

EXPOSING INEQUITY

Assessing the scope and enforcement of HIV criminalization on women and Black, brown, and LGBTQ+ people in the United States

BACKGROUND

HIV CRIMINALIZATION ENDANGERS THE HEALTH AND WELL-BEING OF PEOPLE LIVING WITH HIV (PLHIV) BY INFLAMING HIV STIGMA AND INCREASING THEIR INVOLVEMENT IN THE CRIMINAL LEGAL SYSTEM.¹

These realities also undermine public health efforts to end the HIV epidemic through treatment, prevention, and detection.² Certain groups experience unique harms from HIV criminalization, including people who are Black, brown, LGBTQ+, and women due to structural barriers that drive HIV vulnerability.³ Despite these realities, rigorous research on the prevalence, features, and application of these laws is limited. The multidisciplinary study sought to analyze and describe HIV criminalization laws in the United States and their disparate impact based on race, gender, and sexual orientation.

DATA AND METHODS

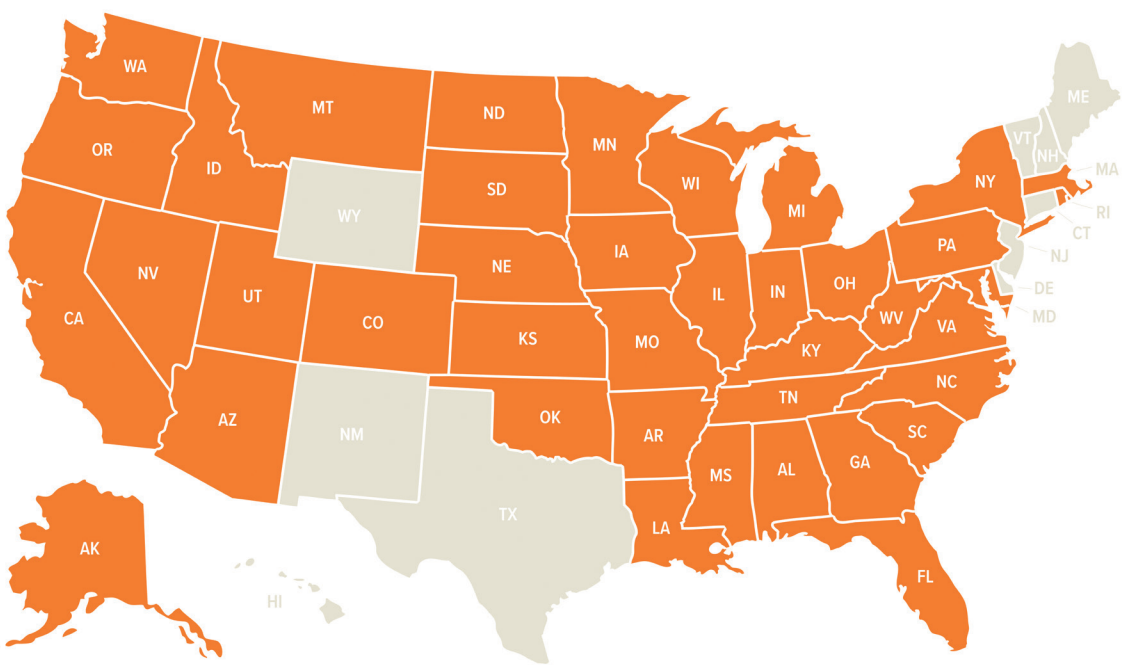
A DATASET OF LAWS SPECIFICALLY CRIMINALIZING BEHAVIORS BECAUSE OF A PERSON'S HIV-POSITIVE STATUS ACROSS 50 US STATES AND THE DISTRICT OF COLUMBIA AS OF JULY 1, 2025, WAS GATHERED USING LEXISNEXIS.

Laws were coded based on HIV-specificity and distinguished into offense and enhancement categories.⁵ A review of these laws by a three-person study team informed the initial codebook. Each study team member then independently analyzed the laws and classified their content using the coding scheme. Finally, the study team reconvened to resolve issues and confirm coding.

