



Lawsuit Challenges Tennessee Law Targeting People Living With HIV

The lawsuit alleges that Tennessee's aggravated prostitution statute targets and discriminates against people living with HIV.

November 2, 2023 By Laura Schmidt

The American Civil Liberties Union (ACLU) and the Transgender Law Center (TLC) filed a [federal lawsuit](#) last week to challenge Tennessee's harsh laws against sex workers, according to [The Associated Press \(AP\)](#). Advocates argue such laws stem from historical [discrimination](#) against people living with HIV and constitute HIV criminalization.

The lawsuit was filed in the U.S. District Court in Memphis on behalf of four plaintiffs, all referred to as Jane Doe, and OUTMemphis, a nonprofit that supports LGBTQ people.

The complaint states that Tennessee is the only state that registers individuals as lifelong violent sex offenders if they are convicted of engaging in sex work while living with HIV. What's more, this is the case whether or not the person knew they could transmit HIV and whether or not the virus was transmitted.

The ACLU and TLC maintain that because HIV is a protected disability, Tennessee's penalties violate the Americans with Disabilities Act, according to the AP.

"This statute solely targets people because of their HIV status and keeps them in cycles of poverty while posing absolutely zero benefit to public health and safety," said Molly Quinn, executive director of OUTMemphis, in a statement. "HIV stigma is becoming a thing of the past, and it's time for state law to catch up."

[HIV criminalization](#) refers to the use of unfair laws to target people who have HIV—notably [African-American](#), [Latino](#) and [LGBTQ](#) people and [women](#)—and to 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 Under outdated laws, people with HIV can be sentenced to prison in cases where HIV was not transmitted and their only crime was allegedly not disclosing their status.

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 in such instances.

Many HIV laws were passed in the early days of the epidemic, when fear and lack of scientific

knowledge about the virus reigned. Fast-forward four decades, and today we know, for instance, that people with HIV who take their meds and maintain an [undetectable viral load](#) do not transmit the virus sexually, a fact referred to as [Undetectable Equals Untransmittable](#), or U=U.

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 related articles, see "[HIV Is Not a Crime Awareness Day 2023](#)."

Defendants in the Tennessee case include Governor Bill Lee, Attorney General Jonathan Skrmetti, Tennessee Bureau of Investigation director David Rausch and Department of Correction commissioner Frank Strada.

Prostitution has been criminalized as a misdemeanor in Tennessee for decades. But in 1991, when misinformation and panic surrounding the AIDS epidemic was prominent, state lawmakers enacted an aggravated [prostitution](#) statute, a felony applied only to sex workers living with HIV. In 2010, the law was reclassified as a "violent sexual offense" requiring those convicted to register as sex offenders for life.

All four plaintiffs in the complaint were convicted of aggravated prostitution at least once and have faced adversity resulting from their status as violent sex offenders, including harassment by neighbors and housing discrimination.

"The registration requirements and restrictions are so difficult to comply with that that at times Jane Doe 1 has felt she had no option but to continue to engage in sex work to survive, since it was too difficult to find stable employment, particularly as a transgender woman," the complaint states, according to the AP.

To read more about legal cases involving HIV, click [#Lawsuit](#). There, you'll find headlines such as "[Utah Man Sues Alaska State Troopers for HIV Discrimination](#)," "[10 Charged for Operating \\$20M HIV Medicine Fraud](#)" and "[Transgender Woman With HIV Sues for 6-Year Solitary Confinement Hold](#)."