

Judge to Rule if Bite
from HIV-positive Man
Counts as Bioterrorism

*The Charge is Murder,
The Weapon, AIDS*

Positive Woman Charged with Prostitution

Equestrian Rider Charged with Hiding HIV

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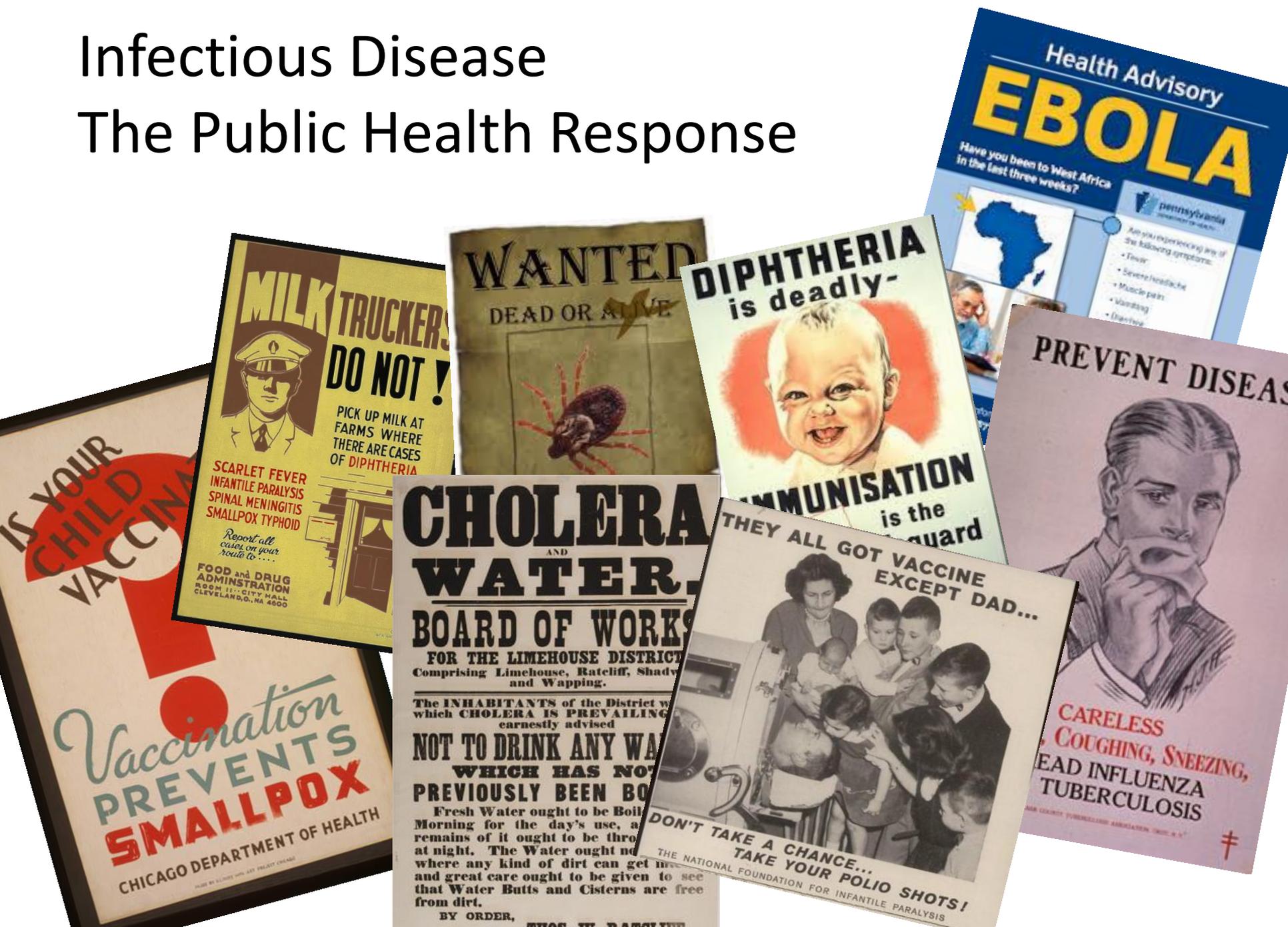
Man Charged
with Using Spit as
Deadly Weapon

