

HIV CRIMINALIZATION IN TENNESSEE

THE TIME TO MODERNIZE IS NOW



HIV CRIMINALIZATION is the arrest, prosecution, and imprisonment of people living with HIV (PLHIV) for things that are perfectly legal or only minor crimes for people who have not tested positive.

THE LAWS ARE NOT BASED ON THE SCIENCE

- Tennessee's laws punish behavior that poses no or negligible risk of HIV transmission, such as biting, spitting, and sex with a condom or while on effective treatment.
- The laws incorrectly assume an HIV diagnosis is a "death sentence," when in reality, it is a manageable medical condition. A person on effective treatment can have a near normal life expectancy.

THE LAWS DO NOT PROMOTE PUBLIC HEALTH

- There is no evidence that HIV criminal laws promote public health by increasing disclosure, HIV testing, or safer sex. The laws have had zero impact on rates of HIV diagnosis.
- HIV criminal laws harm marginalized communities that are already disproportionately affected by HIV.
- Tennessee's disease-specific law stigmatizes people living with HIV and viral hepatitis, which undercuts an effective response to these related epidemics.

THE LAWS ARE UNFAIR AND STIGMATIZING

- In Tennessee, a person living with HIV can go to prison for three to 15 years for not disclosing their status before engaging in "intimate contact." This is the case even when they did not intend to harm anyone, there was no risk of harm, and no harm resulted.
- In Tennessee, having a felony on your record means restrictions on voting rights, your ability to hold public office or serve on a jury, access to benefits like public housing, and more.
- Under Tennessee law, a conviction for criminal exposure to HIV or aggravated prostitution *requires* the person living with HIV to permanently register as a violent sex offender, which will disturb access to housing, employment, and education.

HIV CRIMINAL LAWS ARE COSTLY AND EXPERTS AGREE THEY NEED TO CHANGE

- Tennessee spends over \$700 million a year on prisons, at a cost of over \$23,000 per incarcerated person. The money spent to incarcerate people under HIV criminal laws would be better spent on HIV prevention efforts and supporting the over 16,000 people living with HIV in Tennessee.
- The U.S. Department of Justice has recommended that states like Tennessee reexamine their HIV criminal laws to better align with current evidence and "consider whether the laws are the best vehicle to achieve their intended purpose."

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**Positive
Justice
Project**

WHAT EXACTLY IS THE LAW IN TENNESSEE?

- **Tenn. Code Ann. § 39-13-109 Criminal Exposure:** If you know you are HIV positive or have viral hepatitis and (1) engage in “intimate contact” without first disclosing your status, (2) donate blood, tissue, organs, or semen, or (3) share needles, it is a Class C felony (3 to 15 years).
- **Tenn. Code Ann. § 39-13-516 Aggravated Prostitution:** If you know you are HIV positive and you engage in sex work it is a Class C felony (3 to 15 years).
- **Tenn. Code Ann. § 40-39-202 Sex Offender Registry:** A person who is convicted of criminal HIV exposure or aggravated prostitution is required to register as a violent sex offender.
- **Tenn. Code Ann. § 40-35-114 (21) Enhancement Factors:** A person living with HIV can have their sentence enhanced if convicted for underlying sex offenses.

RESOURCES

- **A Grassroots Guide to HIV Criminalization:** <http://www.hivlawandpolicy.org/resources/why-are-we-putting-people-jail-having-hiv-a-grassroots-guide-hiv-criminalization-facts>
- **Association of HIV diagnosis rates and laws criminalizing HIV exposure in the United States, Sweeney, P., et al., AIDS (2017):** <http://www.hivlawandpolicy.org/resources/association-hiv-diagnosis-rates-and-laws-criminalizing-hiv-exposure-united-states-sweeney>
- **Routes, Risks, and Realities of HIV Transmission and Care (2018):** <https://www.hivlawandpolicy.org/resources/routes-risks-and-realities-hiv-transmission-and-care-current-scientific-knowledge-and>
- **Positive Justice Project Guiding Principles for Eliminating Disease-Specific Laws (2015):** <https://www.hivlawandpolicy.org/resources/guiding-principles-eliminating-disease-specific-criminal-laws-positive-justice-project>
- **Rundown of Tennessee Laws and Guidelines for Healthcare Workers:** <https://www.hivlawandpolicy.org/states/tennessee>



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The Center for HIV Law and Policy challenges barriers to the rights and health of people affected by HIV through legal advocacy, high-impact policy initiatives, and creation of cross-issue partnerships, networks and resources. We support movement building that amplifies the power of individuals and communities to mobilize for change that is rooted in racial, gender and economic justice.