



HIV Criminalization in Ohio — the time to modernize is *now*

HIV criminalization is the prosecution and imprisonment of people living with HIV for things that are perfectly legal or only minor crimes for people who have not tested positive.

- **The laws are not based on the science**
 - Ohio's laws punish behavior that poses no or negligible risk of HIV transmission, such as spitting and sex with a condom or while on effective treatment.
 - The laws incorrectly assume an HIV diagnosis is a "death sentence," when in reality, it is a manageable medical condition. A person on effective treatment can have a near normal life expectancy.
- **The laws do not promote public health**
 - There is no evidence that HIV criminal laws promote public health by increasing disclosure, HIV testing, or safer sex. The laws have had zero impact on rates of HIV diagnosis.
 - HIV criminal laws harm marginalized communities that are already disproportionately affected by HIV.
 - By singling out a single disease, Ohio's law stigmatizes people living with HIV, which undercuts an effective response to the epidemic.
- **HIV criminal laws are costly**
 - Ohio spends over 1 billion dollars a year on prisons, at a cost of over \$25,000 an inmate. The money spent to incarcerate people under HIV criminal laws would be better spent on HIV prevention efforts and supporting the over 20,000 Ohioans living with HIV.
 - In the last few years, there have been over a dozen HIV-related criminal prosecutions in Ohio. Meanwhile, the rate of new HIV cases in the state has declined less than one half of 1% since 2012.
- **The laws are unfair and stigmatizing**
 - In Ohio, a person living with HIV can go to prison for 8 years for not disclosing their status before engaging in sexual conduct, even when they did not intend to harm anyone, there was no risk of harm, and no harm resulted. This is a more severe punishment than for reckless homicide, sexual battery, or arson.
 - In Ohio, having a felony on your record means restrictions on voting rights, your ability to hold public office or serve on a jury, access to benefits like public housing, and more. Under Ohio law, some people living with HIV will also be required to register as sex offenders.
- **Leading public health and legal experts believe the laws need to change**
 - Ohio's HIV criminal laws are opposed by public health and criminal justice experts, such as the ACLU of Ohio, the National Alliance of State and Territorial AIDS Directors (NASTAD) and the National Association of Criminal Defense Lawyers (NACDL).
 - The U.S. Department of Justice has recommended that states like Ohio reexamine their HIV criminal laws to better align with current evidence and "consider whether the laws are the best vehicle to achieve their intended purpose."



What exactly is the law in Ohio?

OH Rev. Code § 2903.11: Felonious Assault: If you know you are HIV positive and engage in “sexual conduct” without disclosing your status, it is a 2nd degree felony (2-8 years)

OH Rev. Code §§ 2907.24 and 2907.25: Prostitution or solicitation while living with HIV is a 3rd degree felony (9-36 months)

OH Rev. Code § 2907.241 Loitering to engage in solicitation while living with HIV a 5th degree felony (6-12 months)

OH Rev. Code § 2921.38: Harassment with a bodily substance: causing another person to come into contact with blood, semen, urine, feces, or other bodily substances is 3rd degree felony for people living with HIV (9-36 months)

OH Rev. Code § 2927.13: Donation: Selling or donating blood, plasma, or blood products is a 4th degree felony for PLHIV (6-18 months)

Resources:

A Grassroots Guide to HIV Criminalization: <http://www.hivlawandpolicy.org/resources/why-are-we-putting-people-jail-having-hiv-a-grassroots-guide-hiv-criminalization-facts>

Association of HIV diagnosis rates and laws criminalizing HIV exposure in the United States, Sweeney, P., et. al., AIDS (2017): <http://www.hivlawandpolicy.org/resources/association-hiv-diagnosis-rates-and-laws-criminalizing-hiv-exposure-united-states-sweeney>

Letter to the Ohio Criminal Justice Recodification Committee Regarding Proposed Revisions to the HIV Transmission/Exposure Statute (2016): <http://www.hivlawandpolicy.org/resources/letter-ohio-criminal-justice-recodification-committee-regarding-proposed-revisions-hiv>

Routes, Risks, and Realities of HIV Transmission and Care (2018): <https://www.hivlawandpolicy.org/resources/routes-risks-and-realities-hiv-transmission-and-care-current-scientific-knowledge-and>

Positive Justice Project Guiding Principles for Eliminating Disease-Specific Laws (2015): <https://www.hivlawandpolicy.org/resources/guiding-principles-eliminating-disease-specific-criminal-laws-positive-justice-project>

Ohio Department of Health HIV/AIDS Surveillance Epidemiological Reports <https://www.odh.ohio.gov/healthstats/disease/hivdata/hivcov.aspx>

Ohio Revised Code and explanation from CHLP's *Sourcebook on HIV Criminalization* (2017): <http://www.hivlawandpolicy.org/states/ohio>

For more information:

Ohio Health Modernization Movement: <https://www.equalityohio.org/our-work/initiatives/> ohmminfo@equalityohio.org

Center for HIV Law and Policy: <http://www.hivlawandpolicy.org/>

The SERO Project: www.seroproject.com/