Bills in Two States Aim to Update HIV Crime Laws and Promote Prevention

North Dakota and Missouri bills focus on PrEP prescriptions, needle exchanges and HIV criminalization.

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Lawmakers in Missouri and North Dakota are considering HIV-related bills. In both states, legislation could modernize HIV crime laws by lessening the charge and penalty for knowingly exposing someone to the virus. Additional legislation in Missouri seeks to expand access to meds taken as pre-exposure prophylaxis (PrEP) to prevent HIV, and a third bill aims to allow syringe exchange programs.

The bills have a way to go before members of both chambers in both states pass them and send them to the governors to sign into law. But other states have succeeded in efforts to decriminalize HIV. For example, see "California Governor Signs Bill Modernizing HIV Crime Laws," which details the fact that as of January 2018, it has been a misdemeanor, instead of a felony, to knowingly transmit HIV or expose a partner to the virus without disclosing.

Under current North Dakota law, a person who knowingly exposes a partner to HIV without the partner's consent can be charged with a felony and face up to 20 years in prison and a $20,000 fine, according to The Associated Press.

The law needs to be updated, according to the bill's sponsor, because it doesn't take into consideration modern science—for example, that a person living with HIV who takes antiretrovirals and maintains an undetectable viral load cannot transmit the virus via sex, a fact referred to as Undetectable Equals Untransmittable, or U=U. (For more, see the POZ Basics on HIV Transmission and Risks.)

The legislator spearheading efforts to update North Dakota's law, Representative Gretchen Dobervich (D–District 11), also pointed out that today, unlike in the 1980s, HIV can be managed with medication; it is no longer a death sentence and should not be criminalized.

About 470 people are living with HIV in North Dakota, and about 81% of them are undetectable, reports the AP.

In Missouri, AIDS advocates say that laws criminalizing HIV often keep people from getting tested

for the virus and, in turn, accessing treatment. “You have an unofficial motto in the local communities, where it’s ‘take the test and risk arrest,’ because if you know your diagnosis you know that holds you liable,” Tasha Schill, CPS, a care navigator at the AIDS Project of the Ozarks, told the TV channel KY3 of Springfield, Missouri. “Then we have more people out there who are spreading it, and it becomes a domino effect.”

A person’s HIV status can also be used against them by their partners, added Lynne Meyerkord, the executive director of the AIDS Project of the Ozarks, explaining that, for example, after a breakup, the HIV negative partner could falsely claim to have been uninformed about the HIV status of the partner.

A second bill in Missouri, according to KY3, would allow pharmacists to provide PrEP. And a third bill would allow organizations to operate syringe exchanges (the sharing of needles, which has become more prevalent amid the opioid epidemic, is one way HIV is spread).

In related news, see “Colorado Pharmacists Can Now Prescribe PrEP to Prevent HIV.” Missouri and North Dakota aren’t the only states seeking to update their HIV laws. To learn about another state’s efforts, see “‘It’s Time to Modernize Our HIV Laws in Nevada.’” For a basic understanding of HIV crime laws, see “Criminalization 101”; for a collection of POZ articles on this topic, click on the tag #Criminalization.

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