



REPORT

March 2024

THE IMPACT OF HIV CRIMINALIZATION IN LOUISIANA




A COMMUNITY-BASED
GRASSROOTS STUDY
FOR LEGISLATIVE BILL HR130



THE IMPACT OF HIV CRIMINALIZATION IN LOUISIANA

HIV Modernization and Criminalization
Task Force Hearing for HR130
February 1, 2024



"[HIV is the] only sexually transmitted disease where someone can be criminalized and registered as a sex offender. I have grandchildren; I am the matriarch; this would be political genocide. No one else in my family would get tested. If I did something to intentionally endanger someone, I should be punished. But having a diagnosis should not be a starting point to criminalize me or punish me, separate me from my family, keep me from society. Because once I am labeled as a sex offender, no matter how much community service... I am going to be dehumanized, pushed out of the church, out of the committees I work with, the social circles I travel in, and the impact I have in my community to save lives will be null and void."

- Reverend Dr. Joyce Turner Keller

Preface

Dear Policy Makers, Advocates, and Community Members,

Thank you for taking the time to read the Louisiana Coalition on Criminalization and Health's (LCCH) HIV criminalization report. It is LCCH's stance that laws that make it a crime to live with a chronic, treatable health condition do not protect our communities.

While HIV criminal laws may seem protective, both national and local data indicate that Louisiana's current HIV criminalization law, RS 14:43.5 – “Intentional exposure to HIV,” is not functioning as intended. As our knowledge about HIV and our ability to both treat and prevent its transmission has evolved, the HIV “exposure” law in Louisiana has become increasingly out of date, causing it to be harmfully out of alignment with current research and science associated with HIV. This outdated understanding of HIV not only places Louisiana's HIV criminalization law in direct conflict with nationally and internationally recognized public health practices endorsed by agencies such as the Centers for Disease Control and Prevention and the World Health Organization but also contributes to the increasing stigma and discrimination against people living with HIV, factors known to be some of the most significant obstacles to ending the HIV epidemic.

Recognizing the need for local data to illustrate concerns raised by Louisiana residents, LCCH conducted a community-based, grassroots study to investigate the impact of the state's HIV law on people living with HIV, as well as on public health and safety in Louisiana. To achieve this, LCCH organized focus groups involving individuals from various backgrounds who are living with HIV. Additionally, a public opinion survey was conducted to collect data about the impact of Louisiana's HIV criminal law across the state.

In this report, you will find information about HIV health education, as well as more details about the current Louisiana HIV “exposure” law as it stands. This report also includes key findings and recommendations from LCCH's community-based research. Accurate understandings of how far HIV treatment and prevention have come are crucial to help you become better-informed citizens, voters, advocates, and decision-makers, especially when considering HIV criminal law.

If you have any questions or comments about this report or if you want to get involved with LCCH, please send an email to info@lacch.org. You may also learn more by visiting our website at www.lacch.org.

Sincerely,

Louisiana Coalition on Criminalization and Health

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THE IMPACT OF HIV CRIMINALIZATION IN LOUISIANA

Executive Summary

THE RESEARCH PROCESS: HOW WE DID THE STUDY

In late 2023, the Louisiana Coalition on Criminalization and Health (LCCH) conducted a statewide, community-based study to understand the true impacts of the HIV “exposure” law on People Who Are Living with HIV (PLWH) in Louisiana, as well as its influence on public health and safety. The purpose was to investigate the effects of the HIV law on the overall well-being of the community, regardless of whether individuals are living with HIV.

LCCH conducted focus group discussions and community education sessions, followed by a public opinion survey, to gather insights about the impacts of Louisiana’s HIV “exposure” law from residents throughout the state. Focus group discussions included 78 individuals living with HIV from all nine public health regions in Louisiana.

