

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1858

By: Fugate

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2011, Sections 1192 and 1192.1, which relate  
9 to penalties for knowingly transmitting infectious  
10 diseases; expanding scope of crime to include certain  
11 sexually transmitted diseases; providing that certain  
12 acts are insufficient to establish intent; defining  
13 terms; decreasing penalties; updating and clarifying  
14 elements of certain prohibited act; and providing an  
15 effective date.

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

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

19 Section 1192. ~~Any~~ A. It shall be unlawful for any person who  
20 ~~shall inoculate himself or any other person or shall suffer himself~~  
21 ~~to be inoculated with~~ has smallpox, chancroid, granuloma inguinale,  
22 lymphogranuloma venereum, genital herpes simplex, chlamydia,  
23 nongonococcal urethritis (NGU), pelvic inflammatory disease  
24 (PID)/acute salpingitis, syphilis or gonorrhoea 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~~

1 person has been informed that he or she may communicate this disease  
2 to another person through sexual conduct, to act with the intent to  
3 ~~or recklessly be responsible for the spread of or prevalence of such~~  
4 infectious transmit the disease, to engage in sexual conduct that  
5 poses a substantial risk of transmission to another person when the  
6 other person is unaware that the person is a carrier of the disease,  
7 and to transmit the disease to the other person.

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

22 C. Any person who violates the provisions of this section shall  
23 ~~be deemed a felon, and, upon conviction thereof, be guilty of a~~  
24 ~~felony and shall be punished~~ misdemeanor punishable by imprisonment

1 in the ~~State Penitentiary~~ county jail for not more than ~~five (5)~~  
2 ~~years nor less than two (2) years~~ one (1) year, or by a fine of One  
3 Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

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

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

15 1. ~~The other person did not consent to the transfer of blood,~~  
16 ~~bodily fluids containing blood, semen, or vaginal secretions; or~~

17 2. ~~The other person consented to the transfer but at the time~~  
18 ~~of giving consent had not been informed by the person that the~~  
19 ~~person transferring such blood or fluids had AIDS or was a carrier~~  
20 ~~of HIV, when such person knows he or she is infected with the~~  
21 disease and when such person has been informed that he or she may  
22 communicate this disease to another person through sexual conduct,  
23 to act with the intent to transmit the disease, to engage in sexual  
24 conduct that poses a substantial risk of transmission to another

1 person when the other person is unaware that the person is a carrier  
2 of the disease, and to transmit the disease to the other person.

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

17 C. Any person ~~convicted of violating~~ who violates the  
18 provisions of this section shall, upon conviction, be guilty of a  
19 ~~felony,~~ misdemeanor punishable by imprisonment in the ~~eustody of the~~  
20 ~~Department of Corrections~~ county jail for not more than ~~five (5)~~  
21 ~~years~~ one (1) year, or by a fine of One Thousand Dollars  
22 (\$1,000.00), or by both such fine and imprisonment.

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SECTION 3. This act shall become effective November 1, 2019.

57-1-5544            GRS            12/13/18