

Williams Institute Research on HIV Criminalization

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The Williams Institute has conducted extensive research on the criminalization of HIV. This statement summarizes the trends we have seen in conducting research for [California](#), [Florida](#), [Georgia](#), and [Missouri](#).

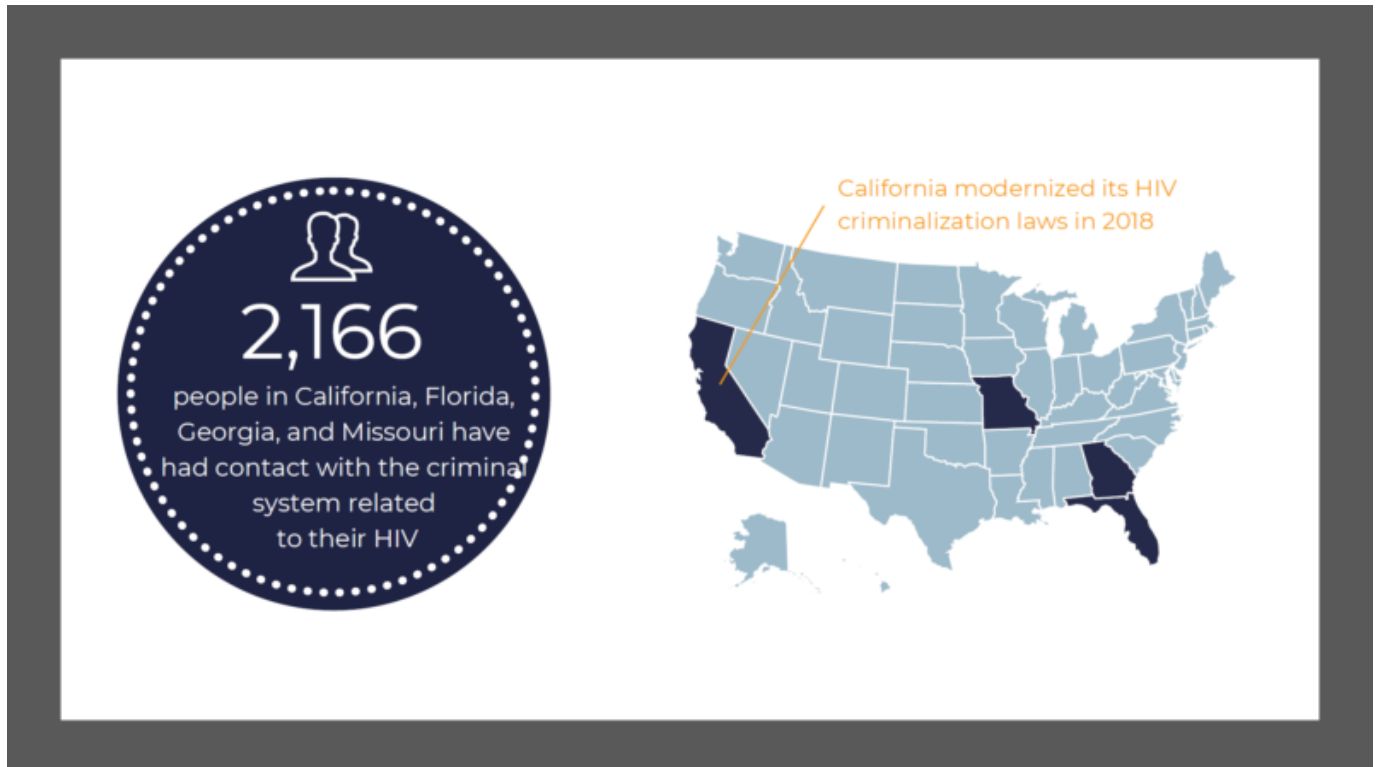
Thirty-four states in the U.S. have laws that explicitly criminalize the conduct of people living with HIV (PLWH). Enacted in the 1980s and 1990s, these laws were passed in a period of uncertainty and fear at the height of the AIDS epidemic. They are now out of step with core principles of criminal law and no longer align with the significant advances that have been made in the treatment and prevention of HIV. For instance:

- Almost none of these laws require that someone **actually infect** another person with HIV before being liable for a felony punishable by years of imprisonment;
- Almost none of these laws require a person to **specifically intend to infect** another person with HIV; and
- The vast majority of these laws **criminalize behaviors that we now know cannot possibility transmit HIV** including spitting, biting, oral sex, and sex while using a condom or sex when the person with HIV has an undetectable viral load.

