Georgia Governor Signs Bill to Modernize HIV Crime Law

Under Georgia's updated law, people living with HIV will no longer face a felony charge simply for not disclosing their status before sex.

May 13, 2022 By Trent Straube

Georgia is the latest state to update its HIV crime rules, reports Capitol Beat. Under the bill signed into law by Republican Governor Brian Kemp, people living with HIV will no longer face felony charges and up to 10 years in prison simply for not disclosing their status before having sex, as was the case under previous state HIV criminalization law.

The updated disclosure law is based on the latest scientific knowledge about HIV transmission, notably that people living with HIV who take meds and maintain an undetectable viral load do not transmit the virus, a fact referred to as Undetectable Equals Untransmittable, or U=U. (Many HIV laws on the books were passed in the early days of the epidemic, when fear and lack of scientific knowledge about the virus reigned.)

Under the revised law, people living with HIV can be charged with a felony and serve up to five years if they show intent to transmit HIV and the act in question "has a significant risk of transmission based on current scientifically supported levels of risk transmission," reports Capitol Beat.

HIV criminalization refers to the use of unfair laws to target people who have HIV—particularly, African-American, Latino and LGBTQ people and women—and punish them because of their HIV status, not because of their actions. Under outdated laws, people with HIV can be sentenced to prison in cases where HIV was not transmitted simply for allegedly not disclosing their status.

Republican state Senator Chuck Hufstetler introduced the bill, SB 164, in the Senate. The legislation was supported in the House by Republican Representative Sharon Cooper. It received "almost unanimous support" in both chambers, reports Georgia Equality.

"As a person living with HIV, I'm encouraged that the legislature understands the advances in HIV science. Ending the stigma around HIV is a necessity to ending the HIV epidemic and I look forward to continuing efforts that support PLWH," said Malcolm Reid, a cochair of the Georgia HIV Justice Coalition and federal policy chair for the People Living With HIV Caucus, in a press statement from Georgia Equality.

“This effort is the product of the power of the people,” added Kamaria Laffrey, project director at the Sero Project, an advocacy group that fights HIV criminalization. People living with HIV “will have a lessened layer of stigma. The mobilization and centering of the voices that are most impacted by these laws in partnership with the strategic relationship building with legislative champions is the key piece to how people living in Georgia have made this amazing achievement possible.”

The new law “hopefully will result in fewer convictions,” Catherine Hanssens, the executive director of the Center for HIV Law and Policy in New York, told Capitol Beat, adding, “at the same time, the law is still HIV-specific, singling out people living with HIV for uniquely negative treatment in a way that other serious and incurable diseases are not.… There is still work to be done.”

It should be noted that repealing HIV laws does not mean that people can’t be held accountable for intentionally transmitting HIV. Other laws may apply to the situation.

In January, New Jersey modernized its HIV crime laws. And in 2021, Illinois became the second state to completely repeal its discriminatory HIV crime laws (California did so in 2017). Lawmakers in Missouri, Nevada and Virginia have also updated similar laws. For more, see “Breaking HIV Laws: A Roundup of Efforts to Decriminalize HIV.”

And for recent criminalization news, read “Why Do Women Make Up 62% of HIV-Related Arrests in Kentucky?” and “Why Virginia Is for Lovers—and Activists Fighting HIV Crime Laws.”

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