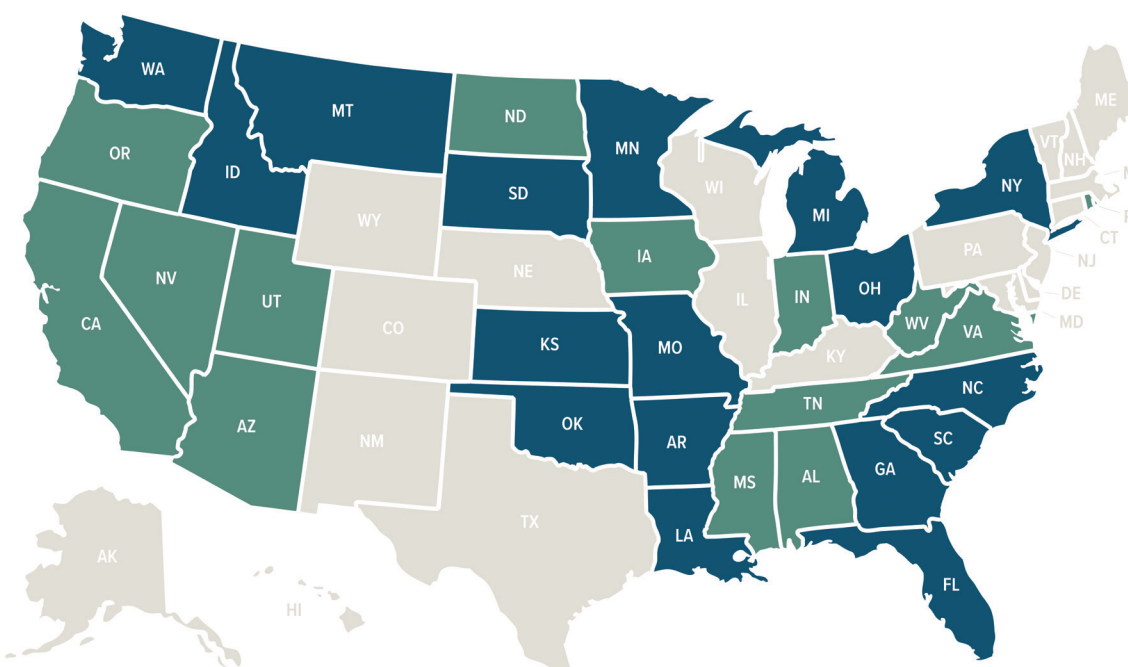
Another research team analyzed the application of these laws across 16 states using arrest, prosecution, and/or incarceration records for criminal laws that include a person's HIV status as an element of the crime. States were selected based on the existence of HIV-related criminal laws and the ability to access administrative records related to criminal matters. Data availability varied between jurisdictions.¹ In each state, descriptive statistics were calculated, including location, race, sex, age, and number of incidents per year. When available, additional statistics were also generated, such as age at arrest, number and type of concurrent charges, and conviction rates.