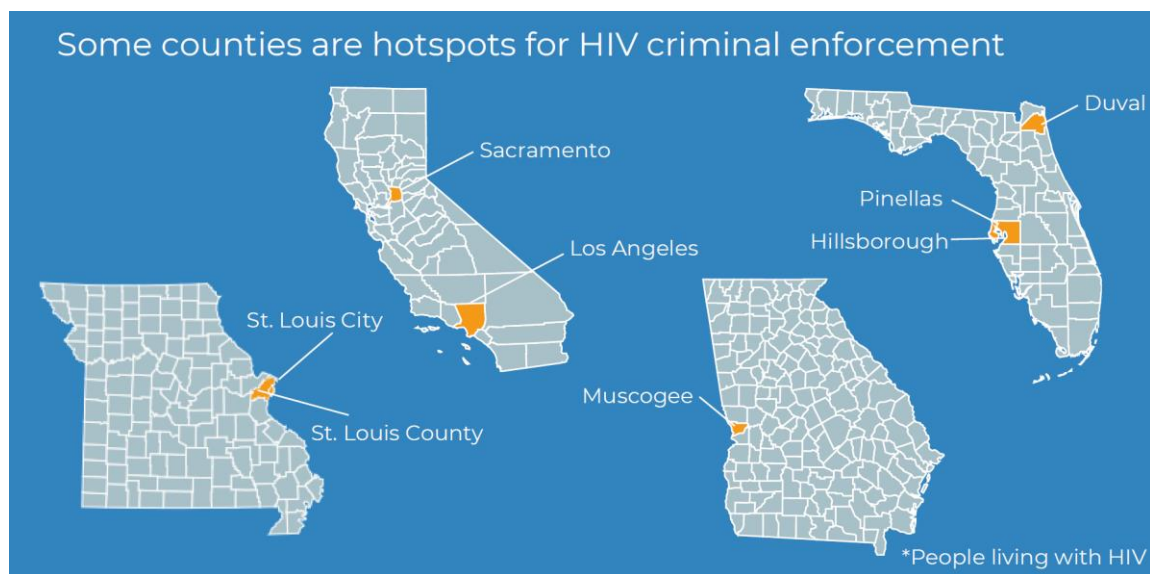
For these reasons, the Department of Justice, the Centers for Disease Control and Prevention, and a number of public health, medical, and legal professional organizations in the U.S. have called for the repeal or modernization of HIV criminal laws.

Over the past five years, Williams Institute researchers have provided critical, original research that has provided more comprehensive information about the impact of HIV criminal laws. To date, we have completed intensive research studies on the enforcement of HIV criminal laws for [California](#), [Florida](#), [Georgia](#), and [Missouri](#). Ten major trends from these studies are summarized below.

1. **HIV criminal laws have impacted hundreds of people in every state we have studied.** Our research shows that HIV crimes don't just impact a few people in a state but hundreds. Before our analysis of HIV criminal laws in Missouri, only 13 HIV crime arrests had been documented in the state in court cases or by the media. However, our research showed that, in fact, over 593 people have been arrested. We have also been able to show that enforcement continues to the present, when documentation solely through reported court cases and media reports can make it appear that enforcement has abated.

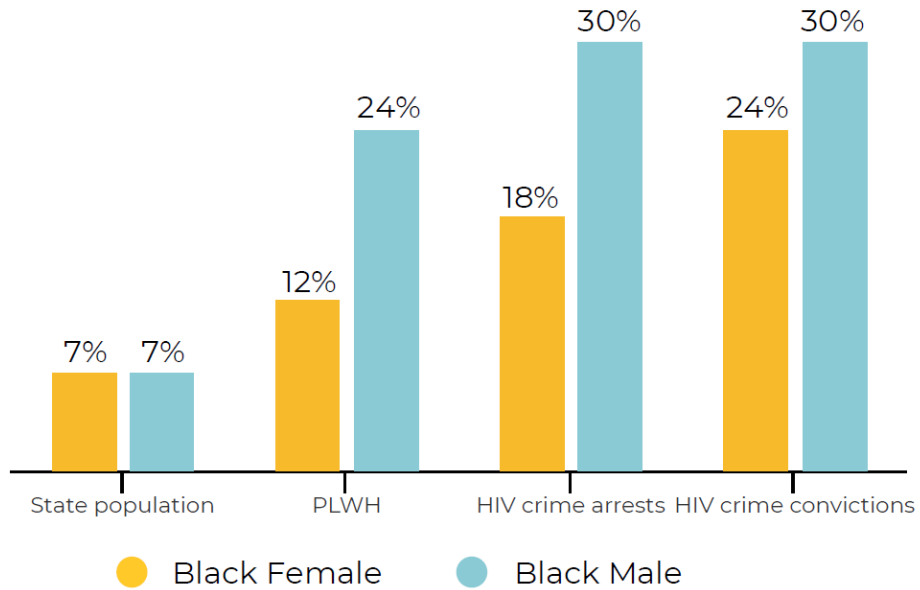


2. **HIV criminal laws are not based on the latest science and foundational principles of criminal law.** While it is possible to state on text of state statutes that HIV criminal laws can be enforced with no actual transmission, specific intent, or even behavior that can transmit the virus, our studies have documented that between 95% to 100% of all enforcement cases in each state lack these elements.
3. **The enforcement of HIV criminal laws happens in cities, suburbs, and rural areas.** Our studies reveal the counties and local law enforcement agencies that are responsible for disproportionate enforcement of HIV criminal laws. For example, in Missouri, the enforcement in the state is the product of just a handful of law enforcement agencies.



