

**39-13-109. Criminal exposure to HIV - Defenses - Penalty.**

(a) A person commits the offense of criminal exposure of another to human immunodeficiency virus (**HIV**) when, knowing that such person is infected with **HIV**, such person knowingly:

(1) Engages in intimate contact with another;

(2) Transfers, donates, or provides blood, tissue, semen, organs, or other potentially infectious body fluids or parts for transfusion, transplantation, insemination, or other administration to another in any manner that presents a significant risk of **HIV** transmission; or

(3) Dispenses, delivers, exchanges, sells, or in any other way transfers to another any nonsterile intravenous or intramuscular drug paraphernalia.

(b) As used in this section:

(1) "**HIV**" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome;

(2) "Intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in any manner that presents a significant risk of **HIV** transmission; and

(3) "Intravenous or intramuscular drug paraphernalia" means any equipment, product, or material of any kind which is peculiar to and marketed for use in injecting a substance into the human body.

(c) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the person exposed to **HIV** knew that the infected person was infected with **HIV**, knew that the action could result in infection with **HIV**, and gave advance consent to the action with that knowledge.

(d) Nothing in this section shall be construed to require the actual transmission of **HIV** in order for a person to have committed the offense of criminal exposure of another to **HIV**.

(e) Criminal exposure of another to **HIV** is a Class C felony.

[Acts 1994, ch. 952, § 2.]