**HIV Predator Served
Time for Crime but
May be Confined for Life**

Authorities say Man remains Danger to Society

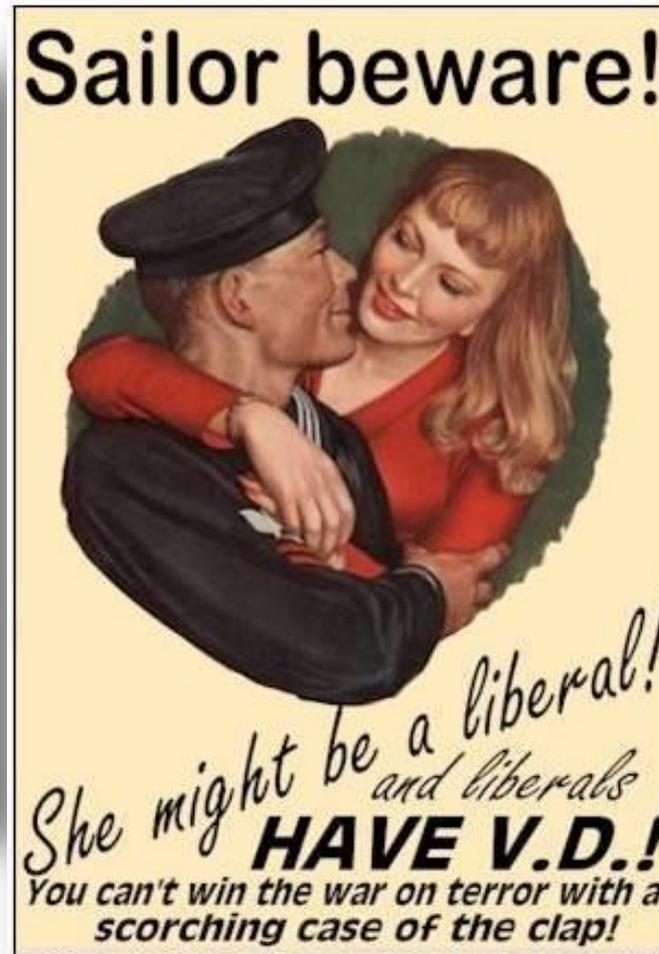
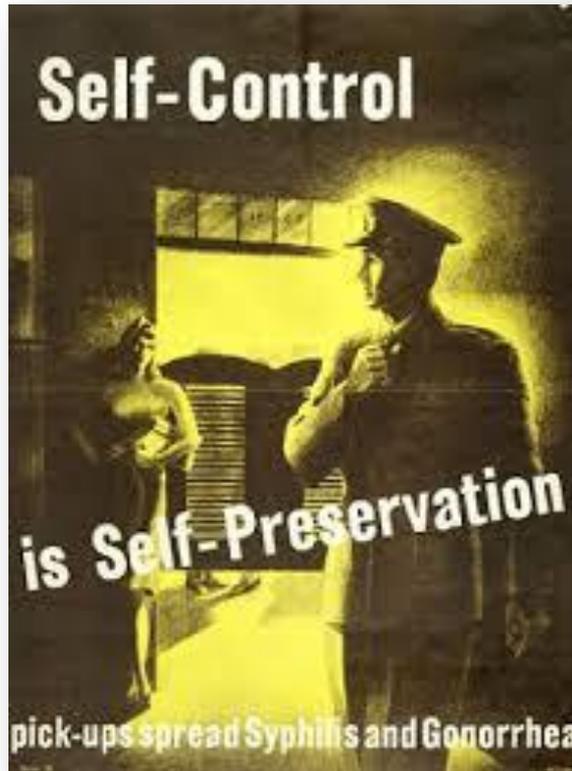
Infectious Disease

