

HIV Criminalization and the HIV Movement The Policing of a Disability

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What is HIV Criminalization?

“HIV criminalization” is the wrongful use of HIV status in a criminal prosecution, whether it is under HIV-specific statutes that exist in 32 states, or under general criminal statutes for HIV exposure or transmission through consensual sex, needle sharing, or through spitting and biting.

Failure to disclose, reckless exposure or intent to transmit, aggravated assault, aggravated sexual assault or attempted murder

HIV criminalization evolved in late 1980s as a compromise to quarantining people living with AIDS

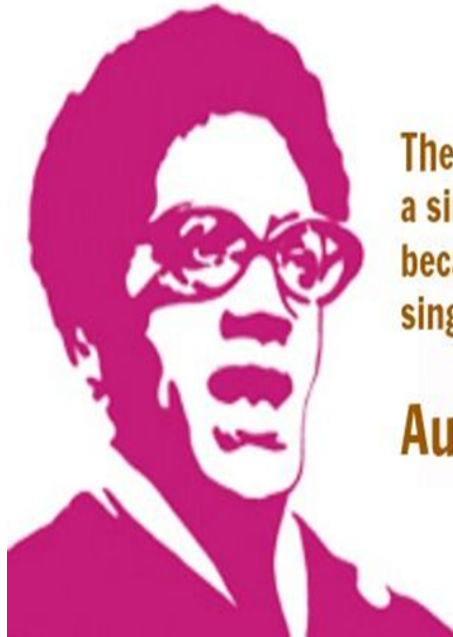
All states had to have laws to prosecute intentional exposure to receive Ryan White funds. This is no longer required.

HIV Criminalization 101

- Most laws **only** require that the person knew her/his HIV status for a successful prosecution - Knowledge of status is used as intent to transmit
- Prosecutions occur even when transmission was unlikely or impossible (i.e., a condom was used, the PLHIV had an undetectable viral load, or the behavior posed no risk of HIV transmission, such as in biting, scratching, or spitting.)
- HIV criminalization has led to PLHIV being vilified in the media and privacy rights violated
- Sentences disproportionate to the alleged offense – 35yrs for spitting
- May require sex offender registration

Importance to HIV Movement

- Contradicts public health messages of shared responsibility to practice safe sex – puts sole responsibility on PLHIV
- Perpetuates stigma, ignorance, discrimination and fear of people living with HIV
- Double impact for communities we serve
- Creates barrier to testing, treatment and disclosure – can't be prosecuted if you don't know your status.
- Prosecutions are not based on the actual science and routes of HIV transmission
- Negative impact on our communities
- Makes our work more difficult and impedes ability to end the epidemic



There is no such thing as a single-issue struggle because we do not live single-issue lives.

Audre Lorde

Epidemic is centered around issues of race, gender, sexual orientation, and poverty which impacts marginalized communities already vulnerable to acquiring HIV w/discriminatory enforcement



Social drivers such as poverty, racism, mass incarceration, violence, homophobia, transphobia, inadequate access to health care, unemployment, low educational attainment, etc

Social drivers that make communities more vulnerable to HIV are exacerbated in the south by

- Conservative political environments
- Bible belt influence
- Large number of rural areas
- Inadequate funding
- More....

With exception of AL, all Southern REACH states have HIV related prosecutions

- HIV/STD specific laws - AL, FL, GA, LA, MS, NC, SC, TN
- TX – Use general criminal laws

What can you do?

- Get educated and raise awareness in the community
- Outreach to community partner organizations
- Speak out to legislators and others
- Join or start movements and advocacy efforts within your state or region to end criminalization

For more information:

SERO Project: <http://www.seroproject.com/>

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

HIV Justice Network: <http://www.hivjustice.net/>

Thank you!

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