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HIV Criminalization and Women

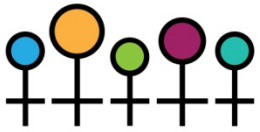
Last updated: June 17, 2026

Together, we can change the course of the HIV epidemic...one woman at a time.

#onewomanatotime

www.thewellproject.org

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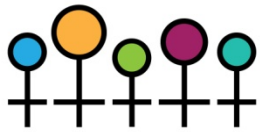


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What Is HIV Criminalization?

- ***No one should be punished simply because they have a health condition***
 - But many areas of the world have laws and practices that *unfairly punish people living with HIV*
- This is often called **HIV criminalization**



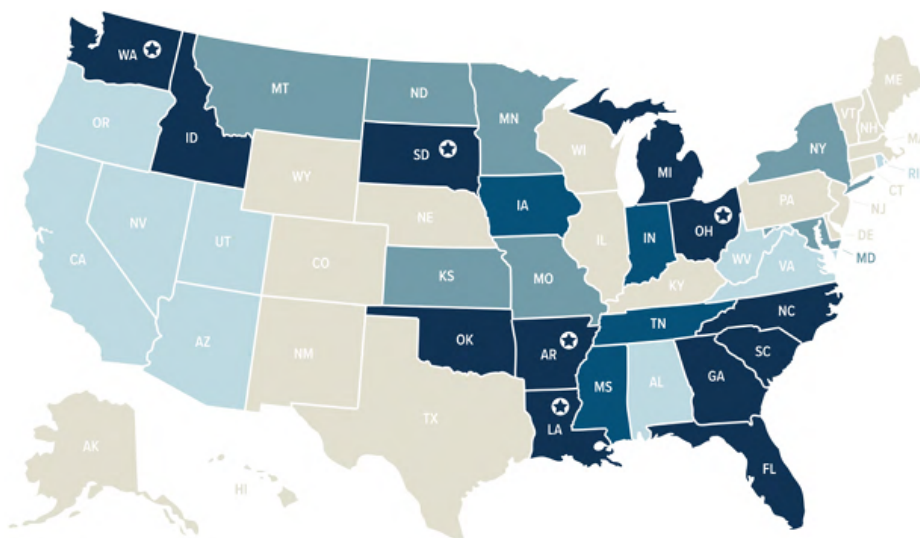


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What Is HIV Criminalization?

- 86 countries (in 2024) have HIV-specific criminal laws
- If no HIV criminalization laws, general laws may be used because someone is living with HIV
 - Example: Julie Graham of Pennsylvania
- People with HIV can face criminal charges for engaging in acts not considered criminal if done by an HIV-negative person
 - E.g.: consensual sex with another adult

32 STATES have laws that specifically criminalize exposure to and/or transmission of HIV.



SCALE OF HIV SPECIFICITY

12 STATES HIV is specifically named in the law and no other disease is listed.

4 STATES HIV is specifically named in the law alongside other diseases.

7 STATES **Communicable disease*** is named in the law and the statutory, administrative, or case law **definition of communicable disease specifically names HIV.**

9 STATES **Communicable disease*** is named in the law and the statutory, administrative, or case law definition of communicable diseases **does not specifically name HIV but the definition is broad enough to include HIV.**

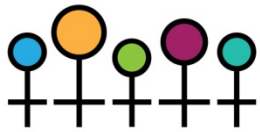
★ 5 STATES may require registration on a Sex Offense Registry (SOR) as part of the punishment for a conviction under HIV-specific laws.

*The term "communicable disease" is used within the HIV specificity scale, but HIV criminalization laws may refer to "contagious diseases," "infectious diseases," "sexually transmitted infections," "sexually transmitted diseases," "venereal diseases," or other similar terms.

EXPOSURE AND TRANSMISSION OFFENSES

An exposure law imposes criminal penalties on PLHIV for engaging in behaviors that purportedly create the possibility of HIV transmission. A transmission law imposes criminal penalties for the transmission of HIV from one person to another. For more information, see [A User Guide to CHLP's Updated HIV Criminalization Maps](#).

Source: Center for HIV Law and Policy (<https://www.hivlawandpolicy.org/maps>)

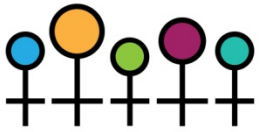


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What Is HIV Criminalization?