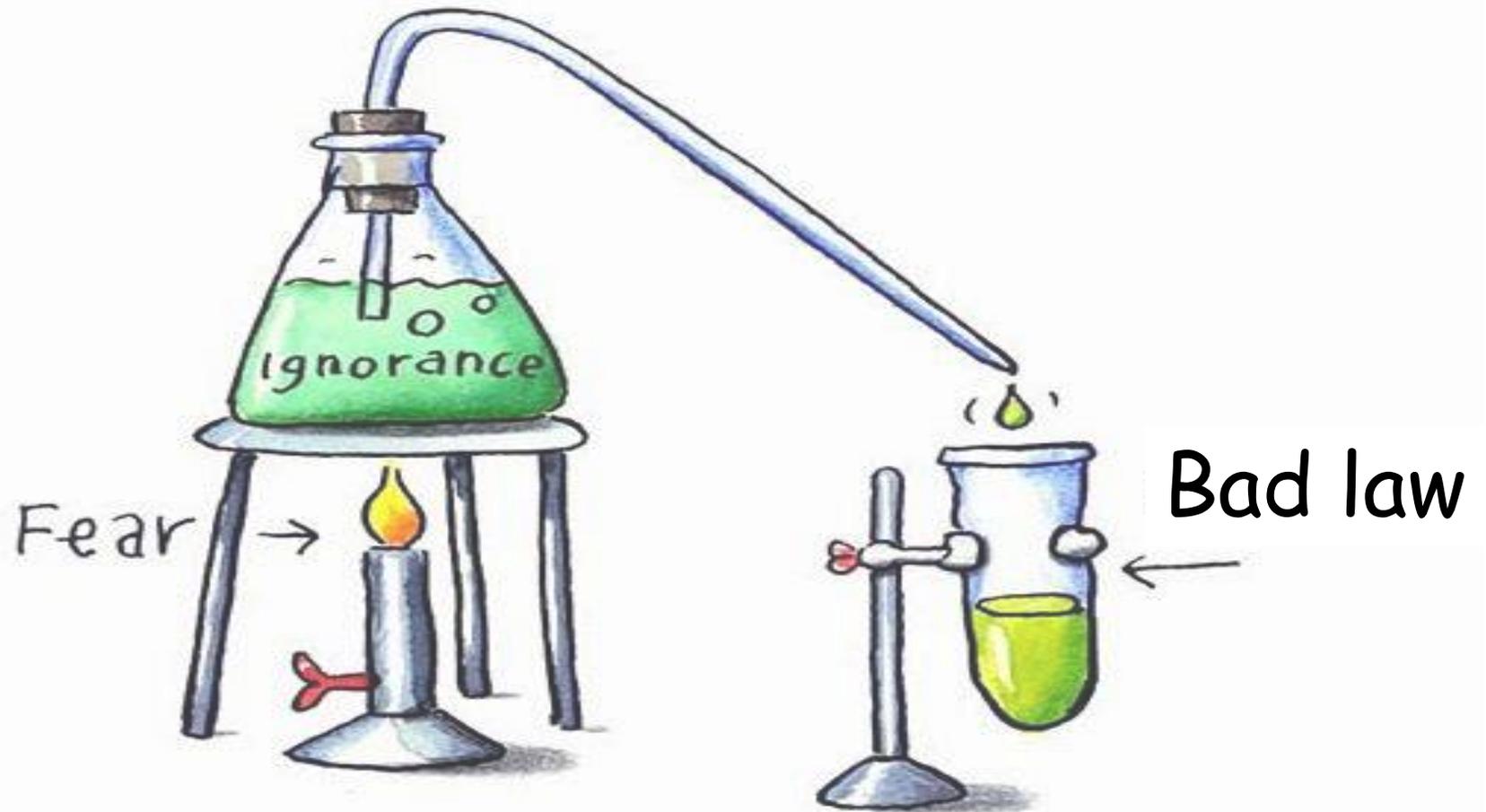
The Public Health Response



Sexually Transmitted Infectious Disease

The Public Health Response





What is HIV Criminalization?

- HIV criminalization” refers to the use of criminal law to penalize alleged, perceived or potential HIV exposure; alleged nondisclosure of a known HIV-positive status prior to sexual contact (including acts that do not risk HIV transmission); or non-intentional HIV transmission.
- Sentencing in HIV criminalization cases sometimes involves decades in prison or requires sex offender registration, often in instances where no HIV transmission occurred or was even likely or possible.
- In more than 1,000 instances, people living with HIV have faced charges under HIV-specific statutes in the U.S. Thirty-three states (and two U.S. territories) have HIV-specific statutes² that apply only to people living with HIV—an immutable characteristic that some are born with and others acquire. Only those who get tested and know their HIV-positive status are prosecuted, something that can discourage those at risk from getting tested and accessing treatment for fear of future prosecutions.

