STATE OF OKLAHOMA
1st Session of the 57th Legislature (2019)

HOUSE BILL 1858

By: Fugate

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2011, Sections 1192 and 1192.1, which relate to penalties for knowingly transmitting infectious diseases; expanding scope of crime to include certain sexually transmitted diseases; providing that certain acts are insufficient to establish intent; defining terms; decreasing penalties; updating and clarifying elements of certain prohibited act; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1192, is amended to read as follows:

Section 1192. Any person who shall inoculate himself or any other person or shall suffer himself to be inoculated with smallpox, chancroid, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/acute salpingitis, syphilis or gonorrhea and shall spread or cause to be spread to any other persons, when such person knows he or she is infected with one or more of these diseases and when such
person has been informed that he or she may communicate this disease
to another person through sexual conduct, to act with the intent to
or recklessly be responsible for the spread of or prevalence of such
infectious transmit the disease, to engage in sexual conduct that
poses a substantial risk of transmission to another person when the
other person is unaware that the person is a carrier of the disease,
and to transmit the disease to the other person.

B. A person does not act with the intent required in subsection
A of this section, if he or she in good faith complies with a
treatment regimen prescribed by his or her health care provider or
with the behavior recommendation of his or her health care provider
or public health officials to limit the risk of transmission, or if
he or she offers to comply with such behavior recommendations, but
that offer is rejected by the other person. For purposes of this
subsection, "behavior recommendations" includes, but is not limited
to, the use of a prophylactic device to limit the risk of
transmission of the disease. Evidence of the failure of the person
to comply with such a treatment regimen or such behavior
recommendations is not, in and of itself, sufficient to establish
that he or she acted with the intent required under subsection A of
this section.

C. Any person who violates the provisions of this section shall
be deemed a felon, and, upon conviction thereof, be guilty of a
felony and shall be punished misdemeanor punishable by imprisonment
in the State Penitentiary county jail for not more than five (5) years nor less than two (2) years one (1) year, or by a fine of One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

SECTION 2. AMENDATORY 21 O.S. 2011, Section 1192.1, is amended to read as follows:

Section 1192.1 A. It shall be unlawful for any person knowing that he or she has Acquired Immune Deficiency Syndrome (AIDS) or who is a carrier of the human immunodeficiency virus (HIV) and with intent to infect another, to engage in conduct reasonably likely to result in the transfer of the person's own blood, bodily fluids containing visible blood, semen, or vaginal secretions into the bloodstream of another, or through the skin or other membranes of another person, except during in utero transmission of blood or bodily fluids, and:

1. The other person did not consent to the transfer of blood, bodily fluids containing blood, semen, or vaginal secretions; or
2. The other person consented to the transfer but at the time of giving consent had not been informed by the person that the person transferring such blood or fluids had AIDS or was a carrier of HIV, when such person knows he or she is infected with the disease and when such person has been informed that he or she may communicate this disease to another person through sexual conduct, to act with the intent to transmit the disease, to engage in sexual conduct that poses a substantial risk of transmission to another
person when the other person is unaware that the person is a carrier of the disease, and to transmit the disease to the other person.

B. A person does not act with the intent required in subsection A of this section, if he or she in good faith complies with a treatment regimen prescribed by his or her health care provider or with the behavior recommendation of his or her health care provider or public health officials to limit the risk of transmission, or if he or she offers to comply with such behavior recommendations, but that offer is rejected by the other person. For purposes of this subsection, "behavior recommendations" includes, but is not limited to, the use of a prophylactic device to limit the risk of transmission of the disease. Evidence of the failure of the person to comply with such a treatment regimen or such behavior recommendations is not, in and of itself, sufficient to establish that he or she acted with the intent required under subsection A of this section.

C. Any person convicted of violating who violates the provisions of this section shall, upon conviction, be guilty of a felony, misdemeanor punishable by imprisonment in the custody of the Department of Corrections county jail for not more than five (5) years one (1) year, or by a fine of One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.
SECTION 3. This act shall become effective November 1, 2019.

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