Most known HIV criminalization cases ***are not about HIV transmission***

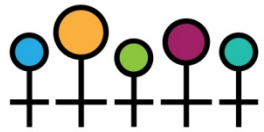
- Focused on alleged HIV non-disclosure (someone claims their partner did not tell them that they were living with HIV)
 - Pits the word of two partners against one another
 - Almost impossible to truly prove
- Sometimes there is **zero**, or an extremely low, chance of HIV transmission



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Where Do These Laws Come From?

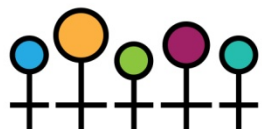
- World's first HIV-related prosecutions and laws happened in the mid-late 1980s
 - At that time, HIV was truly a death sentence for millions
 - Laws were an attempt to control a raging epidemic that virtually no one understood
- Spread the myth that people with HIV were dangerous "monsters," and that risk of "intentional infection" was high



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Where Do These Laws Come From?

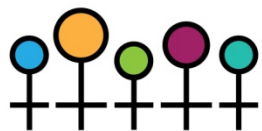
- Effective HIV drugs now extend and improve the lives of people living with HIV, reduce transmission risk to effectively zero
- However, irrational fears, not current scientific knowledge about HIV, is basis for laws
- Numbers of cases and laws have decreased slightly in recent years
 - Years of global advocacy to decriminalize HIV is working



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What Is the Impact of These Laws?

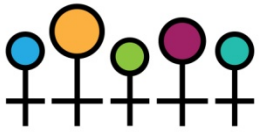
- No evidence of ***any public health benefit***
- Increase stigma and discrimination
- Make it harder for people to be tested, trust health professionals, get treatment if needed
- Most laws only require that a person knew they were living with HIV in order to prosecute them
 - Punishes people for healthful behavior of getting tested
- Especially true of whoever in a relationship knew their HIV status first (most often the woman)
 - Example: Samukelisiwe Mlilo of Zimbabwe



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Do These Laws Help Women?

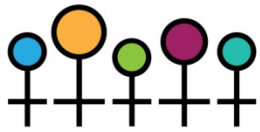
- Common argument for HIV criminalization laws:
They protect women from partners who might be dishonest about their HIV status -- or violent towards them, increasing their vulnerability to HIV
- These laws do not promote honesty, heal violence, or address epidemic of gender-based violence and uneven power dynamics
 - More often used as tools of abuse, harassment, or coercion



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Do These Laws Help Women?

- Women who are prosecuted, or even accused, in HIV criminal cases may lose housing, child custody, access to services, and much more
 - E.g. U.S. state of Louisiana, a person must register as a sex offender -- makes it difficult to rebuild her life
- Communities already subject to over-policing and incarceration bear highest burden of HIV charges
 - E.g. sex workers (or those perceived to be engaging in sex work), communities of color
 - Example: CJ Palmer of Australia

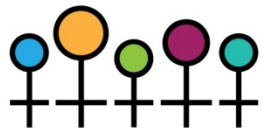


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Criminalization and Family Policing

- Grounded in surveillance and control of Black, Indigenous, and poor people
- Spike in foster care caseloads coincides with > incarceration of women + < welfare benefits in 1980s and 1990s
- Structured to funnel families toward child removal, not provide services or support where needed
- ***A CPS referral is not a way to help someone engage in care***

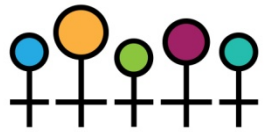
Adapted from “Destigmatizing Parenting and Pregnancy for People Living with HIV: 2025 Annual Perinatal HIV Roundtable”



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Criminalization and Family Policing

- Numerous reports from parents with HIV providers threatening or making CPS calls to report desire to breast/chestfeed
- Harm of being watched and monitored by authorities, often in their own home, threat of or actually having children taken away
- Increase HIV stigma; can drive people to breast/chestfeed in secret, without clinical support
- Guidelines now point out damage of CPS reporting causes; warn providers against engaging CPS for infant-feeding inquiries

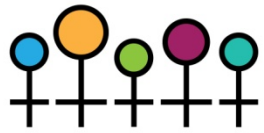


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Expanding Perspectives

What about people who "intentionally infect" others with HIV? Shouldn't they be punished?

