

[First Reprint]

ASSEMBLY, No. 5673

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 12, 2021

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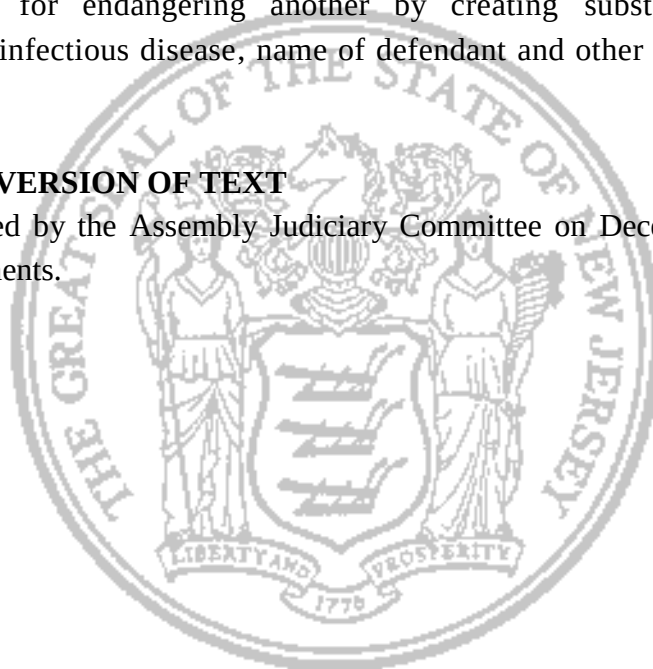
Assemblyman Giblin, Assemblywomen Murphy and Jasey

SYNOPSIS

Repeals statute criminalizing sexual penetration while infected with venereal disease or HIV under certain circumstances; requires that in prosecutions for endangering another by creating substantial risk of transmitting infectious disease, name of defendant and other person be kept confidential.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on December 9, 2021, with amendments.



(Sponsorship Updated As Of: 1/10/2022)

1 AN ACT concerning purposely transmitting a disease ¹by engaging
 2 in an act of sexual penetration and amending], supplementing
 3 chapter 24 of Title 2C of the New Jersey Statutes, and repealing¹
 4 N.J.S.2C:34-5.

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

8
 9 ¹[1. N.J.S.2C:34-5 is amended to read as follows:
 10 2C:34-5. **[Diseased person]** Purposely transmitting a disease
 11 by committing an act of sexual penetration.
 12 a. (1) A person is guilty of a **[crime of the fourth degree]**
 13 disorderly persons offense [who, knowing that he or she is infected
 14 with a venereal disease such as chancroid, gonorrhea, syphilis,
 15 herpes virus, or any of the varieties or stages of such diseases,
 16 commits an act of sexual penetration without the informed consent
 17 of the other person] if the person purposely transmits an infectious
 18 or communicable disease and all of the following apply:
 19 (a) the person knows that he or she is diagnosed with an
 20 infectious or transmissible disease;
 21 (b) the person acts with the specific intent to transmit the
 22 infectious or communicable disease to another person;
 23 (c) the person does not take or attempt to take means to prevent
 24 the transmission of the infectious or communicable disease; and
 25 (d) the person transmits the infectious or communicable disease
 26 to another person.
 27 (2) A failure to take or attempt to take means to prevent the
 28 transmission of an infectious or communicable disease is not by
 29 itself sufficient to prove that the person acted with specific intent to
 30 transmit the infectious or communicable disease pursuant to
 31 paragraph (1) of this subsection.
 32 (3) This section shall not apply to a woman with an infectious or
 33 communicable disease who transmits the disease to her child
 34 prenatally or during childbirth.
 35 b. **[A person is guilty of a crime of the third degree who,**
 36 **knowing that he or she is infected with human immune deficiency**
 37 **virus (HIV) or any other related virus identified as a probable**
 38 **causative agent of acquired immune deficiency syndrome (AIDS),**
 39 **commits an act of sexual penetration without the informed consent**
 40 **of the other person.]** (Deleted by amendment, P.L. , c. (pending
 41 before the Legislature as this bill)
 42 c. As used in this section:
 43 (1) “Conduct that poses a substantial risk of transmission”
 44 means engaging in an act of sexual penetration in a manner that

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:

¹Assembly AJU committee amendments adopted December 9, 2021.

1 poses a substantial risk of the transmission of an infectious or
2 communicable disease.

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

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

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

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

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

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

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

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

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

43 f. Nothing in this section shall be deemed to preclude an
44 indictment and conviction for any other offense.

45 (cf: P.L.1997, c.201)】¹

1 ¹1. a. As used in this section:

2 “Infectious or communicable disease” means a non-airborne
3 disease spread from person to person that is fatal or causes
4 disabling long-term consequences in the absence of treatment and
5 management.

6 “Personal identifying information” means any name, address, or
7 other information that may be used, alone or in conjunction with
8 any other information, to identify a specific individual, and any
9 photographic image, reproduction, or other depiction of a person.

10 b. In a prosecution under section 1 of P.L.2015, c.186
11 (C.2C:24-7.1) against a person who knowingly or recklessly
12 engages in conduct which creates a substantial risk of transmitting
13 an infectious or communicable disease to another person, all court
14 decisions, orders, petitions, motions, and other documents filed by
15 the parties and the prosecutor shall be redacted to protect the name
16 and other personal identifying information of the other person from
17 public disclosure, unless the other person requests otherwise.
18 Additionally, the court shall enter appropriate orders to bar the
19 disclosure of the name or other personal identifying information of
20 the other person by the parties, attorneys, law enforcement, and any
21 other persons, unless the other person requests otherwise.¹

22

23 2. ¹N.J.S.2C:34-5 is repealed.¹

24

25 ¹**[2.] 3.**¹ This act shall take effect on the 60th day following
26 enactment.