

Wyoming

Analysis

There are no criminal statutes explicitly addressing HIV exposure.

There are no statutes explicitly criminalizing HIV transmission or exposure in Wyoming. However, in some states, 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 this publication, the authors are not aware of a criminal prosecution of an individual on the basis of that person's HIV status in Wyoming.

A person accused of a crime involving the “exchange of bodily fluids” is required to submit to testing for the presence of STIs, including HIV, and the results of the test are admissible in certain criminal prosecutions.

Defendants accused of a crime involving the “exchange of bodily fluids” must submit to a test for a sexually transmitted disease, either by consent or court order, and the results of the test, while generally confidential, are admissible in a criminal prosecution for the “criminal infliction of or exposure to a sexually transmitted disease.”¹ The statute does not define “exchange of bodily fluids,” and as of this writing, the authors are unaware of any specific criminal provision under Wyoming law that targets the infliction of or exposure to an STI.

A person with an STI, including HIV, can be isolated and may be required to undergo mandatory examination and treatment.

A health officer who receives a report of an individual who is known or suspected to have an STI may isolate that individual “in accordance with existing standards of medical practice.”² The officer may also mandate that the individual be medically examined or receive treatment.³ Sexually transmitted diseases are defined by statute as “included within the list of reportable diseases of the department of health are contagious, infectious, communicable and dangerous to public health.”⁴ Currently reportable diseases include HIV, chlamydia, gonorrhea, syphilis, and viral hepatitis.⁵

¹ WYO. STAT. ANN. § 7-1-109(f)(iv) (2016).

² WYO. STAT. ANN. § 35-4-133(a)(i) (2016).

³ WYO. STAT. ANN. §§ 35-4-133(a)(ii), 35-4-133(a)(iii) (2016).

⁴ WYO. STAT. ANN. § 35-4-130(a) (2016).

⁵ WYO. DEPT. HEALTH REPORTABLE DISEASES & CONDITIONS, January 2016, available at <https://health.wyo.gov/wp-content/uploads/2016/04/ReportableList2016-.pdf>.

Anyone who is confined in a correctional facility, including state penal institutions and county or city jails, is required to undergo testing for STIs.⁶ A positive test can result in the individual being isolated and required to submit to treatment.⁷

Any person who refuses to comply with an order issued under these provisions—including mandatory examination, treatment, or isolation for an STI—may be charged with a misdemeanor, punishable by up to six months' imprisonment and a \$750 fine.⁸

Wyoming law also provides general authority to impose quarantine in response to “an infectious or contagious disease, which is a menace to the public health.”⁹ STIs are defined by statute as “contagious, infectious, communicable and dangerous to public health,” suggesting that quarantine could be authorized as a general control measure.¹⁰ Persons subject to quarantine may appeal to a district court for their release. The court may hold a hearing to assess whether quarantine is reasonably necessary to protect the public health.¹¹ The State bears the burden of demonstrating the need for the restriction, but the court will defer to the judgment of a health officer in the face of bona fide scientific or medical uncertainty.¹²

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.*

⁶ WYO. STAT. ANN. § 35-4-134(a) (2016).

⁷ WYO. STAT. ANN. § 35-4-134(b)(i) (2016).

⁸ WYO. STAT. ANN. § 35-4-130(c) (2016).

⁹ WYO. STAT. ANN. § 35-4-103 (2016).

¹⁰ WYO. STAT. ANN. § 35-4-130(a) (2016).

¹¹ WYO. STAT. ANN. § 35-4-112(a) (2016).

¹² *Id.*

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*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 SEVEN, CRIMINAL PROCEDURE

WYO. STAT. ANN. § 7-1-109 (2016)

Examination for sexually transmitted diseases required in certain cases; health officers to notify crime victims; results confidential.

(a) Upon the consent of a person accused of any crime wherein it is alleged that there has been an exchange of bodily fluids, that person shall be examined as soon as practicable, but not later than forty-eight (48) hours after the date on which the information or indictment is presented, for sexually transmitted diseases included within the list of reportable diseases developed by rule and regulation of the department of health pursuant to W.S. 35-4-130(b).

