



Proposed Changes to Ohio's HIV Laws

Ohio's six separate HIV criminalization laws are not based in science, they do not promote public health, and they perpetuate dangerous stigma against people living with HIV. **The time to modernize Ohio's HIV laws is now.**

The Ohio Health Modernization Movement (OHMM) believes the following proposed changes are necessary to improve our current HIV laws and to end the criminalization of HIV.

Require a State of Mind

- Prosecution must prove that a person *intentionally* transmitted HIV or AIDS (HIV/AIDS) to another.

29XX.XX– A person is guilty of intentional transmission ONLY IF that person acted with the “specific intent to transmit the disease to another.”

- Substantial risk of transmission must be proven by medical or epidemiological evidence. This definition does not include any conduct that poses a low risk of transmission.

29XX.XX– “Conduct that poses a substantial risk of transmission” is defined as conduct that has a reasonable probability of transmission as proven by reliable medical or epidemiological evidence. Conduct proven to pose a low risk of transmission does not meet this standard.

Risk Reduction Measures

- Allow the use or attempted use of risk reduction measures – including condom use, barrier protection, prophylactic devices or medication, and medical treatment regimens for people living with HIV – to serve as affirmative defenses against prosecution.

29XX.XX– An individual lacks the specific intent to transmit if they take practical means to prevent transmission. A prosecutor must prove that an individual had the specific intent to transmit in order to convict.

29XX.XX– “Practical means to prevent transmission” means any method, device, behavior, or activity demonstrated scientifically to limit, reduce, or eliminate the risk of transmission. This explicitly includes, but is not limited to, use of a prophylactic or barrier device, and adherence to an appropriate medical treatment regimen.

Remove HIV-Specific Felonies

- Eliminate all HIV-specific felony penalties and make intentional transmission a misdemeanor-level offense. Make penalties for all HIV-related offenses proportionate to the harm.

29XX.XX – Intentional transmission of HIV/AIDS is now a misdemeanor-level offense.

Require Proof of Transmission

- Any HIV law should EITHER only punish conduct that results in actual transmission OR includes different tiers of punishment based on whether harm occurred.

29XX.XX– Prosecutors must demonstrate that an individual actually transmits HIV/AIDS in order to convict.

Remove HIV-Specific Penalty Enhancements for Sex Workers

- Remove discriminatory penalty enhancements for sex workers living with HIV for the following offenses: solicitation, loitering to solicit, and for prostitution.

2907.241 – All HIV-specific penalties in Ohio’s solicitation statutes have been removed.

2907.25 – All HIV-specific penalties in Ohio’s prostitution statute have been removed.

Remove Requirement to Register as Sex Offender

- Remove the requirement for people prosecuted under Ohio’s HIV-specific felonious assault statute to register as sex offenders.

*HIV-specific penalties have been removed from **2903.11**, meaning that HIV-related offenses no longer appear in the list of statutes under which one is required to register as a sex offender in **2950.01**.*

Remove Penalty for Other Health Conditions

- Remove felony enhancement under the bodily fluid statute for people living with HIV. This statute criminalizes viral hepatitis and tuberculosis.

2921.38(C) – HIV-specific language in the bodily fluid statute has been removed.

Remove Donation Penalties

- Remove penalties for blood and organ donation for people living with HIV and repeal prohibition of such donation in **2927.13**.

29XX.XX – Attempting to donate blood or organs while living with HIV/AIDS is not punishable under the statute.

Modernize “Sexual Conduct”

- Carefully craft the definition of “sexual conduct” under Ohio law so that consensual sex is not punished.

We have made significant advances in our scientific understanding of HIV and the medical interventions available to treat and to prevent it. Our laws should reflect this progress.

The time to modernize Ohio’s HIV laws is now.

These proposed changes advanced by the OHMM are necessary to end Ohio’s dark history of discriminatorily singling out people living with HIV and undermining public health.

We have the tools necessary to end the HIV epidemic, but we cannot reach this important goal while people living with HIV are subject to criminalization and while Ohio’s laws ignore advancements in science.

Modernizing our laws is a critical part of our combined efforts to end the HIV epidemic and to ensure that Ohio is a more equitable place to live for all people living with HIV.