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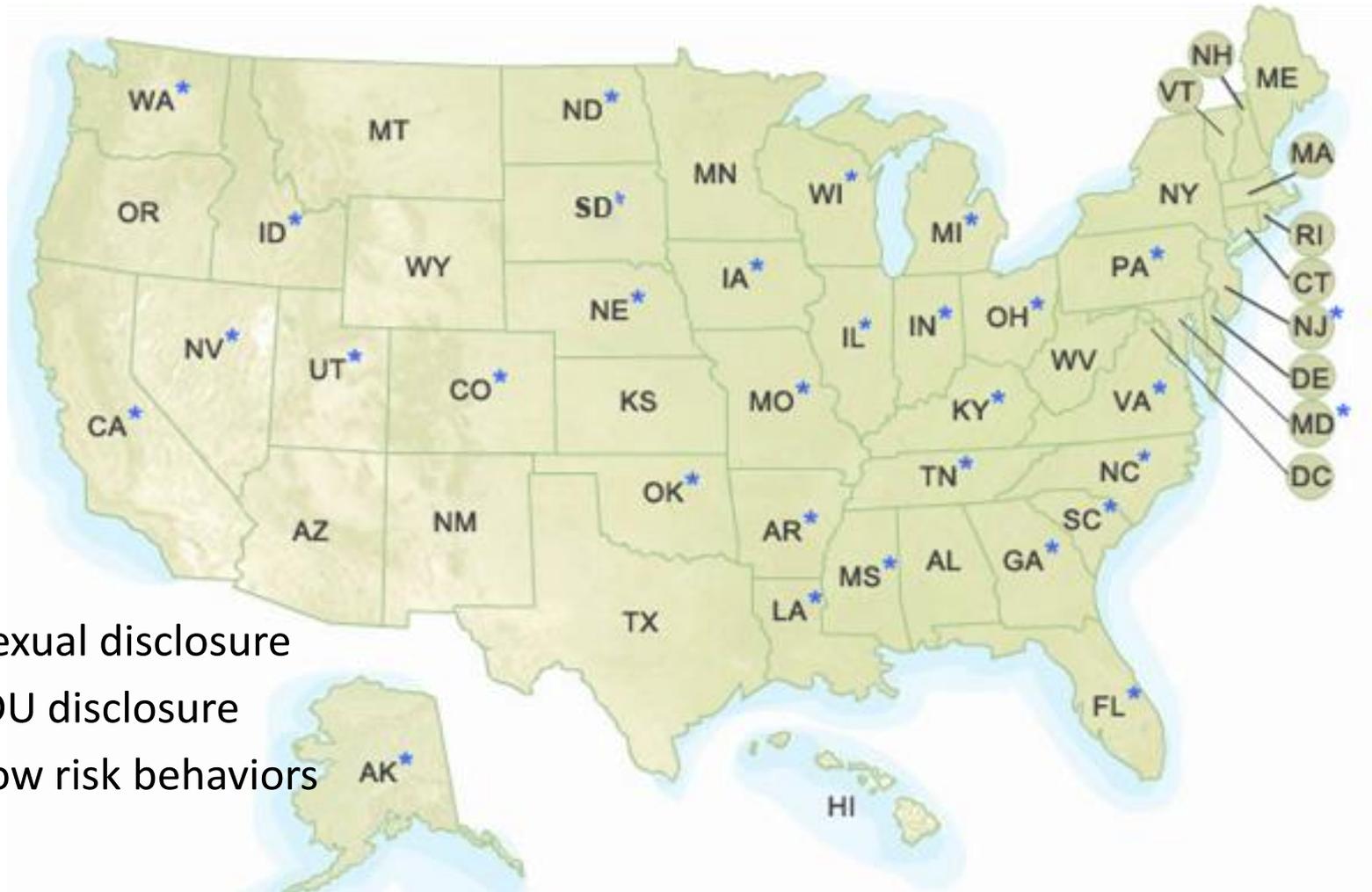
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- HIV criminal laws are based on long-outdated and inaccurate beliefs about the routes and risk of HIV transmissions. Such laws perpetuate misperceptions about risks for HIV transmission and increase stigma against people living with HIV. By placing those who are aware of their HIV-positive status at increased risk of prosecution, HIV criminal laws contradict public health goals seeking to expand HIV testing and engagement in care and treatment.

