Jailbait

Disclosure isn't always a choice

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Twenty-four states have passed HIV-specific laws regarding disclosure, creating what Scott Burris, Beasley School of Law prof and co-principal of the HIV Criminal Law and Policy Project, calls "a crazy quilt of laws." To make matters worse, "some states that don't have disclosure laws have prosecuted under general laws like aggravated assault or reckless endangerment," says Hayley Gorenberg, Director of Lambda Legal's AIDS project.

About the only thing the 24 state laws have in common, says Burris, is the threshold for prosecution: Exposing someone else—you don't have to transmit the virus to land in jail.

In these states, "as long as you know you have HIV, you can be arrested for having sex and not disclosing—whether you intended to infect someone or not," Burris says. California is the only state with a "specific intent" clause. But the laws are "drastically unenforced." Since 1986 his group has recorded 211 prosecutions and 142 convictions (mean sentence: six years).

What to do if you get in a, um, sticky disclosure situation? "Consult a lawyer," says Gorenberg. "You need to speak with someone who has specific knowledge of laws in the state."

Learn more about your state's laws at www.hivcriminallaw.org.

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