



HIV Criminalization in Ohio

Living with a chronic illness should not be criminalized, but that's exactly what Ohio does to people living with HIV in six separate statutes.¹ Ohio's HIV laws are discriminatory and they undermine public health.

The time to modernize them is now.

Why are these laws so problematic?

They are not based in science.

At the height of the AIDS epidemic, there was little understanding of HIV and widespread concern about its transmission. Out of fear and limited scientific knowledge, Ohio enacted harmful and discriminatory laws that have done more harm than good.

They do not promote public health. In fact, they undermine it.

There is no evidence that HIV criminal laws promote public health; Ohio's laws have had no impact on rates of HIV transmission. Our laws discourage people from getting tested and knowing their status to avoid potential legal liability, which undermines our combined efforts to end the HIV epidemic.

They perpetuate dangerous stigma against people living with HIV.

Current law stigmatizes people living with HIV by criminalizing behaviors that pose no risk of transmission and by imposing automatic penalty enhancements only for people living with HIV—even if the underlying offense poses no risk of a transmission.

The Ohio Health Modernization Movement believes that—if any statute criminalizing HIV must exist—it must meet the following criteria:

Based in science, not stigma

Ohio law does not currently consider actual risks of HIV transmission or how transmission occurs. Rather than being based in science, Ohio's laws are based in stigma. Our laws should not criminalize behavior that poses no effective risk of transmission. This includes discriminatorily enhancing penalties only for people with a known HIV status, particularly if the underlying act does not pose any transmission risk.

Proof of actual transmission

Any law criminalizing behavior that actually poses a transmission risk of HIV should include proof of a transmission that can be verifiably linked to the alleged perpetrator.

Comprehensive affirmative defenses

Affirmative defense available to alleged perpetrators should include prior disclosure *and* the use of any prophylactic measure taken to keep a transmission from occurring. These measures include the use of condoms, prophylactic medication to reduce transmission likelihood, like PrEP, and proactively taking antiretroviral medication so that the person is virally suppressed and cannot transmit HIV to sexual partners.

Intent of alleged perpetrator

Ohio law should require that a person with a known HIV positive status act knowingly and purposefully in sexual conduct with another without that other person's consent.

It's time to modernize Ohio's HIV criminalization laws. We have made significant advances in our scientific understanding of HIV and the medical interventions available to treat it. Our laws should reflect this progress.

¹ Ohio Rev. Code § 2903.11: Felonious Assault; Ohio Rev. Code §§ 2907.24 and 2907.25: Prostitution or solicitation (these include automatic penalty enhancements only for people living with HIV); Ohio Rev. Code § 2907.241: Loitering to engage in solicitation (this includes automatic penalty enhancements only for people living with HIV); Ohio Rev. Code § 2921.28: Harassment with a bodily substance; Ohio Rev. Code § 2927.13: Selling or donating blood