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**HOUSE BILL NO. 864**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice  
on January 31, 2020)

(Patron Prior to Substitute—Delegate Levine)

*A BILL to amend and reenact § 18.2-67.4:1 of the Code of Virginia, relating to infected sexual battery.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-67.4:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-67.4:1. Infected sexual battery; penalty.**

A. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anilingus, or anal intercourse with the intent to transmit the infection to another person is guilty of a Class 6 felony.

B. Any person who, (i) knowing he is infected with HIV, syphilis, or hepatitis B *and (ii) knowing his infection is currently detectable and transmittable*, has sexual intercourse, cunnilingus, fellatio, anilingus, or anal intercourse with another person without having previously disclosed the existence of his infection to the other person *and without either person using any prophylactic barrier, including a condom or dental dam, or medication approved by the U.S. Food and Drug Administration to prevent transmission* is guilty of a Class 1 misdemeanor.

C. *For the purposes of this section*, "HIV" means the human immunodeficiency virus or any other related virus that causes acquired immunodeficiency syndrome (AIDS).

Nothing in this section shall prevent the prosecution of any other crime against persons under Chapter 4 (§ 18.2-30 et seq.) ~~of this title~~. Any person charged with a violation of this section alleging he is infected with HIV shall be subject to the testing provisions of § 18.2-62.