STUDY FINDINGS: WHAT WE LEARNED

Insights from the Focus Groups

- Participants shared experiences, knowledge, and perceptions about the HIV “exposure” law in Louisiana.
- Six common themes were identified using the focus group transcripts:
 1. Avoiding social or romantic interactions due to fear of criminalization as a result of being a person living with HIV
 2. Concerns about lawmakers' and community members' lack of knowledge about HIV
 3. Fear of legal and social punishment as a result of one’s HIV status being exposed
 4. Mental health impacts of experiencing exclusion and/or discrimination as a result of one’s HIV status
 5. Being stigmatized by healthcare providers in relation to HIV disclosure
 6. Intersectionality/multiple challenges faced due to HIV criminalization

Insights from the Public Opinion Survey

- 93.5% believe the law needs updating.
- 87% agree that the law does not make sense in terms of modern HIV science.
- 45.7% were unaware of the HIV law.
- Through open-ended questions, seven common themes were identified:

-
1. Louisiana's HIV criminalization law needs to be updated to reflect modern science
 2. Louisiana's HIV criminalization law needs to be repealed
 3. Louisiana's HIV criminalization law makes people living with HIV a target for discrimination and potential harm
 4. Louisiana's HIV criminalization law deters people from getting tested and knowing their status
 5. Louisiana's HIV criminalization law stigmatizes those living with HIV
 6. Legislators and the public need to be educated on modern HIV science
 7. Louisiana's HIV criminalization law negatively impacts all residents, regardless of HIV status

CONCLUSIONS

Summary of Key Findings

Findings from community discussions suggest that most people, including those living with HIV, have very little understanding of the existing HIV “exposure” law. However, after learning more about the unintended impacts, most participants disagreed with the current legal consequences for not disclosing one’s HIV status in Louisiana.

Participants living with HIV expressed concerns about the law's heavy reliance on disclosing HIV status. They openly discussed the associated risks with the disclosure of their HIV status, such as potential discrimination, violence, and the stigma faced in their communities when their HIV statuses were made public without consent.

Across the state, people living with HIV shared their personal experiences of disclosing their status to trusted individuals, only to have it later used against them in a retaliatory manner. Many reported this weaponization of HIV status impacting their willingness to stay in violent or unhealthy relationships, fearing that a jury might not believe them, especially if they had no way to prove they disclosed their HIV status.

Other themes that surfaced in our group discussions were related to avoiding talking about one’s HIV status due to fear of the legal and social consequences it would have in other areas of PLWH’s lives—such as work, school, and family. Participants expressed frustration at feeling inadequately informed about the law in general and the risks associated with disclosing one’s HIV status, which could then be used against them.

Individuals highlighted how the pressure around HIV disclosure and its legal implications had negatively affected their mental health. They also mentioned how stigma related to HIV *from healthcare providers* impacted their willingness to discuss their status in medical settings.

Throughout these conversations, participants discussed how intersecting identities like race and sexual identity further intensified their fears of how the laws would be enforced against them, as a result of compounded discrimination.

Implications for Public Health

The results of the community findings indicate the need to modernize Louisiana's HIV laws to align with current HIV science and reduce stigma associated with HIV. Due to a lack of adequate sexual health education in Louisiana, many people are uninformed about HIV, including how it can be transmitted and prevented. This lack of awareness often results in unfair treatment of PLWH and hinders efforts to combat the virus. Participants also noted that the law negatively affected their willingness to get tested for HIV, a crucial step in ending the HIV epidemic.

Implications for Advocacy and Policy Change

Those who want to make a difference should focus on updating Louisiana's HIV “exposure” law. The themes uncovered in the focus group discussions and surveys indicate a widespread desire for changes or removal of this law. Participants who expressed any support for an HIV criminal law largely agreed that the language of the law should move away from being dependent on HIV disclosure. They emphasized the need for the wording to be more specific and explicit, particularly in addressing the incredibly rare instances in which someone may *intentionally and successfully transmit HIV to another person without their consent*.

Advocacy groups can utilize this information to engage with policymakers, raise awareness, and facilitate informed conversations about HIV law. It is crucial to collaborate with legislators, public health leaders, and community figures to ensure that HIV criminal law aligns with public opinion and does not further marginalize people, contribute to stigma, or cause undue harm.

RECOMMENDATIONS FOR HIV MODERNIZATION

Policy Recommendations for Louisiana State Legislators

- **Modernize RS 14:43.5 to decrease unjust criminalization of people living with HIV.**
 - This includes requiring proven intent to transmit the virus, reducing the felony charge, and removing the mandatory sex offender registration requirement (See LCCH’s eight tenants for HIV modernization in Appendix B).
- Implement comprehensive HIV education for legislators and law enforcement agents.
- Prioritize public education on HIV prevention, care, and treatment.
- Foster collaborative efforts for effective legal and public health interventions.

