

---

**SUBSTITUTE HOUSE BILL 2107**

---

**State of Washington**

**63rd Legislature**

**2014 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Moeller, Harris, Cody, Appleton, Morrell, Jinkins, Lytton, Green, Blake, Sawyer, Dunshee, Riccelli, Senn, Moscoso, Roberts, Lias, Van De Wege, Ryu, Ormsby, Bergquist, Walkinshaw, and Freeman)

READ FIRST TIME 02/05/14.

1       AN ACT Relating to eliminating the disparate treatment of HIV in  
2 the criminal justice system; amending RCW 9A.36.011 and 70.24.140;  
3 creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION. **Sec. 1.** In passing this act, the legislature intends  
6 to remove specific mention of the human immunodeficiency virus from the  
7 criminal statutes of the state to reflect that the human  
8 immunodeficiency virus should not be treated differently from other  
9 similar diseases and to reduce the stigma that such disparate treatment  
10 brings upon those infected with the human immunodeficiency virus. The  
11 legislature does not intend to narrow or broaden the statute defining  
12 assault in the first degree, RCW 9A.36.011, from current law.

13       **Sec. 2.** RCW 9A.36.011 and 1997 c 196 s 1 are each amended to read  
14 as follows:

15       (1) A person is guilty of assault in the first degree if he or she,  
16 with intent to inflict great bodily harm:

17       (a) Assaults another with a firearm or any deadly weapon or by any  
18 force or means likely to produce great bodily harm or death; or

1 (b) Administers, exposes, or transmits to or causes to be taken by  
2 another, ~~poison((, the human immunodeficiency virus as defined in~~  
3 ~~chapter 70.24 RCW,))~~ or any other destructive or noxious substance; or

4 (c) Assaults another and inflicts great bodily harm.

5 (2)(a) For the purpose of this section, "destructive or noxious  
6 substance" includes, but is not limited to, any blood-borne pathogen,  
7 the normal course of which if untreated is death or great bodily injury  
8 or harm, except as described in (b) of this subsection.

9 (b) A blood-borne pathogen is not a destructive or noxious  
10 substance for the purpose of this section if, at the time of exposure,  
11 there is no substantial risk of transmission. A court may not find  
12 substantial risk of transmission if the defendant:

13 (i) Is in substantial compliance with a treatment regimen  
14 prescribed by the infected person's health care provider that  
15 measurably limits the risk of transmission of the blood-borne pathogen;

16 (ii) Is in substantial compliance with behavioral recommendations  
17 of the infected person's health care provider or a public health  
18 official to measurably limit to risk of transmission of the blood-borne  
19 pathogen; or

20 (iii) Utilizes other methods generally accepted by the medical  
21 profession to measurably limit the risk of transmission of the blood-  
22 borne pathogen, such as the use of a prophylactic device.

23 (3) Assault in the first degree is a class A felony.

24 **Sec. 3.** RCW 70.24.140 and 1988 c 206 s 917 are each amended to  
25 read as follows:

26 It is unlawful for any person who has a sexually transmitted  
27 disease, (~~except HIV infection,~~) when such person knows he or she is  
28 infected with such a disease and when such person has been informed  
29 that he or she may communicate the disease to another person through  
30 sexual intercourse, to have sexual intercourse with any other person,  
31 unless such other person has been informed of the presence of the  
32 sexually transmitted disease.

--- END ---