- Specific intent to harm by transmitting HIV is very rare
- Not disclosing **does *not* mean** “intentionally infecting”
 - Sex or contact with a person living with HIV does not automatically = transmission
 - Saying "I am living with HIV" is not always a safe option
- Opposing stigmatizing HIV laws helps ***make HIV disclosure safer***
 - Could join advocacy group or educate people in community

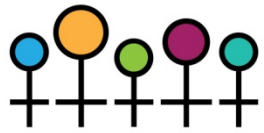


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Expanding Perspectives

What if someone living with HIV, including a partner, rapes or molests someone else?

- Rape and molestation are intentional; living with HIV and committing these acts is **not** equal to an intent to transmit HIV
- Laws against sexual violence – often poorly enforced
- Criminalizing people because of their HIV status does not protect women from sexual assault
- ***Rape is a crime – HIV is not a crime***

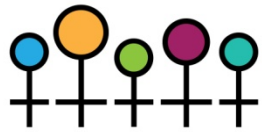


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Expanding Perspectives

My partner didn't tell me he was living with HIV; now I am living with it. Isn't my only option to send him to jail?

- Understandable that you are angry. **However:**
 - Living with HIV is no longer death sentence; prosecuting someone could ruin a life
 - Changing your mind after filing a complaint may not stop an investigation or prosecution
- Restorative justice and similar approaches may help heal rifts resulting from HIV transmission
- Laws worsen HIV stigma

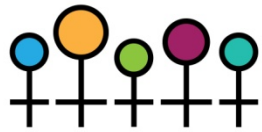


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Expanding Perspectives

How can we use "Undetectable Equals Untransmittable" to fight these outdated laws?

- Do share current scientific information about HIV
 - U=U: shows importance of removing barriers to HIV care
- Be careful not to spread false idea that, without HIV drugs and an undetectable viral load, legal punishment of people living with HIV is acceptable
 - HIV criminalization is ***harmful*** to public health
 - ***Never appropriate***, no matter the person's viral load
- U=U can be used as defense in individual cases
 - Example: EI in Malawi



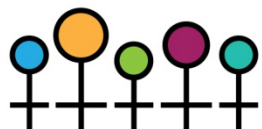
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Tools for Change

How can we use "Undetectable Equals Untransmittable" to fight these outdated laws?

- *Worth noting:* Women may have a harder time getting their viral loads to undetectable
 - More likely to be diagnosed later in life than men
 - Prioritize health of others over their own
 - Higher rates of violence, poverty, resulting instability
 - Can make it hard to be consistent with medication

Criminalizing people based on HIV status is harmful to public health and is never appropriate, no matter someone's viral load.

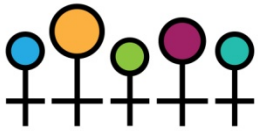


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Tools for Change

What if someone brings charges against me for HIV nondisclosure?

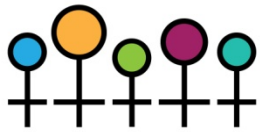
- **Know your rights:** In the U.S., you do not have to speak with anyone without a lawyer present
- **Get help:** Get represented by people who understand HIV and HIV criminalization
 - Contact a local HIV organization, legal clinic or anti-criminalization group
- **Know that you are not alone:** Many people have faced such charges; a global movement is fighting these laws



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Organizations

- Health Not Prisons Collective: www.healthnotprisons.org
- Sero Project: www.seroproject.com
- The Center for HIV Law and Policy: www.hivlawandpolicy.org
- Lambda Legal: www.lambdalegal.org
- American Civil Liberties Union (to find your local ACLU chapter): www.aclu.org
- HIV Justice Worldwide: www.hivjusticeworldwide.org



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Learn More!

- To learn more, and for links to articles featuring more details, please read the full fact sheet:
 - [HIV Criminalization and Women](#)
- For more fact sheets and to connect to our community of women living with HIV, visit:
 - www.thewellproject.org
 - [@thewellprojecthiv.bsky.social](https://bsky.app/@thewellprojecthiv)
 - www.facebook.com/thewellproject
 - www.instagram.com/thewellprojecthiv/
 - www.threads.net/@thewellprojecthiv
 - www.youtube.com/thewellprojecthiv