



U.S. HIV LAWS AND PROSECUTORIAL TOOLS

32 States, 2 Territories, and the Federal Government (35 total) Have HIV Laws Imposing Criminal Penalties

Updated July 2020

HIV LAWS IMPOSING CRIMINAL PENALTIES (35 total)

Each state or territory, in addition to the federal government, that has an HIV-specific misdemeanor or felony law for one or more of the behaviors below qualifies as a state or territory with an HIV law imposing criminal penalties. A law is HIV-specific if it explicitly targets HIV, whether or not it targets other diseases as well. Where not otherwise noted, these laws appear in criminal codes. In some jurisdictions, some or all of these HIV-specific laws imposing criminal penalties appear in public health codes; these 11 jurisdictions are marked with Ω.

STI EXPOSURE OR TRANSMISSION LAWS IMPOSING CRIMINAL PENALTIES (28 total)

SEX OFFENDER REGISTRATION

GENERAL FELONY LAWS

NOTES

EXPOSURE	DONATION	SEX WORK	SENTENCING	CHARGE	VIRAL HEPATITIS	PUBLIC HEALTH CODE †	CRIMINAL CODE	Sex Offender Registration May Be Required if Convicted of HIV-Specific Criminal Law (6 total)	General Felony Laws Used to Prosecute People Living with HIV (26 total) ‡
Sexual Exposure (24 total)	Spit, Bite, Blood Exposure (15 total)	Needle Sharing Exposure (17 total)	Organ, Tissue, Blood, Semen Donation (22 total)	Specific Offense for Sex Work/Solicitation While Living with HIV (12 total)	Statutory Sentence Enhancement or Aggravating Factor for Sex Offenses While Living with HIV	Felony and/or Misdemeanor (33 jurisdictions have felonies)*	Hepatitis Also Specifically Included in HIV Laws Imposing Criminal Penalties (12 total)	STI Law with General STI Law in Public Health Code (21 total)	STI Law in Criminal Code (5 total)

JURISDICTION

Alabama								Misdemeanor			PLHIV have been prosecuted under a criminal law for "assault with bodily fluids," which carries a felony enhancement if the defendant has any "communicable disease."
Alaska					Yes	Felony					
Arizona								Misdemeanor			
Arkansas	Yes	Yes	Yes				Felony		Yes	Yes	It is also a misdemeanor for PLHIV to receive medical or dental care without disclosing positive status.
California					Yes	Felony		Misdemeanor	Misdemeanor		Yes
Colorado					Yes	Felony					Yes
Connecticut											
Delaware Ω				Yes			Felony				
District of Columbia											
Florida Ω	Yes			Yes	Yes		Felony		Misdemeanor		Yes
Georgia	Yes	Yes	Yes ★	Yes	Yes		Felony	Yes			Yes
Hawaii											
Idaho Ω	Yes	Yes	Yes ★	Yes			Felony		Misdemeanor		
											While Idaho does not include hepatitis alongside HIV in its exposure law, the state does have a statute indicating it is unlawful for anyone infected with hepatitis B virus (HBV) to "knowingly expose another person." HIV, syphilis, gonorrhea, and chlamydia are also included in this same law. Subsequent code sections specify, first, misdemeanor penalties for syphilis and gonorrhea, and, secondly, felony penalties for HIV. Thus, penalties for HBV are not specified, making it unclear how exactly exposure to HBV is treated under the law.
Illinois	Yes		Yes ★	Yes		Yes	Felony				
Indiana Ω	Yes	Yes	Yes ★	Yes		Yes	Felony/ Misdemeanor	Yes			Yes
Iowa	Yes		Yes	Yes			Felony/ Misdemeanor	Yes		Misdemeanor	
											Iowa's exposure law criminalizes exposing another to a "contagious or infectious disease," which is defined to include HIV in addition to hepatitis, tuberculosis, and meningococcal disease. Therefore, Iowa's law is HIV-specific, although its application is not limited to HIV.
Kansas										Felony	
											Kansas's STI felony criminalizes exposing another to a "life-threatening communicable disease" via sex, needle sharing, or blood/organ/semen donation.
Kentucky				Yes	Yes		Felony/ Misdemeanor				Yes
											Kentucky has a spit/bite/blood exposure law, which imposes enhanced penalties under certain circumstances if the defendant "has a serious communicable disease." This offense is not HIV-specific.



