

Puerto Rico

Analysis

No criminal statutes explicitly addressing HIV exposure.

There are no criminal statutes explicitly criminalizing HIV exposure in Puerto Rico. However, in other jurisdictions people living with HIV (PLHIV) have been prosecuted for HIV exposure under general criminal laws, such as reckless endangerment and aggravated assault. At the time of publication, the authors are not aware of a criminal prosecution of an individual on the basis of that person's HIV status in Puerto Rico.

Health officials may mandate testing and treatment for sexually transmitted diseases and infections (STDs/STIs).

STDs are defined to include diseases transmitted both by sexual contact and by needle exchange, and include syphilis, gonorrhea, inguinal granuloma, venereal lymphogranuloma, chancroid, nonspecific urethritis, vaginitis trichomoniasis, crab-lice, genital herpes simplex Type I, genital herpes, hepatitis Type B, hepatitis Type C, scabies (mange), genital warts, Chlamydia Trachomatis, bacterial vaginosis, Acquired Immune Deficiency Syndrome (AIDS), anal warts, vaginitis trichomoniasis, scabies, and HIV.¹

A physician, “who has reasonable grounds to believe that a person who suffers from or has been infected with any sexually transmitted disease that could infect . . . any other person, must require that said person submit to a medical examination.”² Anyone convicted of rape, conjugal sexual assault, incest, sodomy, or lewd or indecent acts involving fellatio, cunnilingus, or anilingus may be subject to HIV testing.³ All persons found to have an STD must submit to medical treatment within ten days.⁴ Any person who violates these provisions may face up to six months' imprisonment and a fine of up to \$1,500.⁵

Important note: *While we have made an effort to ensure that this information is current, the law is always changing and we cannot guarantee the accuracy of the information provided. This information may or may not be applicable to your specific situation and, as such, it should not be used as a substitute for legal advice.*

¹ P.R. LAWS ANN. tit. 24, §§ 571, 582 (2016). 900 P.R. REG. 5649, art. III (2016). 900 P.R. REG. 5544, art. II (2016).

² P.R. LAWS ANN. tit. 24, §§ 576, 582 (2016). 900 P.R. REG. 5649, art. IX (2016). 900 P.R. REG. 5544, art. IV (10) (2016)

³ *Id.*

⁴ P.R. LAWS ANN. tit. 24, §§ 576, 582 (2016). 900 P.R. REG. 5649, art. IX. (2016). 900 P.R. REG. 5544, art. IV (11) (2016).

⁵ P.R. LAWS ANN. tit. 24, § 583 (2016). Persons may also be subject to an administrative fine of up to \$5,000. P.R. LAWS ANN. tit. 24, § 582 (2016); 900 P.R. REG. 5544, art. VII. (2016).

Laws of Puerto Rico Annotated

*Note: Provisions imposing punitive restrictions or listing criminal sentences are denoted with ** and are generally listed first. Thereafter, provisions within a particular title are listed numerically.*

TITLE 24. HEALTH AND SANITATION

P.R. LAWS ANN. TIT. 24, § 571 (2016)

Definitions

For the purposes of this chapter, the following terms will have the definition hereinafter expressed:

(a) Sexually-Transmitted Disease (STD). Are those, according to scientific research, transmitted by sexual contact or needle exchange. These include: syphilis, gonorrhea, inguinal granuloma, venereal lymphogranuloma, chancroid, nonspecific urethritis, vaginitis trichomoniasis, crab-lice, genital herpes simplex Type I, genital herpes simplex Type II, hepatitis Type B, hepatitis Type C, scabies (mange), genital warts, Chlamydia Trachomatis, bacterial vaginosis, Acquired Immune Deficiency Syndrome (AIDS) and any other that the Secretary may include in the future as sexually transmitted disease or infection.

(i) Sexually-transmitted infections. An infection that, according to scientific research, is transmitted by sexual contact or needle exchange. These include: the Acquired Immune Deficiency Syndrome (AIDS) Infection.

P.R. LAWS ANN. TIT. 24, § 576 (2016)

Investigation and examination of suspected sufferers

Health physicians shall employ all means available to determine the existence[sic]. Medical health officials shall employ all means available to determine the existence of sexually transmitted diseases, as well as the source of said diseases.