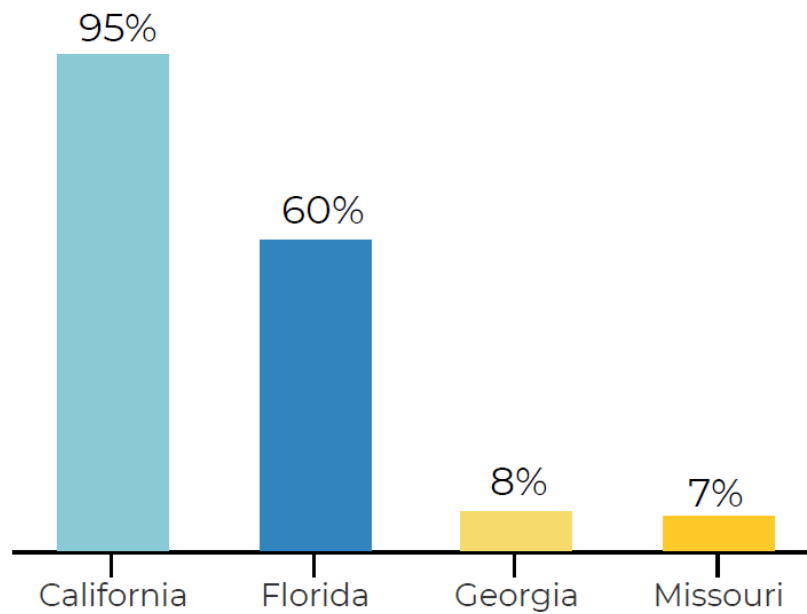
4. **HIV criminal laws disproportionately impact Black people, Latinx people, and other people of color.** For example, in Missouri, while Black men make up 3.5% of the state’s population and 35% of PLWH in the state, they account for over 55% of all those arrested for an HIV crime in the state. Put differently, one out of 43 Black men with HIV in the state has been arrested for an HIV crime.

In all states, the racial and gender disparities among those impacted by HIV and by mass incarceration are further compounded by the criminalization of HIV.



5. **HIV criminal laws disproportionately impact women and sex workers.** For example, before our study in California, state advocates thought that less than two dozen people had been arrested under the state’s HIV criminal laws and that those arrests mostly involved gay men. Our California study revealed that over 800 people have been arrested in the state and that 95% of those arrested were commercial sex workers, most of whom were women and people of color.

In some states, sex workers, many of whom are arrested as teenagers and most of whom are women, are the people most targeted by the enforcement of HIV criminal laws.



Percent of HIV Crime Arrests Related to Sex Work

6. **For recent immigrants, HIV criminal laws can not only mean incarceration but deportation.** For example, our California research identified 36 foreign-born individuals who had been charged with an HIV crime and who also had some form of a criminal immigration proceeding in their records. Among those who had immigration proceedings in their records, 25% had those proceedings initiated immediately after an HIV-specific arrest.
7. **HIV criminal laws bring new people into the criminal justice system.** This can start an entanglement that is hard escape. For example, in Missouri, one out of six people with an HIV crime arrest (17%) had no other criminal record in Missouri. For 29%, their HIV incident was their first contact with Missouri criminal justice system.
8. **HIV criminal laws bring young people into the criminal justice system, including minors.** In California, while the average age at the time of arrest for the first HIV-related incident was 36, the range of arrestees was from 14 to 71 years of age. All of the incidents involving people at the youngest end (ages 14 to 17) and oldest end (ages 57 to 71) of the continuum had contact based on California's solicitation while HIV-positive statute.
9. **HIV criminal laws cost states millions of dollars in incarceration costs alone.** In Missouri, which has a smaller population, HIV criminalization has cost the state almost \$18 million in incarceration costs alone.
10. **HIV criminal laws undermine Nevada's public health efforts to fight HIV disease.** Williams Institute research has also shown the ways that HIV criminal laws can undermine a state's effort to fight HIV-disease. For example, reports focused on HIV criminalization in [Florida](#) and [Georgia](#) have shown that:
 - HIV criminal laws may undermine a state's public health efforts by deterring people from seeking HIV testing and treatment, stigmatizing those with HIV, and disproportionately affecting the communities most impacted by HIV, including people of color, women, LGBTQ people, and the formerly incarcerated.
 - Some studies suggest that laws criminalizing the conduct of people with HIV (PWH) may create a disincentive for those most at risk for HIV from getting tested, from disclosing their HIV-status to potential partners and health care providers, and from consistently accessing medical care.
 - HIV criminal laws further stigmatize PLWH. Research has shown that when people with HIV experience stigma, they have poorer health outcomes and are less likely to consistently engage in their own medical care and in public health efforts.
 - HIV criminal laws impact the very populations that states are trying to engage to combat HIV, people of color, women, youth, and LGBTQ people. Prior research has shown that HIV-

related sex work prosecutions disproportionately impact women and people of color. In addition, youth, transgender people, and other LGBTQ people are disproportionately represented among sex workers. These are precisely the groups that states currently seek to engage in their statewide strategic plans to combat HIV.

- There have been significant medical advances related to HIV since most state's, including Nevada's, HIV criminal laws were first passed. Modernizing these laws would support Nevada's current efforts to prevent HIV in the state