Recommendations for Community Members and Advocates

- Advocate for decriminalization of HIV.
- Combat HIV-related stigma through education and outreach.
- Connect efforts to public health principles.
- Adopt an equity-centered approach for inclusive healthcare and addressing systemic inequalities.

HIV MODERNIZATION LAWS IN OTHER SOUTHERN STATES

In recent legislative changes, both Georgia and Tennessee have taken steps to modernize their HIV laws, addressing key issues related to criminalization and registration requirements.⁶

Georgia, through the passage of SB 164 in May 2022, updated its HIV criminalization law. The focus has shifted towards intentional transmission, resulting in a reduced felony charge. The amendments also prioritize the protection of sexual assault victims. Furthermore, Georgia has embraced a more inclusive approach by decriminalizing syringes and adopting people-first language.⁶

Tennessee, in its efforts to reassess sex offender registration laws in the Deep South, enacted SB 0807 in May 2023. This legislation removes mandatory sex offender registration for individuals previously registered for "criminal exposure," impacting around 70 individuals. The move reflects a broader reconsideration of registration requirements in the region.⁶

These developments underscore a positive trend toward the modernization of HIV laws in Southern states, emphasizing a more nuanced and compassionate approach to address legal and public health concerns.

###

Introduction

KEY TERMS AND THINGS YOU SHOULD KNOW ABOUT HIV AND CRIMINALIZATION

Human Immunodeficiency Virus, or “HIV,” can be transmitted through unprotected sex with someone who has a detectable HIV viral load, especially if protective measures like condoms or PrEP (see below) are not used. Additionally, sharing intravenous needles with an individual carrying a detectable HIV viral load can also result in transmission of the virus.

HIV can NOT be transmitted through activities such as kissing, spitting, biting, casual physical touch, or contact with blood once it is exposed to the air. It is essential to understand that HIV is now a chronically manageable health condition. Modern treatments often require only one or two pills a day, with very few to no side effects. **People living with HIV who are in effective treatment now have the same lifespan as someone who is not living with HIV.** Additionally, individuals in effective treatment can have children without transmitting the virus if the mother takes HIV medications as prescribed and maintains an undetectable viral load.

Antiretroviral therapy (“ART”) – A combination of medications for people living with HIV. These medications are used to treat HIV. They work by stopping HIV from reproducing.⁷

PLWH – People Who Are Living With HIV

Viral Load – The amount of the HIV virus present in the blood of PLWH.

Undetectable – Current HIV medications can reduce a person’s **Viral Load** (see above) to levels where medical tests can no longer detect the virus.

Undetectable = Untransmittable (“U=U”) – When someone who is living with HIV has an undetectable viral load, *it is scientifically impossible for them to transmit HIV to another person* (“untransmittable”).

Pre-Exposure Prophylaxis (“PrEP”) – A preventative medication for people who are not living with HIV that when taken correctly can *reduce the risk of contracting HIV by over 99%*. PrEP can be taken via oral medication or long-acting injection and can be taken by anyone regardless of gender or sexual identity. There are many programs available for people to be able to access PrEP throughout Louisiana and the US safely and affordably.

Post-Exposure Prophylaxis (“PeP”) – A preventative medication that can only be taken within 72 hours of a suspected HIV exposure to prevent contracting HIV. This is often utilized

after occupational exposures from needles sticks in healthcare and law enforcement settings, and to help protect people who have experienced sexual assault from possible HIV transmission.

HIV Criminalization – Using laws specifically about HIV to punish people with HIV for real or imagined exposure to the virus.¹ These laws don't consider the progress in HIV research and medicine over the past 40 years. Instead of encouraging people to talk about their HIV status, these laws may make the stigma around HIV worse, discourage HIV testing, and make health disparities more severe.² Many states, like Louisiana, have laws that make it a crime for people with HIV to potentially “expose” others to the virus - *even if it is scientifically impossible for someone to contract HIV from that kind of exposure* (spitting, biting, etc.), or if someone has an undetectable viral load, making it *impossible for them to transmit HIV to another person*. In Louisiana, you can be convicted of “HIV exposure” even if you didn't actually transmit the virus **or** have the intention to do so.³

HIV Modernization – The effort to bring laws that criminalize HIV into closer alignment with modern understandings of HIV science.

