

RESOLUTION INCREASING ENGAGEMENT IN CARE FOR PEOPLE LIVING WITH HIV BY MODERNIZING HIV-BASED CRIMINAL AND RELATED PUBLIC HEALTH LAWS AND ELIMINATING CRIMINAL SANCTIONS BASED ON HIV STATUS

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Whereas, medical advances have transformed HIV from an invariably fatal disease to a chronic manageable condition, and people living with HIV are able to lead long, healthy lives when diagnosed early and appropriately engaged and maintained in care;¹

Whereas, Indiana has endorsed and adopted the national goals of reducing new HIV diagnoses 75% by 2025 and 90% by 2030;²

Whereas, new HIV diagnoses in Indiana rose by 5% in 2019;³ approximately 17% of people living with HIV in Indiana are undiagnosed;⁴ 40% of diagnosed individuals in Indiana are not sufficiently engaged in care to achieve viral suppression;⁵ and viral suppression not only returns individuals to health and longevity but also reduces the risk of sexual transmission to zero;⁶

Whereas, Indiana has several criminal laws, enacted in the 1980s and 1990s, that impose punishment based on a person's HIV-positive status, with many criminalizing acts that pose negligible or zero risk of transmission;⁷ researchers have observed that such laws do not increase disclosure of HIV status or reduce transmission of HIV as were the purported goals;⁸

Whereas, the Indiana Department of Health (IDOH) recognizes that the stigma and fear perpetuated by outdated criminal laws that do not reflect the contemporary understanding of HIV disincentivize testing and inhibit engagement in care, thereby increasing transmission and delaying the end of the HIV epidemic;⁹

Whereas, the IDOH has also recognized that the burden of HIV falls disproportionately on historically marginalized groups, including Black people, sexual minorities, and people who inject drugs;¹⁰ researchers report that HIV criminalization also disproportionately impacts racial and sexual minorities, thus exacerbating HIV health inequities.¹¹

Whereas, the American Medical Association has adopted a policy: encouraging understanding of the connection between the stigma created by HIV criminalization statutes and negative clinical and public health consequences; opposing the imposition of punishment based on health status; and advocating for repeal of laws that criminalize non-disclosure of HIV status;¹²

Whereas, associations of medical and public health professionals endorsing the repeal or modernization of HIV-based criminal laws include: the Centers for Disease Control and Prevention (CDC),¹³ the World Health Organization (WHO),¹⁴ the Infectious Disease Society of America (IDSA) and the HIV Medicine Association (HIVMA),¹⁵ the American Academy of HIV Medicine (AAHIVM),¹⁶ the Association of Nurses in AIDS Care (ANAC) and American Nurses Association,¹⁷ the American Psychological Association (APA),¹⁸ the Council of State and Territorial Epidemiologists (CSTE),¹⁹ and the National Alliance of State and Territorial AIDS Directors (NASTAD);²⁰

RESOLVED, that the ISMA support efforts to reform Indiana law to reflect the contemporary scientific understanding of HIV and to eliminate criminal sanctions based on HIV status, thereby reducing HIV-related stigma and accelerating the end of the HIV epidemic.

