RECOMMENDED ACTIONS

To reduce stigma and eliminate discrimination associated with HIV status, the following actions are needed:

3.C.1 Promote evidence-based public health approaches to HIV prevention and care.

- State legislatures should review HIV-specific criminal statutes to ensure that they are consistent with current scientific knowledge of HIV transmission and support public health approaches to preventing and treating HIV.

- Use of HIV-specific and general criminal laws to specifically target people living with HIV.

- Many of these laws are based on outdated and erroneous beliefs or understanding about HIV.
Women & HIV Criminalization

- Women as justification for homophobic laws
- Women often know their HIV status before their partner
- Implications for sexual & reproductive rights
  - Sexual behavior
  - Getting pregnant
  - Pregnancy management (treatment mandate?)
HIV Criminalization in the US

- As of 2011, 67 HIV criminalization laws were identified in 33 states.

- Of these, 25 out of 33 states (75%) criminalize one or more behaviors that pose a low or negligible risk of HIV transmission.

- Usually do not take into account measures that reduce the risk of HIV transmission such as condom use, antiretroviral therapy, or PrEP.

- Nearly 2/3 criminalize potential HIV exposure.
"I have felt ashamed of my body and worthless. My ex-girlfriend told me that nobody else would ever want me, because of my HIV status.

My partner didn't want anyone else to know about my HIV status. He didn't even allow me to see my HIV doctor, because he was afraid of people finding out. So I basically had no support and was not getting care."

"I dated a guy who knew my HIV status, but when he found out, he acted like he didn't want me anymore. Nobody else would ever want me."

"I was in an abusive relationship for 4 years. When I attempted to leave, he threatened to come after me under HIV criminalization laws because I didn't disclose to him when we first got involved. He also threatened to have my kids taken away."

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WLHIV are uniquely vulnerable to violence, coercion, and abuse

“There is a big black X from head to toe. I am diseased and unworthy of feeling good about my body again.”

“I feel dirty and ashamed.”

“It caused me to loose [sic] all hope as a woman where I felt ugly and that I had to settle for whatever man wanted to date me.”

“I have had a guy tell me that I should have told him before kissing him that I was positive. He was convinced HIV is transmitted through saliva. He even threw in that he could prosecute me for murder. Apparently there is grave misunderstanding about disclosure laws amongst the general public.”

… these and other factors (housing instability, economic insecurity) may complicate leaving an abusive relationship
Motherhood is a socially valued identity

- Increasingly “parenthood”
- For many WLHIV, motherhood may be the only socially valued identity available to them (Barnes, et al 2009)
- Critical for providers to understand motivation, including cultural factors related to conception, sexuality, and relationships for PLHIV
National & Global Momentum

US: REPEAL HIV DISCRIMINATION ACT REINTRODUCED BY CONGRESSWOMAN BARBARA LEE EVEN AS SOME US STATES PROPOSE NEW HIV-SPECIFIC CRIMINAL LAWS

News Release: Medical, HIV and LGBT Groups Challenge Validity of Missouri’s Draconian Criminal HIV Law In Michael Johnson Appeal
HIV criminalization & candidate platforms

Reform outdated and stigmatizing HIV criminalization laws. Discrimination should never be enshrined in our laws. Hillary will work with advocates, HIV and AIDS organizations, Congress, and other stakeholders to review and reform outdated and stigmatizing federal HIV criminalization laws—and will call on states to do the same. And she will continue to aggressively enforce the Americans with Disabilities Act and other civil rights laws to fight HIV-related discrimination.

2. Would you take Executive action to end the criminalization of Americans based on HIV status? Yes or No.
Yes.
44 states have prosecuted people living with HIV for perceived exposure or transmission. Most can prosecute even in cases with no realistic risk of transmission.

Get the knowledge, tools, skills & connections you need to bring YOUR state into the 21st century.

REGISTER TODAY!
www.hivisnotacrime.com
## HIV criminalization in CA

<table>
<thead>
<tr>
<th>Code Section</th>
<th>Law</th>
<th>What it Does</th>
</tr>
</thead>
<tbody>
<tr>
<td>HS CODE § 1621.5</td>
<td>Blood/organ/semen/breast milk donation</td>
<td>Felony for donation of blood, organs, tissue, semen, or breast milk by person living with HIV</td>
</tr>
<tr>
<td>HS CODE § 120291</td>
<td>HIV-specific exposure</td>
<td>Felony HIV exposure statute Penalty is greater than that for involuntary manslaughter or vehicular manslaughter</td>
</tr>
<tr>
<td>PC § 647f</td>
<td>Solicitation while HIV-positive</td>
<td>Felony sentence enhancement for solicitation while HIV-positive</td>
</tr>
<tr>
<td>PC § 12022.85</td>
<td>Sentence enhancement for forcible sex offenses while HIV-positive</td>
<td>3 year sentence enhancement if any person knowingly infected with HIV is convicted of specified sex offenses Sentence enhancement can be applied even without transmission or conduct that is likely to transmit</td>
</tr>
<tr>
<td>PC § 12022.8</td>
<td>Sentence enhancement for infliction of great bodily injury</td>
<td>5 year sentence enhancement if any victim suffers “great bodily injury” resulting from specified sex offenses</td>
</tr>
</tbody>
</table>
Application of Law in CA

- 800 people came into contact with criminal justice system from 1988-June 2014 in relation to their HIV status
- 95% of HIV-specific criminal incidents impacted people engaged or perceived to be engaged in sex work


<table>
<thead>
<tr>
<th></th>
<th>Percentage of CA PLHIV</th>
<th>Percentage of those who came into contact with CJ system based on HIV status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black and Latin@</td>
<td>51%</td>
<td>67%</td>
</tr>
<tr>
<td>Women</td>
<td>13%</td>
<td>43%</td>
</tr>
</tbody>
</table>
Thank you

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