(b) For cases in which a person is accused of any crime wherein it is alleged that there has been an exchange of bodily fluids and the accused person is unwilling or unable to give consent as provided in subsection (a) of this section, or when, for any reason it is impractical to seek consent under subsection (a) of this section, the court may by warrant, upon a sufficient showing of probable cause by affidavit, at any time of day or night, order the medical examination of the accused person for sexually transmitted diseases included within the list of reportable diseases developed by rule and regulation of the department of health pursuant to W.S. 35-4-130(b). Testing for sexually transmitted diseases done under this subsection shall be conducted as soon as practicable, but no later than forty-eight (48) hours after the date on which the information or indictment is presented.

(c) Any person convicted of a sex offense shall, at the request of the victim, be examined as soon as practicable, but not later than forty-eight (48) hours after the conviction for sexually transmitted diseases included in the list specified in subsection (a) of this section. The victim shall make the request to the district attorney responsible for prosecuting the offense. If the offender is unwilling or unable to consent to the examination the district attorney shall petition the court for an order requiring the offender to submit to the examination.

(d) Any examination performed under this section shall be performed by a licensed physician or other health care provider. The examination shall be in accordance with procedures prescribed by the department of health under W.S. 35-4-130 through 35-4-134 and the examination results shall be reported to the appropriate health officer. Upon receipt of the examination results, the health officer shall notify the victim, the alleged victim or if a minor, the parents or guardian of the victim or the alleged victim. Additional testing under this section shall be performed as medically appropriate and shall be made available in accordance with the provisions of this section.

(e) Costs of any medical examination undertaken pursuant to this section shall be funded through the department of health. If the court finds that the offender is able to reimburse the department, the offender shall reimburse the department for the costs of any medical examination under this section.

(f) All results which are or can be derived from the examination ordered pursuant to this section are confidential, are not admissible as evidence and shall not be disclosed except:

- (i) As provided by this section;
- (ii) As provided by W.S. 35-4-132(d);
- (iii) In a civil action for the negligent or intentional infliction of or exposure to a sexually transmitted disease;
- (iv) In a criminal prosecution for the criminal infliction of or exposure to a sexually transmitted disease; or
- (v) As otherwise provided by law.

(g) As used in this section:

- (i) "Convicted" includes pleas of guilty, nolo contendere and verdicts of guilty upon which a judgment of conviction may be rendered, and includes juvenile adjudications of delinquency if the adjudication is based upon an act which would constitute a sex offense. "Convicted" shall also include dispositions pursuant to W.S. 7-13-301;
- (ii) "Sex offense" means sexual assault under W.S. 6-2-302 through 6-2-304, attempted sexual assault, conspiracy to commit sexual assault, incest under W.S. 6-4-402 or sexual abuse of a minor under W.S. 6-2-314 through 6-2-317.

TITLE 35, HEALTH AND SAFETY

WYO. STAT. ANN. § 35-1-223 (2016)

Cooperation to prevent spread of contagious diseases; report of epidemics or diseases required from local health officials

The department of health shall give all information that may be reasonably requested concerning any threatened danger to the public health, and the local health officers and all the state, county, city and town officers in the state shall give the like information to the state health officer, and the department and said state, county, city and town officers, insofar as legal and practicable, shall cooperate to prevent the spread of diseases, and for the protection of life and the promotion of health within the sphere of their respective duties. When in any county, an epidemic or contagious or infectious disease including venereal diseases, is known to exist, it shall be the duty of the county health officer of such county to immediately notify the state health officer of the existence of the same, with such facts as to its cause and continuance as may then be known.

WYO. STAT. ANN. § 35-4-103 (2016) **

Investigation of diseases; quarantine; regulation of travel; employment of police officers to enforce quarantine; report of county health officer; supplies and expenses.