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- ¹ Centers for Disease Control and Prevention (CDC), *Newly Diagnosed with HIV* (updated April 7, 2021) (<https://www.cdc.gov/hiv/basics/livingwithhiv/newly-diagnosed.html>).
- ² J. Turner (Director of the HIV/STD/Viral Hepatitis Division, Indiana Department of Health), Letter introduction to Indiana Department of Health, *Zero Is Possible: Indiana's Plan to End HIV and Hepatitis C, 2021-2030* (Jan. 2021) at 1 (https://www.zipindiana.org/files/ugd/25f039_81d06cd4e33b407ab7207610286245a2.pdf).
- ³ Indiana Department of Health, *Zero Is Possible: Indiana's Plan to End HIV and Hepatitis C, 2021-2030* (2020) at 5 (https://www.zipindiana.org/files/ugd/25f039_81d06cd4e33b407ab7207610286245a2.pdf).
- ⁴ Centers for Disease Control and Prevention (CDC), *HIV Prevention to End the HIV Epidemic in the United States: Indiana* (Jan. 13, 2022), at 1 (<https://www.cdc.gov/hiv/pdf/policies/profiles/cdc-hiv-indiana-SSP.pdf>).
- ⁵ Centers for Disease Control and Prevention (CDC), *HIV Prevention to End the HIV Epidemic in the United States: Indiana* (Jan. 13, 2022), at 2 (<https://www.cdc.gov/hiv/pdf/policies/profiles/cdc-hiv-indiana-SSP.pdf>).
- ⁶ CDC, *HIV Treatment as Prevention*, at 1 (updated Mar. 7, 2022) (<https://www.cdc.gov/hiv/risk/art/index.html>).
- ⁷ HIV Modernization Movement Indiana, *Laws: Legislation and Current Laws* (2022), at 1 (<http://hivmodernizationmovement.org/laws/>).
- ⁸ Merman, J. et al., *HIV criminalisation laws and ending the US. HIV epidemic*, 8 *The Lancet: HIV e4* (Jan. 2021) ([https://doi.org/10.1016/S2352-3018\(20\)30333-7](https://doi.org/10.1016/S2352-3018(20)30333-7)).
- ⁹ Indiana Department of Health, *Zero Is Possible: Indiana's Plan to End HIV and Hepatitis C, 2021-2030* (2020), at 19 (https://www.zipindiana.org/files/ugd/25f039_81d06cd4e33b407ab7207610286245a2.pdf); Sah, P. et al., *HIV criminalization exacerbates subpar diagnosis and treatment across the United States: response to the 'Association of HIV diagnosis rates and laws criminalizing HIV exposure in the United States'.* *AIDS* (London, England) vol. 31,17 (2017): 2437-2439. doi:10.1097/QAD.0000000000001636 (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5679436/>); see also Kesler, M. et al, "Prosecution of non-disclosure of HIV status: Potential impact on HIV testing and transmission among HIV-negative men who have sex with men, *PLOS ONE* (Feb. 2018) (<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0193269>); *The impact of criminalization of HIV non-disclosure on the healthcare engagement of women living with HIV in Canada: a comprehensive review of the evidence.* *Journal of the International AIDS Society*, 18(1) (Dec. 2015). (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4689876/>).
- ¹⁰ Indiana Department of Health, *Zero Is Possible: Indiana's Plan to End HIV and Hepatitis C, 2021-2030* (2020), at 15 (https://www.zipindiana.org/files/ugd/25f039_81d06cd4e33b407ab7207610286245a2.pdf).
- ¹¹ Merman, J. et al., *HIV criminalisation laws and ending the US. HIV epidemic*, 8 *The Lancet: HIV e4* (Jan. 2021) ([https://doi.org/10.1016/S2352-3018\(20\)30333-7](https://doi.org/10.1016/S2352-3018(20)30333-7)).
- ¹² American Medical Association, *Discrimination and Criminalization Based on HIV Seropositivity*, H-20.914 (2019) (<https://policysearch.ama-assn.org/policyfinder/detail/HIV?uri=%2FAMADoc%2FHOD.xml-0-1254.xml>).
- ¹³ CDC, *HIV Criminalization and Ending the HIV Epidemic in the U.S.* (<https://www.cdc.gov/hiv/policies/law/criminalization-ehe.html>).
- ¹⁴ World Health Organization, *Sexual health, human rights, and the law* (https://apps.who.int/iris/bitstream/handle/10665/175556/9789241564984_eng.pdf).
- ¹⁵ Infectious Diseases Society of America (IDSA) and HIV Medicine Association (HIVMA), *Position Statement on the Criminalization of HIV, Sexually Transmitted Infections and Other Communicable Diseases* (<https://www.hivma.org/globalassets/hivma/policy-and-advocacy/policy-priorities/policy-statements/hivma-idsa-communicable-disease-criminalization-statement-final.pdf>).
- ¹⁶ American Academy of HIV Medicine, *HIV Criminalization* (<https://aahivm.org/hiv-criminalization/>).
- ¹⁷ Association of Nurses in AIDS Care, *Position Statement: HIV Criminalization Laws and Policies Promote Discrimination and Must Be Reformed*, (<https://www.nursesinaidscare.org/i4a/pages/index.cfm?pageid=4766>).
- ¹⁸ American Psychological Association, *APA Resolution on Opposing HIV Criminalization* (<https://www.apa.org/about/policy/resolution-opposing-hiv-criminalization.pdf>).
- ¹⁹ Council of State and Territorial Epidemiologists, *CSTE recommendations for modernization of laws to prevent HIV criminalization* (https://cdn.ymaws.com/www.cste.org/resource/resmgr/ps/ps2021/21-ID-03_HIV_Decriminalizati.pdf).
- ²⁰ National Alliance of State and Territorial AIDS Directors (NASTAD), *Statement on HIV Criminalization* (<https://www.hivjustice.net/news/us-state-public-health-officials-condemn-stigmatising-harmful-hiv-specific-laws/>).