

HIV CRIMINALIZATION FACTSHEET

What is HIV Criminalization?

HIV criminalization means using laws and policies to **punish people living with HIV for non-disclosure of status, perceived exposure to HIV, or transmission of the virus**. Laws vary by state. Some punish oral, anal, or vaginal sex; exposure to saliva or blood; sharing needles; and donating organs, semen, blood, or breast milk. Many of these acts that are criminalized, like having sex with an undetectable viral load, spitting, or biting, **don't actually transmit HIV**.

By The Numbers

As of February 2025, 32 states have laws criminalizing alleged HIV exposure, non-disclosure, or transmission. Most were written in the late 1990s—based on **fear, racism, homophobia**, and **outdated science**—but they're still enforced today.

No Harm, No Proof Needed

Most HIV criminalization laws don't require proof that HIV was transmitted or that anyone meant to cause harm, just **knowing your HIV status can be enough for a conviction**. Even without HIV-specific laws, people have been charged under general laws like reckless endangerment, assault, or attempted homicide for alleged HIV exposure or non-disclosure. These laws stigmatize and discriminate against people living with HIV, punishing conduct that wouldn't otherwise be a crime, or wouldn't be punished so harshly.

Where Are We Now?

Anti-Black racism, front and center: Like the rest of the criminal legal system, HIV criminalization is deeply rooted in anti-Black racism. Black and Latine people living with HIV are disproportionately investigated, prosecuted, and punished under these laws, with Black women, transgender women, and sex workers facing intersecting harms.

A weapon for abusers: Intimate partners can threaten to report a partner living with HIV to police, trapping them in unsafe relationships. People in abusive relationships may be forced to choose: disclose their status and risk violence, or stay silent and risk arrest for non-disclosure.

Immigrant justice under attack: For immigrants living with HIV who are not citizens, contact with the criminal legal system, including through HIV criminalization, can trigger immigration investigations, detention, and deportation. Moreover, reports show that the increased policing of immigrant communities by ICE has led to disruptions in HIV care regardless of immigration status—another example of how the threat of criminalization undermines health and HIV prevention.

The fallout lasts a lifetime: Even without a conviction, being charged can cost a person privacy, safety, child custody, and jobs. A felony conviction can mean losing assistance benefits, voting rights, and job opportunities. Five states force sex offense registration under HIV-specific laws, creating lifelong barriers to parenting, employment, and safety from harassment or violence.

A Member's Story: Lashanda Salinas, one of PWN's Tennessee members, has experienced HIV criminalization firsthand. You can [listen to her story](#) using this QR Code.



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What Can Be Done?



At The Federal Level

1. Support federal legislation to end HIV discrimination and incentivize states to repeal or modernize HIV criminalization laws.



2. Treat drug use as a health issue, not a crime. End criminal penalties for drug use, remove barriers to jobs and housing for people with drug convictions, and invest in evidence-based and non-punitive **harm reduction** initiatives.



3. Support sentencing reforms, such as the **Smart Sentencing Adjustment Act**, that rewards states for shrinking their prison populations; prohibits enacting punitive sentencing laws like mandatory minimums or truth in sentencing; and establishes funding for organizations led by or serving formerly incarcerated individuals.

At The State Level

1. Repeal or modernize state HIV criminalization laws. Removing or updating these outdated laws—which fuel stigma and undermine testing, treatment, and prevention—to align with modern science and human rights. A recent law change in Louisiana proves that HIV modernization is possible!

2. End unnecessary reporting and surveillance in healthcare. Health departments track HIV drug-resistance data to map transmission. This data can be misused in criminal or immigration legal matters. States should protect this data from police, courts, and immigration officials, require consent before collecting it, and end mandated reporting rules that scare people away from care.

3. Ban law enforcement from signing cooperation deals with ICE. These deals are known as 287(g) agreements and effectively turn state and local law enforcement into ICE agents. Information sharing and collaboration between police and ICE can further expose immigrants living with HIV, especially those who are Black, Brown, queer, transgender, or undocumented, to harassment, detention and deportation.

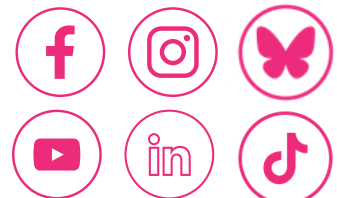
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And a huge shout out to our past intern **Treasure Welle** for writing our updated 2026 factsheets!