BACKGROUND ON HIV CRIMINALIZATION IN LOUISIANA

Louisiana was one of the first states to make laws about HIV in 1987.³ Due to a poor global understanding of HIV in the 1980s, the first law created to criminalize HIV in Louisiana had many scientific errors. While the term “AIDS” is used to describe the advanced stages of HIV, and you cannot transmit or contract AIDS, the original language of the law exclusively references the “AIDS virus,” and the actual name of the law was initially “Intentional exposure to AIDS virus,” which is still used today by Louisiana police.

Though the original language of the law appears to have the goal of protecting people from the intentional, malicious spreading of HIV, legislative documents that note the conversations that took place in relation to passing this law make it clear that the law was intended to stop PLWH from having sex. This was before advanced medicines were available in the 1990s.

The law was expanded in the early 1990s to criminalize activities like biting and spitting that were known even then NOT to pose a risk for HIV transmission.³ The law was also expanded at this time to include higher penalties for “exposing” a police officer or law enforcement agent to HIV- *even though the risk of contracting HIV for ALL law enforcement agents should be nearly zero, unless they admit to having a sexual encounter or sharing a used syringe with someone who is in custody.*

Note: To LCCH’s knowledge, there is no documented evidence of any law enforcement agent contracting HIV from anyone in custody due to occupational exposure in Louisiana. Yet, according to public data, 11% of all known charges for “HIV exposure” in Louisiana occurred while people were actively incarcerated.

In 2018, an attempt was made to bring the law into closer alignment with modern science.³ Although they replaced “AIDS virus” with “human immunodeficiency virus (HIV)” in the language and removed some scientifically inaccurate examples of how HIV could be spread, such as spitting or biting, they retained the clause stating that someone can be charged for HIV “exposure...through any means or contact.” This effectively allows acts like biting and spitting to still be used against people.

Other 2018 amendments included allowing for accused people to pursue “affirmative defenses” in which someone could argue their case in court if they had proof of disclosure or if a medical provider was willing to state that the patient had an undetectable viral load and could not transmit the virus to another person.³

While this option may seem supportive on the surface, pursuing an affirmative defense effectively forces someone who is living with HIV to go to court and publicly disclose their status, which can pose significant risks to PLWH in other areas of their lives. Beyond public disclosure, going to court to fight for an affirmative defense also requires trusting that a jury will have an updated understanding of modern HIV science, and that the jurors will trust the word of someone who is living with HIV over someone who is not – which is a true gamble in a state where HIV stigma is so extreme. These risks have effectively caused many people to plead guilty even when they are innocent and *have disclosed their statuses* to people accusing them of HIV exposure.

LCCH has supported multiple people who felt pressured by law enforcement agents and lawyers to plead guilty as opposed to challenging their accusers, even when they had disclosed their statuses and were innocent. Multiple people have also reported pleading guilty even though they were innocent as a result of the consequences of a guilty plea not being adequately explained to them by their prosecutors.

LOUISIANA'S CURRENT HIV CRIMINALIZATION LAW

Current Law “Intentional Exposure to HIV” RS 14:43.5 (See full law in Appendix A)

- Requires PLWH to disclose their HIV status to anyone they may come into sexual contact with, whether or not it is possible for HIV to be transmitted via that kind of contact.⁴
- Requires PLWH to disclose their HIV status to anyone they may “expose to HIV...*through any means or contact.*”^{3,4}
 - “Exposure” is not clearly defined in the current law, allowing PLWH to be charged even in scenarios in which it would be impossible for HIV to be transmitted.

Consequences of the law:³

- Aggravated felony charge with mandatory prison time
 - Maximum 10 years in federal prison
 - Maximum \$5000 in fines
- 15 years forced registration on the Sexual Offender Registry
- If charges are pressed by a law enforcement agent:
 - Maximum 11 years in federal prison
 - Maximum \$6000 in fines

All reputable public health organizations, from the Centers for Disease Control and Prevention (CDC) to the Health Resources and Services Administration (HRSA), to the national *Ending the HIV Epidemic* strategy, to the World Health Organization, agree that HIV criminalization is not an effective public health strategy. Many other groups and grassroots organizations, such as LCCH, also disagree with these laws.