Impact

- HIV criminalization creates a challenging legal environment for people living with HIV. Further, it creates additional barriers to testing, treatment and disclosure of HIV status.
- Such laws also put people living with HIV at heightened risk of vigilantism and violence. Even in instances when it has been demonstrated that a person living with HIV had an undetectable viral load (which has been shown to virtually eliminate the risk of transmission) and used condoms, long sentences have not been unusual.
- Examples include sentences of 25 years in Iowa, 30 years in Idaho and seven years in Michigan. What's more, about 25% of recent criminalization cases were for biting, spitting or scratching. Despite the fact that those actions do not transmit HIV, the cases still resulted in disproportionately long sentences— for example, a 35-year sentence in Texas and a 10-year sentence in New York. In addition, convicted individuals may be required to register as sex offenders.

The Scope of the Issue

67 laws / 33 states



24 states: Sexual disclosure

14 states: IDU disclosure

25 states: Low risk behaviors

New Jersey statutes that allow for criminal prosecution based on HIV status

N.J. STAT. ANN. § 2C: 34-5

Diseased person committing an act of sexual penetration

a. A person is guilty of a crime of the fourth degree who, knowing that he or she is infected with a venereal disease such as chancroid, gonorrhea, syphilis, herpes virus, or any of the varieties or stages of such diseases, commits an act of sexual penetration without the informed consent of the other person.

b. A person is guilty of a crime of the third degree who, knowing that he or she is infected with human immune deficiency virus (HIV) or any other related virus identified as a probable causative agent of acquired immune deficiency syndrome (AIDS), commits an act of sexual penetration without the informed consent of the other person.

N.J. STAT. ANN. § 2C:43-6

Sentence for imprisonment of a crime: ordinary terms; mandatory terms

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

(3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between three years and five years;

N.J. STAT. ANN. § 2C:43-3

Fines and restitution

A person who has been convicted of an offense may be sentenced to pay a fine, to make restitution, or both, such fine not to exceed:

b. (1) \$ 15,000.00 when the conviction is of a crime of the third degree;

General Criminal Laws Cover It



NATIONAL HIV/AIDS STRATEGY for the **UNITED STATES:**

UPDATED TO 2020

JULY 2015



Federal Advocacy

- We need your help!
- **Support the REPEAL HIV Discrimination Act (Repeal of Existing Policies that Encourage and Allow Legal HIV Discrimination)**
We strongly urge co-sponsorship of bills in the House and Senate related to REPEAL. Congress must send a message that federal and state laws, policies and regulations regarding people living with HIV should:
 - Not place unique or undue burdens on individuals solely as a result of HIV status.
 - Be based on best public health practices.
 - Reflect evidence-based, medically accurate and up-to-date understanding of the routes, risks and consequences of HIV transmission.
 - Have an understanding of the implications of effective anti-retroviral therapy on HIV prevention.
 - Understand the negative impact of punitive HIV-specific laws, policies and regulations on public health and affected people, their families and communities.

- In particular, the REPEAL HIV Discrimination Act:
 - Directs the U.S. Attorney General (AG), as well as the Secretaries of the Department of Health and Human Services (HHS) and the Department of Defense (DOD), to initiate a national review of federal (including military) and state laws, policies, regulations and judicial precedents and decisions regarding criminal and related civil commitment cases involving people living with HIV.
 - Directs the AG to communicate to Congress and make publicly available the results of such review with related recommendations.
 - Requires the AG and HHS Secretary to: 1) develop and publicly release guidance and best practice recommendations for states and 2) establish an integrated monitoring and evaluation system to measure state progress.
- Directs the AG and HHS and DOD Secretaries to transmit to the President and Congress any proposals necessary to implement adjustments to federal laws, policies or regulations.
- • Prohibits this Act from being construed to discourage the prosecution of individuals who intentionally transmit or attempt to transmit HIV to another individual.
- • Does not have any fiscal ramifications.

What we are doing in NJ

- Educating and Elevating the issue with our Congressional Delegation. We have met three times on this issue. We are currently working with two members to secure co-sponsorship of REPEAL.
- Currently meeting with NJ Legislative Leadership to consider sponsoring legislative corrective action regarding NJ statute on HIV criminalization.
- What can you do?

TEN THINGS ANYONE CAN DO TO HELP END HIV CRIMINALIZATION

Get connected. Stay informed. Take action.

Connect with PJP State Advocacy Groups

Build relationships with elected representatives and other policy makers

Reach out to the media

Become more knowledgeable about HIV criminalization – and spread the word

Engage allies in addressing HIV-specific laws and prosecutions

Educate local police and law enforcement

Educate local prosecutors

Share Resources

Host a community educational event

DISCUSSION