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JURISDICTION

Louisiana	Yes	Yes	Yes	Yes					Infraction, Misdemeanor		Yes	Yes	Louisiana has a broad HIV exposure statute that, in addition to targeting sexual exposure specifically, targets exposure "through any means or contact," though certain defenses are enumerated.
Maine													
Maryland Ω	Yes	Yes	Yes	Yes					Misdemeanor			Yes	Maryland has a broad HIV exposure law that can be applied to any type of HIV exposure.
Massachusetts												Yes	Massachusetts has a broad STI sentence enhancement law, but this is not HIV-specific.
Michigan Ω	Yes			Yes					Felony			Yes	Michigan has a broad sentence enhancement law, which has been used to impose greater penalties in sexual assault cases in which STI transmission occurred.
Minnesota											Felony		
Mississippi	Yes	Yes	Yes	Yes			Felony/ Misdemeanor	Yes					Mississippi has a broad HIV exposure law that can be applied to any sort of exposure.
Missouri Ω	Yes	Yes	Yes ★	Yes	Yes		Felony	Yes					Missouri's HIV exposure statute allows subsequent positive tests for other STIs to be treated as evidence of acting recklessly in exposing another person to HIV, regardless of whether the other STI was present at the time of the alleged offense.
Montana									Misdemeanor			Yes	
Nebraska		Yes					Felony	Yes					
Nevada	Yes	Yes	Yes	Yes	Yes		Felony		Misdemeanor				Nevada has a broad HIV exposure statute that can be applied to exposure by any means. Additionally, while certain regulated forms of sex work are legal, sex work remains categorically unlawful for PLHIV.
New Hampshire												Yes	
New Jersey	Yes						Felony			Felony		Yes	New Jersey's "diseased person committing an act of sexual penetration" criminal statute outlines a "crime of the fourth degree" for penetration without "informed consent" when someone has one of several STIs, not including HIV, and a higher "crime of the third degree" for the same conduct for PLHIV. Both offenses are equivalent to felonies in other states: a crime in the fourth degree carries a maximum of 18 months in jail, while a crime in the third degree carries a maximum of 5 years.
New Mexico													
New York									Misdemeanor			Yes	
North Carolina Ω	Yes		Yes ★	Yes			Misdemeanor	Yes	Misdemeanor			Yes	Although North Carolina's HIV-specific law is a misdemeanor, the punishment is up to two years, which is greater than the maximum for a misdemeanor offense in most states.
North Dakota	Yes		Yes ★				Felony		Infraction				



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JURISDICTION

Ohio	Yes	Yes		Yes		Felony	Yes			Yes	
Oklahoma	Yes	Yes			Yes	Felony		Felony		Yes	
Oregon								Felony		Yes	
Pennsylvania		Yes			Yes	Felony	Yes			Yes	The HIV-specific law criminalizing spit/bite/blood exposure targets people who are incarcerated.
Rhode Island								Misdemeanor			
South Carolina Ω	Yes		Yes ★	Yes	Yes	Felony		Misdemeanor		Yes	South Carolina does not include viral hepatitis in its HIV exposure law, which is HIV-exclusive. The state's STI law, however, specifically names hepatitis B and C, in addition to HIV.
South Dakota	Yes	Yes	Yes ★	Yes		Felony		Misdemeanor	Yes		
Tennessee	Yes		Yes ★	Yes	Yes	Felony	Yes	Misdemeanor	Yes §		Tennessee also has an HIV-specific quarantine law.
Texas										Yes	
Utah		Yes			Yes	Yes	Felony	Yes		Misdemeanor	
Vermont								Misdemeanor		Yes	Vermont's STI offense is a misdemeanor under Vermont law, but the punishment is up to two years.
Virginia Ω	Yes			Yes		Felony, Misdemeanor	Yes			Yes	Virginia's donation statute applies to HIV exclusively and appears in its health code, while its sexual exposure ("infected sexual battery") statute applies to HIV, hepatitis B, and syphilis and appears in the criminal code.
Washington Ω	Yes					Felony, Misdemeanor			Yes		Washington's misdemeanor exposure statute appears in the health code and does not require sex offender registration (SOR). The criminal first-degree assault statute, however, imposes felony penalties for transmitting HIV to a child or vulnerable adult. Only this offense requires SOR.
West Virginia								Misdemeanor			West Virginia's general STI law imposes a maximum penalty of \$100 and 30 days imprisonment for exposing another to a venereal disease, without specifically naming any STIs. However, West Virginia's STD Program monitors both HIV and hepatitis B virus (HBV), among other STIs, and this offers some indication that exposing others to either HIV or HBV could be punished under the law.
Wisconsin					Yes	Felony		Misdemeanor		Yes	Wisconsin's aggravating factors statute includes HIV by name as well as "sexually transmitted disease."
Wyoming											
American Samoa											
Guam				Yes		Felony					
Northern Mariana Islands											
Puerto Rico											



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U.S. Virgin Islands	Yes		Yes ★	Yes			Felony						Cohabiting with another while knowingly "afflicted with venereal disease" carries a punishment of up to 180 days imprisonment under the health code.
Federal Law, including U.S. Military				Yes			Felony					Yes	
TOTALS	24	15	17	22	12	8	35	12	2	21	5	6	26

* Where a state's only HIV-specific law imposing criminal penalties is a sentence enhancement or aggravating factor for a sex offense, a felony designation here simply denotes that the enhancement pertains to a felony.

† The only laws included in these columns are those under public health codes that impose criminal punishment for exposure or transmission of STIs including HIV or STIs in general (not laws that impose other measures for HIV or STIs, or laws that impose criminal punishment for not following health orders). These laws are predominantly misdemeanors. Oregon's law is a class C felony.

‡ The only states included here are those where there have been reported charges and/or convictions for non-HIV-specific offenses, where positive HIV status was relevant in establishing a (non-HIV-specific) element of the offense.

§ In Tennessee, a person living with hepatitis B or C virus convicted of criminal exposure (via sexual, needle sharing, or organ/tissue/blood/semen donation exposure) is required to register as a sex offender. People living with HIV are required to register for this offense as well, and they are also required to register if convicted of aggravated prostitution (Tennessee's HIV-specific sex work law).

★ These jurisdictions have provisions specifically criminalizing syringe sharing or sale by PLHIV, most of which impose felony penalties. This is in contrast to states with HIV-specific laws that do not explicitly target this type of exposure, but contain language that can be (and in some cases has been) applied to syringe sharing or sale.