

# Timeline of State Reforms and Repeals of HIV Criminal Laws

## *States with most significant changes to their HIV laws*



### 1994: TEXAS

- The first state to repeal its HIV specific law; legislative history indicates one representative included it in an omnibus crime bill.
- Repeal did not end prosecutions. PLHIV in Texas prosecuted for HIV exposure since repeal have been charged with attempted murder, aggravated assault.



### 2014: IOWA

- Removed the sex offender registration requirement, including retroactively.
- Did not affect felony convictions of those already convicted and incarcerated.
- Added defense to prosecution if a person took practical measures to prevent transmission (e.g., prophylactic device, viral suppression).
- Still HIV-specific, but added new felonies for people living with TB, hepatitis, and meningococcal disease.
- Exposure with intent to transmit when transmission occurs is still a felony (up to 25 years). Intentional exposure without transmission is a felony (up to 5 years).
- Exposure with a “reckless disregard” about whether transmission occurs is a felony if transmission occurs (up to 5 years), and a misdemeanor (up to one year) if transmission does not occur.



### 2017: CALIFORNIA

- Extensive reform reduced penalties for intentional exposure, solicitation, and performing sex work from felonies to misdemeanors.
- It is no longer a felony to donate blood, tissue, semen, or breast milk.
- Prosecution requires specific intent to transmit coupled with conduct likely to transmit a nd transmission results.
- Provides privacy protections for PLHIV charged under current law.



### 2018: MICHIGAN

- Reform removed types of physical contact likely transmit HIV.
- Anal or vaginal sex without first disclosing status with a “specific intent” to transmit is a felony (up to 4 years). Transmission is not required for prosecution.
- Reckless exposure: sexual activity prior to disclosure resulting in transmission but without intent to transmit is a felony (up to 4 years).
- Reckless exposure without transmission is a misdemeanor.
- PLHIV who can show that they have been virally suppressed for at least six months and are following their physician’s treatment plan may use that as a defense to prove that they did not act with reckless disregard. Does not apply to acting with intent to transmit provisions of the new law.

1994

2012

2014

2016

2017

2018

2018

### 2012: ILLINOIS

- Narrowed types of prohibited contact to vaginal and anal intercourse.
- PLHIV must have intent to transmit HIV and engage in the acts listed in the statute (anal/vaginal intercourse, organ/blood donation).
- Disclosure of HIV status or using a condom is now a defense to prosecution, but difficult to prove in court.
- Other forms of prevention not considered, although could be evidence of lack of intent to transmit.
- Intercourse without disclosure of status and without a condom can still be a felony (up to 7 years).



### 2016: COLORADO

- Reduced the maximum authorized sentence enhancement to double the sentence for PLHIV who are charged with an underlying sex offense if transmission occurs.
- Intent to transmit is not required for prosecution.
- Eliminated felony offenses involving sex work and HIV, and mandatory HIV testing for someone accused of engaging in sex work.



### 2018: NORTH CAROLINA

- No HIV-specific criminal statute. PLHIV are required to comply with public health administrative regulations and “control measures.” Violating these regulations is a misdemeanor (up to 2 years).
- PLHIV must disclose their status and use condoms unless certain exceptions apply: they have been virally suppressed for at least six months, their partner is taking pre-exposure prophylaxis (PrEP), or their partner is also HIV positive.
- Neither intent to transmit nor transmission is required for public health violations.

