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# THE IMPACT OF HIV CRIMINALIZATION IN LOUISIANA

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## Executive Summary

### THE RESEARCH PROCESS: HOW WE DID THE STUDY

In late 2023, the Louisiana Coalition on Criminalization and Health (LCCH) conducted a statewide, community-based study to understand the true impacts of the HIV “exposure” law on People Who Are Living with HIV (PLWH) in Louisiana, as well as its influence on public health and safety. The purpose was to investigate the effects of the HIV law on the overall well-being of the community, regardless of whether individuals are living with HIV.

LCCH conducted focus group discussions and community education sessions, followed by a public opinion survey, to gather insights about the impacts of Louisiana’s HIV “exposure” law from residents throughout the state. Focus group discussions included 78 individuals living with HIV from all nine public health regions in Louisiana.

### STUDY FINDINGS: WHAT WE LEARNED

#### Insights from the Focus Groups

- Participants shared experiences, knowledge, and perceptions about the HIV “exposure” law in Louisiana.
- Six common themes were identified using the focus group transcripts:
  1. Avoiding social or romantic interactions due to fear of criminalization as a result of being a person living with HIV
  2. Concerns about lawmakers' and community members' lack of knowledge about HIV
  3. Fear of legal and social punishment as a result of one’s HIV status being exposed
  4. Mental health impacts of experiencing exclusion and/or discrimination as a result of one’s HIV status
  5. Being stigmatized by healthcare providers in relation to HIV disclosure
  6. Intersectionality/multiple challenges faced due to HIV criminalization

## Insights from the Public Opinion Survey

- 93.5% believe the law needs updating.
- 87% agree that the law does not make sense in terms of modern HIV science.
- 45.7% were unaware of the HIV law.
- Through open-ended questions, seven common themes were identified:
  1. Louisiana's HIV criminalization law needs to be updated to reflect modern science
  2. Louisiana's HIV criminalization law needs to be repealed
  3. Louisiana's HIV criminalization law makes people living with HIV a target for discrimination and potential harm
  4. Louisiana's HIV criminalization law deters people from getting tested and knowing their status
  5. Louisiana's HIV criminalization law stigmatizes those living with HIV
  6. Legislators and the public need to be educated on modern HIV science
  7. Louisiana's HIV criminalization law negatively impacts all residents, regardless of HIV status

## CONCLUSIONS

### Summary of Key Findings

Findings from community discussions suggest that most people, including those living with HIV, have very little understanding of the existing HIV “exposure” law. However, after learning more about the unintended impacts, most participants disagreed with the current legal consequences for not disclosing one’s HIV status in Louisiana.

Participants living with HIV expressed concerns about the law's heavy reliance on disclosing HIV status. They openly discussed the associated risks with the disclosure of their HIV status, such as potential discrimination, violence, and the stigma faced in their communities when their HIV statuses were made public without consent.

Across the state, people living with HIV shared their personal experiences of disclosing their status to trusted individuals, only to have it later used against them in a retaliatory manner. Many reported this weaponization of HIV status impacting their willingness to stay in violent or unhealthy relationships, fearing that a jury might not believe them, especially if they had no way to prove they disclosed their HIV status.

Other themes that surfaced in our group discussions were related to avoiding talking about one’s HIV status due to fear of the legal and social consequences it would have in other areas of PLWH’s lives—such as work, school, and family. Participants expressed frustration at feeling inadequately informed about the law in general and the risks associated with disclosing one’s HIV status, which could then be used against them.

Individuals highlighted how the pressure around HIV disclosure and its legal implications had negatively affected their mental health. They also mentioned how stigma related to HIV *from healthcare providers* impacted their willingness to discuss their status in medical settings.

Throughout these conversations, participants discussed how intersecting identities like race and sexual identity further intensified their fears of how the laws would be enforced against them, as a result of compounded discrimination.

### Implications for Public Health

The results of the community findings indicate the need to modernize Louisiana's HIV laws to align with current HIV science and reduce stigma associated with HIV. Due to a lack of adequate sexual health education in Louisiana, many people are uninformed about HIV, including how it can be transmitted and prevented. This lack of awareness often results in unfair treatment of PLWH and hinders efforts to combat the virus. Participants also noted that the law negatively affected their willingness to get tested for HIV, a crucial step in ending the HIV epidemic.

### Implications for Advocacy and Policy Change

Those who want to make a difference should focus on updating Louisiana's HIV “exposure” law. The themes uncovered in the focus group discussions and surveys indicate a widespread desire for changes or removal of this law. Participants who expressed any support for an HIV criminal law largely agreed that the language of the law should move away from being dependent on HIV disclosure. They emphasized the need for the wording to be more specific and explicit, particularly in addressing the incredibly rare instances in which someone may *intentionally and successfully transmit HIV to another person without their consent*.

Advocacy groups can utilize this information to engage with policymakers, raise awareness, and facilitate informed conversations about HIV law. It is crucial to collaborate with legislators, public health leaders, and community figures to ensure that HIV criminal law aligns with public opinion and does not further marginalize people, contribute to stigma, or cause undue harm.

## RECOMMENDATIONS FOR HIV MODERNIZATION

### Policy Recommendations for Louisiana State Legislators

- **Modernize RS 14:43.5 to decrease unjust criminalization of people living with HIV.**
  - This includes requiring proven intent to transmit the virus, reducing the felony charge, and removing the mandatory sex offender registration requirement (See LCCH's eight tenants for HIV modernization in Appendix B).
- Implement comprehensive HIV education for legislators and law enforcement agents.
- Prioritize public education on HIV prevention, care, and treatment.
- Foster collaborative efforts for effective legal and public health interventions.

### Recommendations for Community Members and Advocates

- Advocate for decriminalization of HIV.
- Combat HIV-related stigma through education and outreach.
- Connect efforts to public health principles.
- Adopt an equity-centered approach for inclusive healthcare and addressing systemic inequalities.

## HIV MODERNIZATION LAWS IN OTHER SOUTHERN STATES

In recent legislative changes, both Georgia and Tennessee have taken steps to modernize their HIV laws, addressing key issues related to criminalization and registration requirements.<sup>6</sup>

Georgia, through the passage of SB 164 in May 2022, updated its HIV criminalization law. The focus has shifted towards intentional transmission, resulting in a reduced felony charge. The amendments also prioritize the protection of sexual assault victims. Furthermore, Georgia has embraced a more inclusive approach by decriminalizing syringes and adopting people-first language.<sup>6</sup>

Tennessee, in its efforts to reassess sex offender registration laws in the Deep South, enacted SB 0807 in May 2023. This legislation removes mandatory sex offender registration for individuals previously registered for "criminal exposure," impacting around 70 individuals. The move reflects a broader reconsideration of registration requirements in the region.<sup>6</sup>

These developments underscore a positive trend toward the modernization of HIV laws in Southern states, emphasizing a more nuanced and compassionate approach to address legal and public health concerns.

## References

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