

North Dakota

North Dakota changed its HIV criminal law in 2025

In 2025, Governor Kelly Armstrong signed House Bill 1217 into law. The law repealed Section 12.1-20-17 of the North Dakota Century Code.



WHAT WAS THE LAW BEFORE 2025?

- It was a felony, punishable by imprisonment of up to 20 years and a fine of up to \$10,000, for people living with HIV to “willfully” engage in “sexual activity” or to “willfully” allow another person to reuse a needle, syringe, or other drug equipment.
 - “Sexual activity” included oral, anal, and vaginal sex.
 - A person who acts “willfully” acts either “intentionally, knowingly, or recklessly.”
- The law had one affirmative defense available if the “sexual activity” “took place between consenting adults after full disclosure of the risk of such activity” and involved “use of an appropriate prophylactic device.” The law did not define “appropriate prophylactic device.”
- The law did not require intent to cause HIV transmission, engagement in behavior posing a significant risk of transmission, or HIV transmission. In other words, people could be prosecuted for engaging in behavior posing low or no risk of transmission and without any intent to harm or any HIV transmission.



WHAT CHANGED?

House Bill 1217 fully repealed North Dakota’s exposure offense that specifically and only criminalized people living with HIV.



HOW COULD PEOPLE STILL BE CRIMINALIZED?

- It is an infraction, punishable by a fine of up to \$1,000, for someone living with a “sexually transmitted disease” to “willfully” “expose” another person to the condition.
 - The offense exists within the public health code.
 - “Sexually transmitted disease” likely includes HIV, chlamydia, gonorrhea, hepatitis B virus, and syphilis.
 - A person convicted of a third “sexually transmitted disease” infraction within one year may face misdemeanor punishment of up to 30 days’ imprisonment and up to \$1,500 in fines.
 - The law does not require intent to cause transmission, engagement in behavior posing a significant risk of transmission, or transmission.
- People living with HIV or other stigmatized conditions may be criminalized for not following public health orders, such as orders related to quarantine.
- People living with HIV or other stigmatized conditions may still be criminalized under general criminal laws, such as assault or attempted murder, that do not mention HIV or another condition.

To read the full text of the current law, as well as additional analysis, please visit www.hivlawandpolicy.org/states/north-dakota.

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