

HIV Is Not A Crime 101

“You care about HIV criminalization, you just don’t know it yet.”

Learning Objectives

- *By the end of this session, each participant will have the knowledge to*
 - *Define HIV criminalization and identify the data that is most alarming*
 - *Identify the 5 reasons why criminalization is a problem*
 - *Expand their knowledge by signing up for newsletters of the organizations doing work*
 - *Know how to access support for engaging on education of the laws within their practice field*
 - *Recognize the nuances in strategy vs. implementation in legislative success*

Disclosures

- *The presenter of this workshop also represents Janssen Pharmaceuticals in a non-product based campaign to encourage relationship building with providers and PLHIV. The presenter's role serves as informational and educational purposes only with Positively Fearless.*
- *This program is supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) under grant number U1OHA30535 as part of an award totaling \$4.2m. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by HRSA, HHS, or the U.S. Government. For more information, please visit [HRSA.gov](https://www.hrsa.gov).*
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POLL

How confident do you feel to explain the criminalization of HIV to others?

1. Extremely confident, I've followed this movement for over 3 years
2. Confident, I have heard of the issue and I can summarize it or direct people to resources.
3. Somewhat confident, there are some nuances I don't understand
4. Not confident at all, I have never heard of this issue

The Sero Project

Sero is a network organization that centers the leadership of PLHIV (including staff) to end HIV criminalization, mass incarceration, racism and social injustice by supporting inclusive PLHIV networks to improve policy outcomes, advance human rights and promote healing justice.

HIV Criminalization

The unjust use of outdated criminal laws, policies and practices to punish people living with HIV (PLHIV), based on one's HIV status.

These laws and the practice of criminalizing HIV is a racial, gender, and economic justice issue.

- Studies from the Williams Institute show that HIV criminalization is disproportionately used to target Black, Indigenous, and other people of color, especially those who are also cis and trans women, gay and bisexual men, people who use drugs, sex workers, and immigrants
- Criminalization increases risk of violence for women living with HIV
- Incarceration and criminal records have lifelong effects on ability to exercise rights and access support systems including mental health to address the trauma

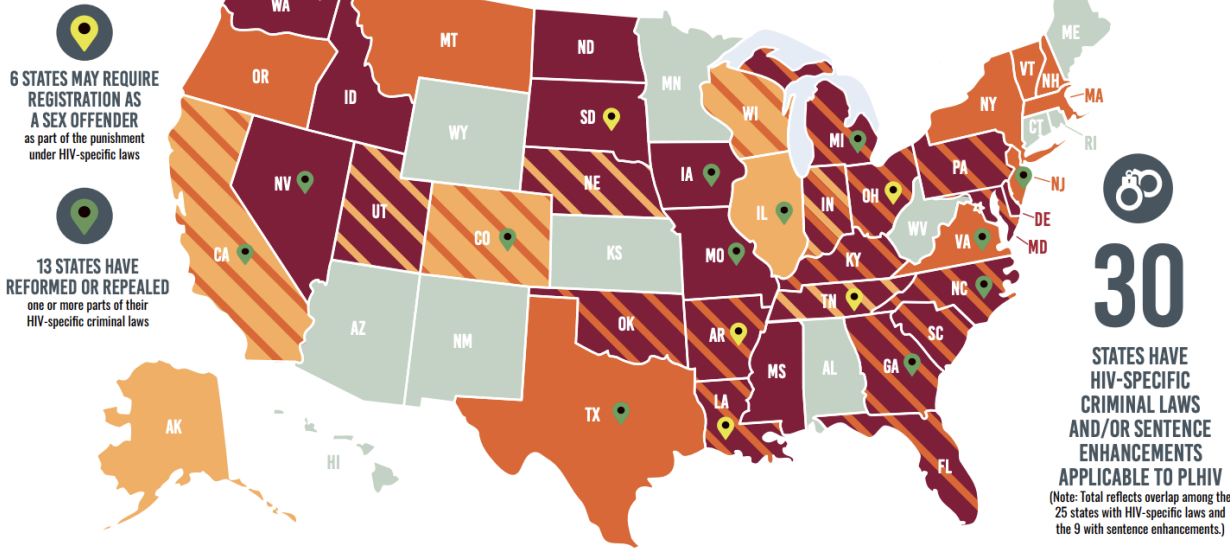
Snapshots of Criminalization



HIV CRIMINALIZATION IN THE UNITED STATES

AN OVERVIEW OF THE VARIETY AND PREVALENCE OF LAWS USED TO PROSECUTE AND PUNISH PEOPLE LIVING WITH HIV (PLHIV) IN THE US.