LCCH believes it's unfair to criminalize someone for living with a treatable health condition, especially when the law is formulated in a way that nearly anyone could successfully accuse someone of exposing them to HIV without any real risk of transmission. LCCH, along with groups similar to ours, is working to raise awareness about these laws and advocating for the rights of PLWH in Louisiana.

ABOUT THE LOUISIANA COALITION ON CRIMINALIZATION AND HEALTH

LCCH was founded in 2016 by a group of PLWH, HIV advocates, clinicians, and people who had directly and unjustly experienced HIV criminalization in Louisiana. Rooted in the belief that PLWH should not be criminalized, stigmatized, or otherwise harmed or discriminated against because of their status, and inspired by other local and national grassroots organizations leading the fight against HIV-specific statutes, LCCH believes that carceral punishment does not make our communities safer and that we must collectively address all social and structural issues that impact the social determinants of health for our communities to truly thrive.

The mission of LCCH is to educate our communities about the effects of HIV criminalization laws in Louisiana and to build a coalition of advocates to fight for legislative reform that better protects the dignity and freedoms of PLWH. This coalition envisions a future where all Louisianans can thrive and experience pleasure without fear of criminalization as a result of their HIV status. LCCH shares the vision of a future where the needs and voices of people who are living with HIV are centered in policymaking, and where all people regardless of HIV status have access to accurate, up-to-date scientific and medical information about HIV care and prevention to make informed choices about their health. Committed to this vision, LCCH is actively engaged in policy reform efforts.

ABOUT THE TASK FORCE TO STUDY PUBLIC HEALTH OUTCOMES RELATED TO THE CRIMINALIZATION OF HIV

In 2023, LCCH partnered with House Representative Aimee Freeman to propose a Study Resolution (HR 130) aimed at exploring the impacts of HIV criminalization in Louisiana. A Task Force was established, consisting of representatives from the Louisiana District Attorney's Office, the House Criminal Justice Committee, the House Health and Welfare Committee, the HIV/HCV Commission, LCCH, and a community member with lived experience. This Task Force was tasked with reviewing all available data related to HIV criminalization in Louisiana and presenting its findings to the legislature in the form of a study report, which includes formal recommendations on how to modernize the law.

As part of this initiative, LCCH worked to amplify the voices and experiences of PLWH throughout the state through a focus group study, collecting HIV criminalization data from all nine public health regions. The creation of this document serves to complement the Task Force's report by providing additional insights and recommendations on modernizing HIV laws in the state.

THE IMPORTANCE OF UPDATING HIV LAWS FOR PUBLIC HEALTH POLICIES AND PRACTICES

Most HIV criminalization laws do not reflect current HIV scientific and medical evidence.² Many of these laws were passed at a time when very little was known about HIV and before the availability of medications to treat HIV (Anti-Retroviral Therapies, or “ART”) and to prevent it (Pre-Exposure Prophylaxis, or “PrEP”). When someone living with HIV takes ART as prescribed, and gets and stays virally suppressed, not only can that person live a long and healthy life but also will not transmit HIV to sexual partners — an idea commonly known as “Undetectable = Untransmittable.” Additionally, individuals who do not have HIV but take PrEP as prescribed can reduce their risk of getting HIV from sex by 99%.

When a law intended to protect public health falls short of its goals, it may hinder efforts to keep communities healthy.² Experts in public health and law believe that utilizing criminal laws to address the HIV epidemic might be counterproductive, undermining efforts to prevent HIV transmission and end the epidemic. In consensual sexual interactions, it is ultimately the responsibility of each individual to negotiate their own risk and decide which protective tools to use or not use during sex. Despite this truth, the way the HIV 'exposure' law in Louisiana is written places the burden of risk negotiation solely on individuals who are aware of their HIV status. This approach can discourage testing, particularly among those already experiencing disproportionate policing, and may impact people's willingness to engage with prevention tools like PrEP, as being on this medication requires regular HIV testing.