RESULTS

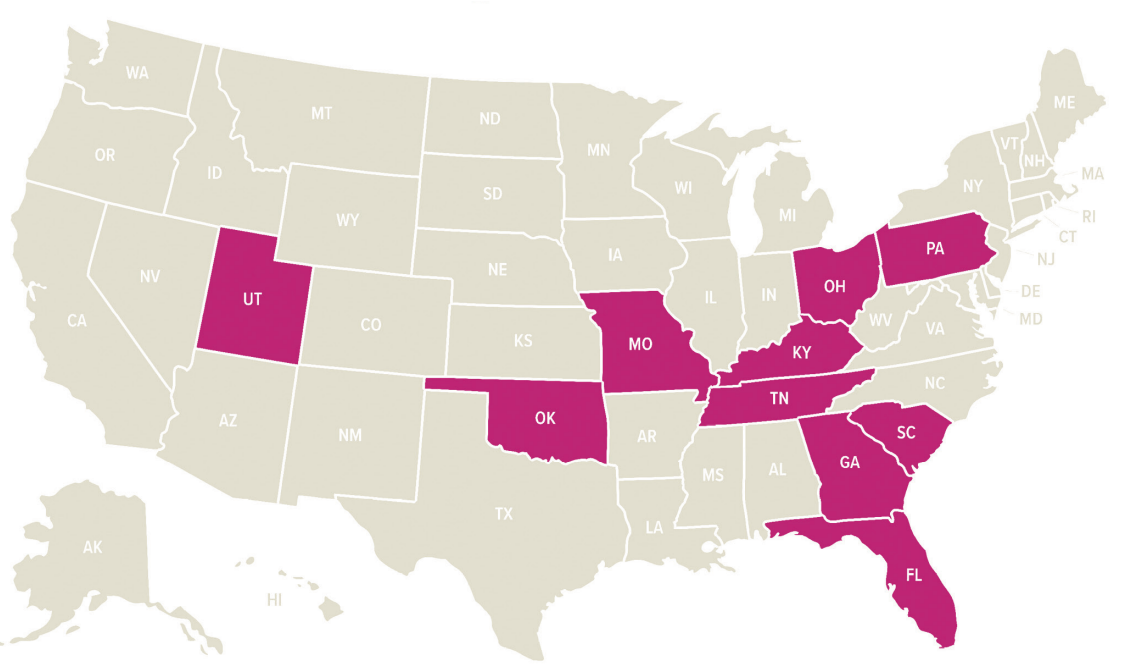
HIV CRIMINALIZATION LAWS ARE PREVALENT THROUGHOUT THE U.S. AND ENFORCEMENT REMAINS WIDESPREAD



Forty (40) states have at least one HIV criminalization offense or enhancement.⁶ In every state examined, enforcement continued into the present.⁷



Among HIV-specific exposure and transmission laws, 50% specifically name HIV, while 50% use language, such as "communicable disease," to specifically criminalize PLHIV.