The department of health shall, immediately after the receipt of information that there is any smallpox, cholera, scarlet fever, diphtheria or other infectious or contagious disease, which is a menace to the public health, in any portion of this state, order the county health officer to immediately investigate the case and report to the state health officer the results of the investigation. The state health officer shall, subject to W.S. 35-4-112 and if in his judgment the occasion requires, direct the county health officer to declare the infected place to be in quarantine. The county health officer shall place any restrictions upon ingress and egress at this location as in his judgment or in the judgment of the state health officer

are necessary to prevent the spread of the disease from the infected locality. The county health officer shall upon declaring any city, town or other place to be in quarantine, control the population of the city, town or other place as in his judgment best protects the people and at the same time prevents the spread of the disease. If necessary for the protection of the public health and subject to W.S. 35-4-112, the state health officer shall establish and maintain a state quarantine and shall enforce practical regulations regarding railroads or other lines of travel into and out of the state of Wyoming as necessary for the protection of the public health. The expenses incurred in maintaining the state quarantine shall be paid out of the funds of the state treasury appropriated for this purpose and in the manner in which other expenses of the department are audited and paid. The county health officer or the department may employ a sufficient number of police officers who shall be under the control of the county health officer, to enforce and carry out any quarantine regulations the department may prescribe. The regulations shall be made public in the most practicable manner in the several counties, cities, towns or other places where the quarantine is established. If the quarantine is established by the county health officer, he shall immediately report his actions to the state health officer. The county health officer shall furnish all supplies and other resources necessary for maintaining the quarantine. Upon certificate of the county health officer approved by the director of the state department of health, the county commissioners of any county where a quarantine has been established shall issue warrants to the proper parties for the payment of all expenses, together with the expense of employing sufficient police force, to maintain and enforce the quarantine. For purposes of this act, "state health officer" means as defined in W.S. 9-2-103(e).

WYO. STAT. ANN. § 35-4-112 (2016)

Right of appeal of quarantine

(a) Any person who has been quarantined pursuant to this act [this article] may appeal to the district court at any time for release from the quarantine. The court may hold a hearing on the appeal after notice is provided to the state health officer at least seventy-two (72) hours prior to the hearing. After the hearing, if the court finds that the quarantine is not reasonably necessary to protect the public health, it shall order the person released from quarantine. The burden of proof for the need for the quarantine shall be on the state health officer, except that in the case of bona fide scientific or medical uncertainty the court shall give deference to the professional judgment of the state health officer unless the person quarantined proves by a preponderance of the evidence that the quarantine is not reasonably necessary to protect the public health.

WYO. STAT. ANN. § 35-4-130 (2016)

Declared contagious and dangerous to health; list of reportable diseases established by the department of health; violation of W.S. 35-4-130 through 35-4-134; penalty.

(a) Sexually transmitted diseases as included within the list of reportable diseases of the department of health are contagious, infectious, communicable and dangerous to public health.

(b) The department of health shall by rule and regulation develop a list of reportable sexually transmitted diseases including all venereal diseases and acquired immune deficiency syndrome. The list shall be available to all physicians, health officers, hospitals and other health care providers and facilities within the state.

(c) Any person violating W.S. 35-4-130 through 35-4-134 or failing or refusing to comply with any order lawfully issued under W.S. 35-4-130 through 35-4-134 is guilty of a misdemeanor punishable by a fine

of not more than seven hundred fifty dollars (\$ 750.00), imprisonment for not more than six (6) months, or both.

WYO. STAT. ANN. § 35-4-133 (2016)

Examination and treatment of infected persons; treatment at public expense; notification of exposed individuals; suppression of prostitution

(a) Upon receipt of a report or notice of a case or a reasonably suspected case of sexually transmitted disease infection, a health officer within his respective jurisdiction:

- (i) May isolate the individual in accordance with existing standards of medical practice;
- (ii) If examination has not been performed, may provide for the examination of the infected individual or the individual reasonably suspected of suffering from a sexually transmitted disease and shall report the examination results to the individual;
- (iii) May require the infected individual to seek adequate treatment or, subject to subsection (d) of this section, may require the individual to submit to treatment at public expense;

WYO. STAT. ANN. § 35-4-134 (2016)

Examination and treatment of prisoners

(a) Any individual confined or imprisoned in any state penal institution, county or city jail or any community correctional facility shall be examined for sexually transmitted diseases by the appropriate health officer or his qualified designee.

(b) To suppress the spread of sexually transmitted disease among the confined population, the health officer or his qualified designee may:

- (i) Isolate prisoners infected with a treatable illness within the facility and require them to report for treatment by a licensed physician;