It's important to find better solutions that center the rights and basic dignity of PLWH, in tandem with improving public health and safety. Educating people in the legal system about the latest HIV science and medical information, as well as reframing local and nationally held public health goals is one way of achieving this. Lawmakers can also support public health interventions that support PLWH in connecting to and staying engaged with HIV care in order to maintain viral suppression as opposed to utilizing carceral responses to address public health challenges.

The Research Process: How We Did the Study

PURPOSE: WHY WE IMPLEMENTED THE STUDY

In order to inform our lawmakers about the unintended impacts that HIV criminal law often has on people who are living with HIV, LCCH set out to better understand the real lived experiences that Louisiana residents had with the law to better assess how it affects public health and safety. To achieve this goal, LCCH conducted focus groups about HIV criminalization with people who are living with HIV from diverse backgrounds across the state. To accompany their voices, LCCH also set out to educate community members throughout the state about the law, and then offered participants to complete an optional Public Opinion Survey to share their thoughts on the law after having the opportunity to understand it better.

METHODS: STUDY IMPLEMENTATION

Focus Groups

Focus groups were conducted in one parish within each of the nine public health regions of Louisiana between October and December 2023. The sessions included 78 participants, all of whom are Louisiana residents living with HIV. As part of the focus group discussions, each participant completed an in-person paper survey to help quantify their experiences.

To recruit participants, LCCH collaborated with local HIV service organizations to identify clients who might be interested in participating. The sole criterion for participation was for the individual to be living with HIV and to consent to the conversation being audio recorded for future transcription. In addition to recruiting general participants, LCCH partnered with the same regional HIV service organizations to identify local HIV movement leaders. These leaders co-facilitated the focus groups, offering a local perspective on how the law impacts their unique communities. All participants were provided with food and compensated for their time and transportation costs.

Public Opinion Survey

From October to November 2023, LCCH partnered with six social justice-oriented organizations across Louisiana to organize five community education sessions about the “Intentional exposure to HIV” (RS 14:43.5) law. After these sessions, 46 people from eight parishes, representing five public health regions were offered extensive education about Louisiana’s HIV criminal law, then were offered the opportunity to share their thoughts about what they had learned via an online Public Opinion Survey. Participants were compensated for their participation.