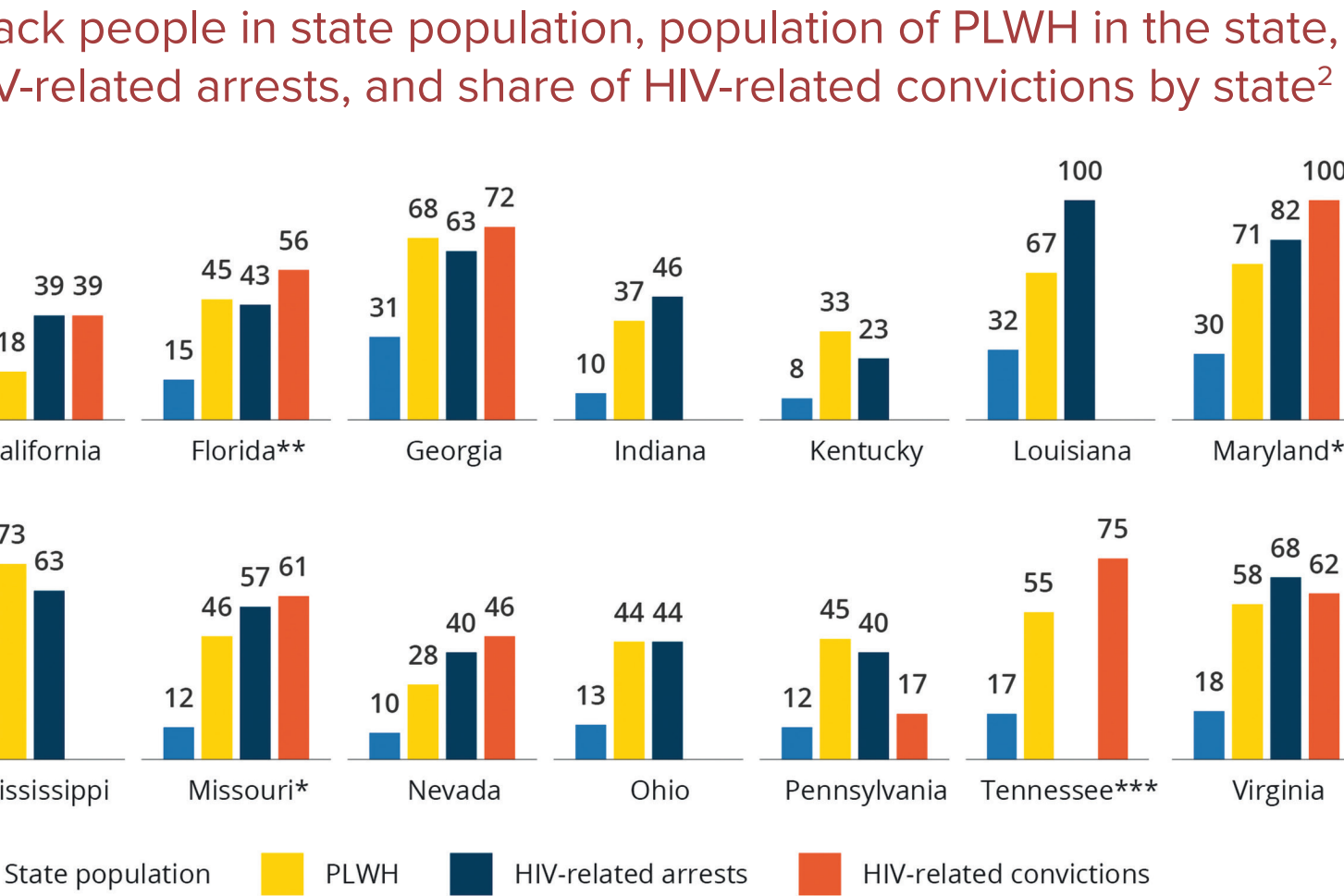


Ten (10) states have sex work enhancements that specifically and only criminalize PLHIV, with most of these laws existing in the American South.

2.9–10 years
average sentence for HIV crimes in Missouri⁹

4 states
might require sex offense registry after conviction

In many states, HIV crimes are felonies and in 4 states sex offense registration might follow conviction.



In many states, Black people were more likely to be arrested, prosecuted, or convicted for HIV-related offenses.

4%
of California's population with HIV are Black women

22%
of those arrested for solicitation while HIV-positive are Black women

Women⁸ are often particularly affected by enforcement of sex work enhancements.



DISCUSSION & NEXT STEPS

HIV CRIMINALIZATION IS A GLOBAL PHENOMENON.¹⁰ INSIGHTS FROM ENFORCEMENT IN THE UNITED STATES—WHERE DATA ARE AVAILABLE—MAY SHED LIGHT ON HOW THESE LAWS ARE USED ELSEWHERE.

- Results from this study show that HIV criminalization in the United States remains a nationwide problem, and that enforcement continues to the present.
- Many state laws specifically and only target PLHIV for harsher treatment.
- Most laws do not require actual HIV transmission or the intent to transmit HIV, and many laws criminalize behaviors that pose no transmission risk.
- Some populations are more likely to be criminalized—especially sexual and gender minorities, women, and Black and brown people.
- People who may have been marginalized from healthcare and other support systems, such as sex workers, are also vulnerable to criminalization.¹¹
- The disproportionate effect of HIV criminalization on marginalized and stigmatized populations may be linked to structural barriers that also increase the burden of the HIV epidemic in these populations, such as economic insecurity, housing instability, and healthcare access.¹²

RECENT SUCCESSFUL EFFORTS HAVE SUCCEEDED BY CENTERING PEOPLE MOST IMPACTED BY HIV AND HIV CRIMINALIZATION.

- These efforts focus on solutions tailored to reduce harms to communities marginalized by race, gender, and sexual orientation.