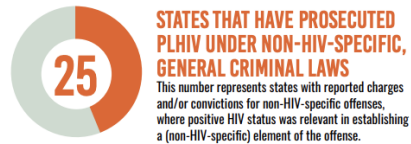
LEARN MORE AT HIVLAWANDPOLICY.ORG



6 STATES MAY REQUIRE REGISTRATION AS A SEX OFFENDER as part of the punishment under HIV-specific laws

13 STATES HAVE REFORMED OR REPEALED one or more parts of their HIV-specific criminal laws

30 STATES HAVE HIV-SPECIFIC CRIMINAL LAWS AND/OR SENTENCE ENHANCEMENTS APPLICABLE TO PLHIV
 (Note: Total reflects overlap among the 25 states with HIV-specific laws and the 9 with sentence enhancements.)



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Updated: June 2022. Laws change frequently and this map is only accurate to the best of our knowledge. It is not a substitute for legal advice.

HIV Criminalization in the United States

An overview of the variety and prevalence of laws used to prosecute and punish people living with HIV (PLHIV)



States with HIV-specific criminal laws, including laws targeting sex/non-disclosure, exposure to bodily fluids, needle-sharing, sex work or blood/organ/semen donation



States with laws that apply increased penalties for PLHIV who commit an underlying sex crime, such as rape or sexual assault



States that have prosecuted PLHIV under non-HIV-specific, general criminal laws (within the past 10 years)



States that may require registration as a sex offender as part of the punishment under HIV-specific laws



States that have reformed or repealed one or more parts of their HIV-specific criminal laws

Source: The Center for HIV Law and Policy

Not taken into consideration

Intent to transmit *i.e. use of a condom*

Treatment/Viral Suppression

Proof of disclosure

Transmission occurring

Impact of Criminalization



5 Things You Should Know About HIV Criminalization:

1. Criminalization laws don't work as intended
2. Criminalization laws don't support public health
3. Criminalization laws don't align w/ current science
4. Criminalization laws don't decrease stigma & discrimination
5. Criminalization laws don't make sense for the justice system



#HINACDay #HIVIsNotACrime
#StrengthenEngageReformOvercome

HIV Criminalization in Florida

It is a **third degree felony**, punishable by up to five years in prison and/or a \$5,000 fine, if a person living with HIV:

1. Knows that they are HIV positive *and*
2. Have been informed that HIV may be transmitted during sexual intercourse; and
3. Has sexual intercourse with any other person without disclosing their HIV status.

But also...

Other sexually transmitted diseases are not treated criminally on the same scale as HIV.

It is a first degree **misdemeanor** punishable by up to three years in prison and/or a \$1,000 fine, if a person living with STD:

- 1. Knows that they have an STD;**
- 2. Has been informed that STD may be transmitted during sexual intercourse;**
and
- 3. Has sexual intercourse with any other person without disclosing their status.**

How do PLHIV Protect Themselves

There's no strategy that's ideal or fool-proof, but the following can give peace of mind to a PLHIV navigating disclosure to their partner:

- Disclosure agreement form/contract
- Email & Social Media Interactions - Screenshot! Print! Send to trust source!
- Introduce your Provider to your Partner**
- Witnesses
- Document!

...this is not official legal advice, please consult an attorney if facing HIV criminalization

How do PLHIV protect themselves

If you have a client/patient that has been accused of an HIV related crime, please advise them to NOT TALK TO police or investigators.

TELL THEM TO ASK FOR A LAWYER.

Acknowledging many do not have access to an attorney and public defenders are limited in education on HIV.

- Do not acknowledge your HIV status
- Do not provide blood, saliva, or give permission for any medical tests
- Do not sign any documents
- Do not volunteer any information

FIND A LAWYER through Lambda Legal, ACLU, SERO or another HIV friendly trusted source

Implement a Community ASSURANCE plan

FL HIV Justice Coalition

Seeks to:

- Modernize and align current statute w/ science
- Meet monthly for strategic discussions monthly
- Host HINAC Community Education Summit October 20th 9-4



Highlights of Others in the Work

National Support

- [REPEAL Act](#) - HR 6111
- [AIDSWatch](#) – Spring 2023
- [HIV Is Not A Crime Training Academy](#) – June 4-7, 2023
Emory, VA
- [Health Not Prisons Collective](#) –
pushing for passage of the
REPEAL Act

Florida Support

- The FL HIV Justice Coalition
 - AHF, The AIDS Institute, FHAAN, DOH Orange, Equality FL, SWOP, Save Dade
 - Regional CBO's and ASO's

How to Get Involved

“Ask yourself if you want to make a point or do you want to make change?”

Donna Red Wing, One Iowa

- Join FHJC listserv to receive updates and news related to HIV criminalization in FL - kamaria.laffrey@seroproject.com
- Join the Sero listserv to connect w/ PLHIV doing the work nationally (media, research, coalition building, trainings, etc.) - info@seroproject.com
- Sign up for the [TransAgenda for Liberation](#)
- Share the [Demanding Better Policy Agenda](#)



**Kerry is HIV positive,
but the virus is undetectable.
He used a condom and didn't
transmit HIV to anyone.
He will not be out of
prison until 2038.**

(18)



THANK YOU! Questions, comments please contact
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(19)