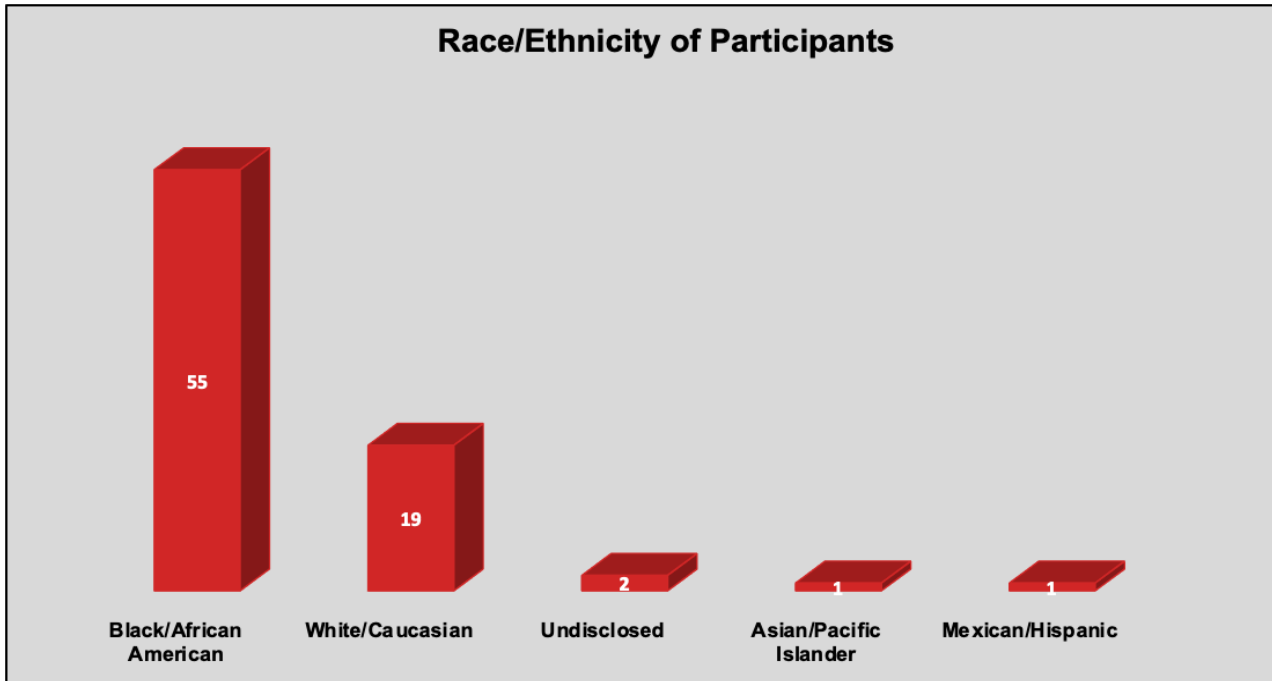
Study Findings: What We Learned

INSIGHTS FROM THE FOCUS GROUPS

Focus Group Demographics

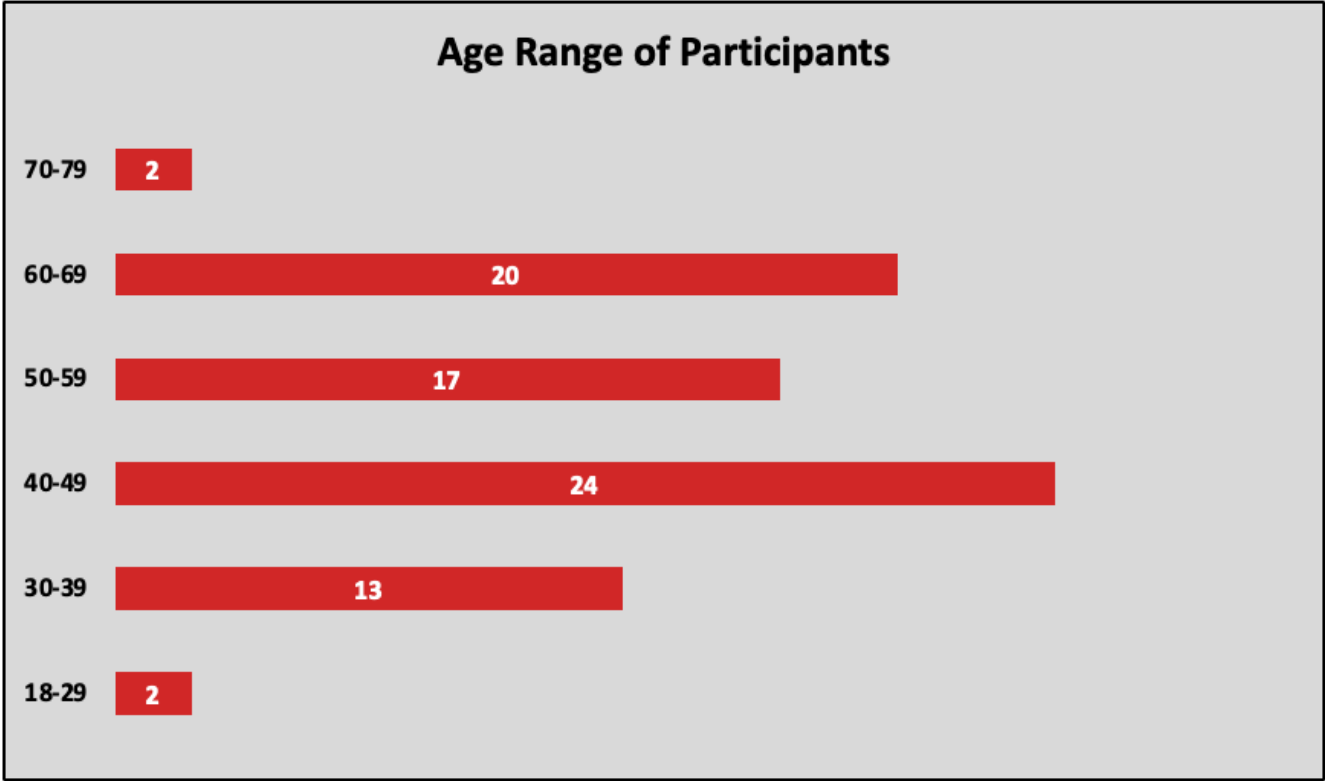
This part of the study involved survey data collection during nine different focus group discussions from the nine public health regions in Louisiana, designated as Region 1 to Region 9. The total number of participants consisted of 78 PLWH, with 4-13 participants per group. The following chart, Figure 1, displays the races and ethnicities of the participants. Participants self-reported their race/ethnicity using the following terms: Black/African American (70.51%), White/Caucasian (24.36%), Asian/Pacific Islander (1.28%), Mexican/Hispanic (1.28%), and two people decided not to share their race or ethnicity (2.56%).

