



Maryland Repeals HIV Crime Law

It's the fifth state to repeal such laws.

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In May, the governor of Maryland, Wes Moore, signed into law a bill that decriminalizes HIV. Specifically, the bill repeals an old law that made it a crime to “knowingly transfer or attempt to transfer” HIV to another individual. Under outdated laws like this, people with HIV can be sentenced to prison in cases where HIV was not transmitted and their only crime was allegedly not disclosing their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. Such unjust laws not only lead to stigma but also deter folks from getting tested to learn their HIV status.

This does not mean that people cannot be held accountable for intentionally transmitting HIV. Other laws on the books, such as those against reckless endangerment, can be used to prosecute such cases.

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. Many HIV laws were passed in the early days of the epidemic, when fear and lack of scientific knowledge about the virus reigned. Four decades later, we know that people living with HIV who take their medications and maintain an undetectable viral load do not transmit the virus sexually, a fact often referred to as Undetectable Equals Untransmittable, or U=U.

The Maryland bill has been in the works for over a decade and was recently spearheaded by Kris Fair, a state delegate. “I credit the HIV community for teaching me about this issue, of which I knew nothing,” Fair told the Frederick News-Post.

The bill, HB39, is named the Carlton R. Smith Act, after a Baltimore HIV activist who died last year. The law goes into effect October 1.

Maryland is now the fifth state to have repealed outdated HIV criminalization laws, according to the Center for HIV Law and Policy.

Across the nation, 32 states still criminalize HIV, and 28 states have harsh criminal penalty enhancements based on a person's knowledge of their HIV status.

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