.

6 (2) “Sexual penetration” has the meaning ascribed to it in
7 subsection c. of N.J.S.2C:14-1.

8 (3) “Infectious or communicable disease” means a nonairborne
9 disease spread from person to person that is fatal or causes
10 disabling long-term consequences in the absence of treatment and
11 management.

12 (4) “Means to prevent transmission” means a method, device,
13 behavior, or activity demonstrated scientifically to measurably
14 reduce the risk of transmission of an infectious or communicable
15 disease, including but not limited to the use of a condom, barrier
16 protection, or prophylactic device, or compliance with a medical
17 treatment regiment for the infectious or communicable disease
18 prescribed by a health care professional or physician.

19 d. (1) All court decisions, orders, petitions, motions, and other
20 documents filed by the parties and the prosecutor shall be redacted
21 to protect the name and other personal identifying information of
22 the complaining witness from public disclosure, unless the
23 complaining witness requests otherwise.

24 (2) The court shall enter appropriate orders to bar the disclosure
25 of the name or other personal identifying information of the
26 complaining witness by the parties, attorneys, law enforcement, and
27 any other persons, unless the complaining witness requests
28 otherwise.

29 (3) As used in this subsection, “personal identifying
30 information” means any name, address, or other information that
31 may be used, alone or in conjunction with any other information, to
32 identify a specific individual, and any photographic image,
33 reproduction, or other depiction of a person.

34 e.¹ (1) The defendant’s medical records, including but not
35 limited to any medications or medical devices prescribed for or
36 used by the defendant, shall not be the sole basis for establishing
37 the specific intent required by subparagraph (b) of paragraph (1) of
38 subsection a. of this section.

39 (2) No surveillance reports or records maintained by State or
40 local health officials shall be subpoenaed or released for the sole
41 purpose of establishing the specific intent required by subparagraph
42 (b) of paragraph (1) of subsection a. of this section.

43 (3) The defendant may submit medical evidence to show the
44 absence of the specific intent required by subparagraph (b) of
45 paragraph (1) of subsection a. of this section.

46 ¹f. Nothing in this section shall be deemed to preclude an
47 indictment and conviction for any other offense.】

1 d. All records shall be confidential and shall not be made
2 available to any individual or institution except as otherwise
3 provided by law.

4 e. As used in this section:

5 “Means to prevent transmission” means a method, device,
6 behavior, or activity demonstrated scientifically to measurably
7 reduce the risk of transmission of a sexually-transmitted infection
8 through an act of sexual penetration, including, but not limited to,
9 the use of a condom, barrier protection, or prophylactic device, or
10 compliance with a medical treatment regimen prescribed by a
11 licensed health care professional that prevents or measurably
12 reduces the risk of transmitting the sexually-transmitted infection to
13 another person through an act of sexual penetration.

14 “Sexual penetration” means the same as that term is defined in
15 subsection c. of N.J.S.2C:14-1.

16 “Sexually-transmitted infection” means any communicable or
17 infectious disease that may be readily transmitted by an act of
18 sexual penetration in the absence of the use of an appropriate means
19 to prevent transmission of the sexually-transmitted infection.¹

20 (cf: P.L.1997, c.201, s.1)

21

22 2. This act shall take effect on the 60th day following
23 enactment.