

Official websites use .gov A .gov website belongs to an official government organization in the United States. Secure .gov websites use HTTPS A lock ( ) or https:// means you've safely connected to the .gov website. Share sensitive information only on official, secure websites. Updated December 19, 2023 As of 2023, 34 states have laws that criminalize HIV exposure. CDC researched and analyzed the relevant laws for the 50 states, the District of Columbia, and Puerto Rico then categorized them into four categories. General criminal statutes, such as reckless endangerment and attempted murder, can be used to criminalize behaviors that can potentially expose another to HIV and or an STD. Many states have laws that fall into more than one of the categories listed above. For this analysis, only HIV-specific laws are captured for states with both HIV-specific laws and STD/communicable/infectious disease laws. Only HIV or STD/communicable/infectious disease laws are captured for states with both HIV or STD/communicable/infectious disease laws and sentence enhancement statutes. During the early years of the HIV epidemic, many states implemented HIV-specific criminal exposure laws to discourage behavior that might lead to transmission, promote safer sex practices, and, in some cases, receive funds to support HIV prevention activities. These laws were passed at a time when very little was known about HIV including how HIV was transmitted and how best to treat the virus. Many of these state laws criminalize behaviors that cannot transmit HIV – such as biting or spitting – and apply regardless of actual transmission, or intent. After over 30 years of HIV research and significant biomedical advancements to treat and prevent HIV transmission, many state laws are now outdated and do not reflect our current understanding of HIV. In many cases, this same standard is not applied to other treatable diseases. Further, these laws have been shown to increase stigma, exacerbate disparities, and may discourage HIV testing.

Criminalize or Control Actions Through HIV-Specific Statutes and Regulations (n=21)

Criminalize or Control Actions Through STD/Communicable/Infectious Diseases Specific Statutes (n=13)

Sentence Enhancement Statutes (n=5)

None/General Criminal

Statutes (n=13) Criminalization of potential HIV exposure is largely a matter of state law, with some Federal legislation addressing criminalization in discrete areas, such as blood donation and prostitution. These laws vary as to what behaviors are criminalized or what behaviors result in additional penalties. Several states criminalize one or more behaviors that pose a low or negligible risk for HIV transmission. In 13 states, laws require people with HIV who are aware of their status to disclose their status to sex partners, and 4 states require disclosure to needle-sharing partners. The maximum sentence length for violating an HIV-specific statute is also a matter of state law. Some states have a maximum sentence length up to life in prison, while others have maximum sentence lengths that are less than 10 years. However, only 10 states have laws that account for HIV prevention measures, such as condom use, antiretroviral therapy (ART), and pre-exposure prophylaxis (PrEP) use. Since 2014, at least thirteen states have modernized or repealed their HIV criminal laws: California, Colorado, Georgia, Illinois, Iowa, Michigan, Missouri, Nevada, New Jersey, North Carolina, Virginia, and Washington. Changes include moving HIV prevention issues from the criminal code to disease control regulations, requiring intent to transmit, actual HIV transmission, or providing defenses for taking measures to prevent transmission, including viral suppression or being noninfectious, condom use, and partner PrEP use. CDC in collaboration with ChangeLab Solutions developed a HIV criminalization legal and policy assessment tool to assist jurisdictions in evaluating their laws to ensure they align with current scientific and medical evidence. This tool aims to help public health professionals, policymakers, legal counsel, and partners understand how HIV criminalization laws intersect with data privacy laws in their jurisdictions and to facilitate conversations among partners. CDC is also collaborating with ChangeLab Solutions to establish a learning lab to help states apply the HIV criminalization legal and policy assessment tool. The following resources from the Center for HIV Law and Policy provide a broad overview of HIV criminalization in the United States. Specifically,

these resources address the science of HIV, provide background literature on the history and practices of HIV criminalization, and the current status of HIV criminalization laws and statutes in the United States. The following case studies provide an in-depth analysis of the HIV criminalization laws, practices, convictions, and sentencing outcomes in a variety of states. The Williams Institute: State Case Studies: The current federal guidance from the U.S. Department of Justice on HIV criminalization practices and reform is provided below. The following resources represent a sample of articles from the legal and scientific research communities. The information presented here does not constitute legal advice and does not represent the legal views of the Centers for Disease Control and Prevention or the Department of Health and Human Services, nor is it a comprehensive analysis of all legal provisions relevant to HIV. This information is subject to change and does not contain measures implemented by counties, cities, or other localities. Use of any provision herein should be contemplated only in conjunction with advice from legal counsel.