The health physician who has reasonable grounds to believe that a person who suffers from or has been infected with any sexually transmitted disease that could infect or be the source of infection for any other person, must require that said person submit to a medical examination and have a sample of his/her blood or other bodily secretions taken so as to conduct the laboratory tests needed to establish the presence or absence of said disease or infection.

Provided, That the required examination shall be conducted by a health physician or, at the option of the person to be examined, by a licensed physician who, in the opinion of the health epidemiology technician, is qualified to perform this work and who has his/her approval. The licensed physician who conducts said examination shall render a report thereon to the health epidemiology technician of the Department of Health, but shall not issue a certificate of immunity. Provided, further, That the health epidemiology technician may request the court to order the person suffering a sexually transmitted disease to attend any of the clinics of the Program to receive treatment. The Department of Health shall provide medical assistance to any medically indigent person suffering from any sexually transmitted disease.

In every case of rape, conjugal sexual assault, incest, sodomy or lewd or indecent acts when committed by contact between the mouth and the penis, the mouth and the vagina or the mouth and

the anus, the judge may order that the convict be subjected to the tests to detect the HIV virus, transmitter of the Acquired Immune Deficiency Syndrome (AIDS). Likewise, the judge may order that said tests be performed on minors who incur offenses equal to the abovementioned crimes.

P.R. LAWS ANN. TIT. 24, § 582 (2016)

Regulations

The Secretary shall have the authority to promulgate those rules or regulations that may be necessary for the implementation of this chapter. Any regulations adopted by virtue of this chapter, that are not of an internal nature, must be approved in accordance with the provisions of Act No. 112 of June 30, 1957.

P.R. LAWS ANN. TIT. 24, § 583 (2016) **

Penalties

Any person that violates the provisions of this chapter shall incur a misdemeanor and, upon conviction, will be sanctioned with a penalty of imprisonment that shall not exceed six (6) months, or a fine that shall not exceed one thousand five hundred dollars (\$1,500), or both penalties, at the discretion of the court.

Administrative Rules of Puerto Rico

DEPARTMENT OF HEALTH

900 P.R. REG. 5649 (2016)

Article III. Sexually Transmitted Diseases

As per this Rule, the following are to be considered sexually transmitted diseases:

- (1) Syphilis
- (2) Gonorrhea
- (3) Genital Herpes Simplex I and II
- (4) Hepatitis B
- (5) Chancroid
- (6) Granuloma Inguinale
- (7) Lymphogranuloma Venereum
- (8) Anal Warts
- (9) Autoimmune Deficiency Syndrome (AIDS)
- (10) Chlamydia Trachomatis
- (11) Vaginitis Trichomoniasis

- (12) Bacterial Vaginosis
- (13) Crabs
- (14) Scabies
- (15) Acquired Immunodeficiency Virus Infection [sic] (likely HIV)
- (16) Any other disease that may be determined to be sexually transmitted.

Article IX. Duties of Epidemiological Technicians

Epidemiological technicians shall investigate all persons, including minors and those who may be mentally impaired or mentally incapacitated, who are infected with or are suspected of being infected with a sexually transmitted disease. . .

All such persons are required to submit to a medical exam or medical treatment with their primary physician or at a Sexually Transmitted Diseases Control Program clinic within ten days of notification from an epidemiological technician.

900 P.R. REG. 5544 (2016)

Article II. Definitions.

As per this Rule, the following terms will have the meanings provided below:

(1) Sexually transmitted disease: means syphilis, gonorrhea, gonorrhea inguinale, lymphogranuloma venereum, chancroid, non-specific urethritis, vaginitis, trichomoniasis, vaginal moniliasis, crabs, herpes simplex II, hepatitis B, hepatitis C, scabies, chlamydia, genital warts, and human immunodeficiency virus (HIV).

Article IV. Investigation and Examination of Suspected Persons and Sexual Contacts.

(10) Epidemiological technicians may investigate all persons, including minors and those who may be mentally impaired or mentally incapacitated, who are infected with or are suspected of being infected with a sexually transmitted disease. . .

(11) All persons under investigation by the epidemiological technician who suffer from any sexually transmitted disease is required to submit to a medical exam or to medical treatment within ten days of notification from an epidemiological technician.

Article VII. Fines.

Any violation of the provisions of this Rule shall be punished by administrative fine up to \$5,000 per violation, as provided in the Uniform Law of Administrative Procedure.