Figure 1. Race/Ethnicity of Focus Group Participants



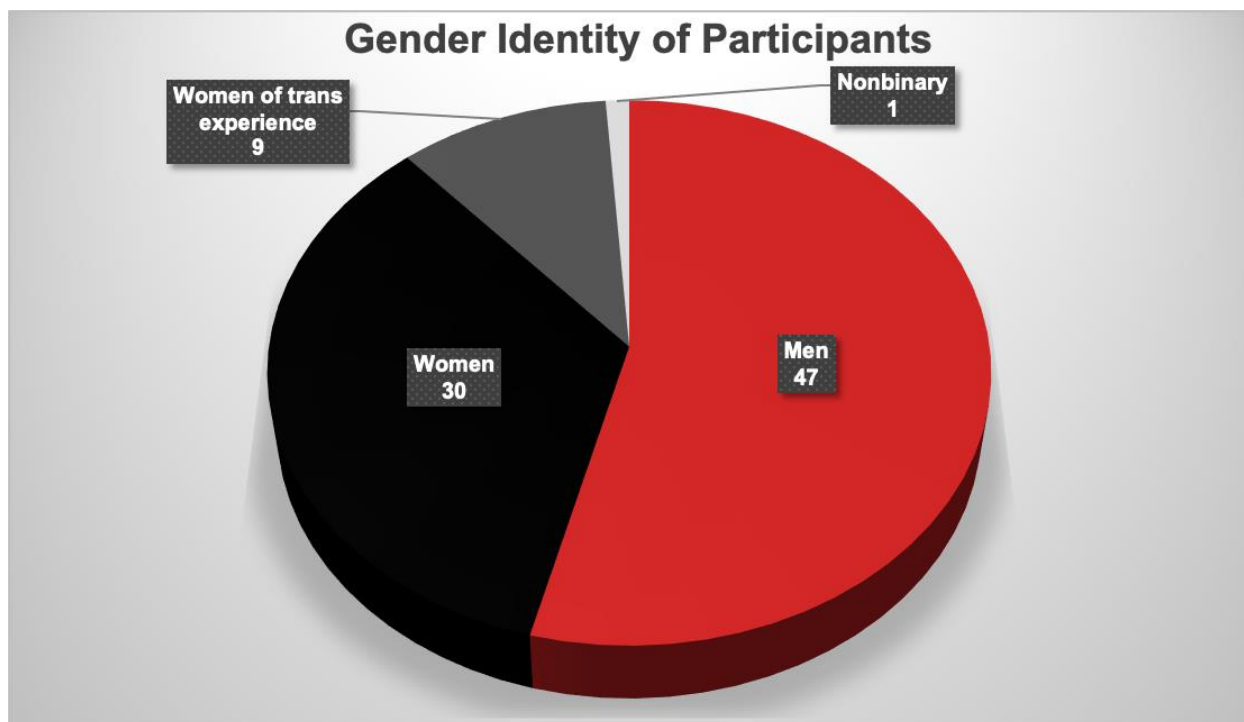
Most focus group participants fell within the 40-49 age range (30.77%), with the next highest group being 60-69 years old (25.64%). Following that, there were participants in the 50-59 age range (21.79%), 30-39 age range (16.67%), and 2.56% in both the 18-29 and 70-79 age ranges. Figure 2, on the following page, shows the different age groups of the people who participated in the focus groups.

Figure 2. Age Range of Focus Group Participants



Most participants identified as men (47, 60.26%), followed by women (30, 38.46%). Additionally, one participant (1.28%) identified as non-binary while nine others (11.54%) identified as women of transgender experience. Figure 3, below, shows the gender identity of the people who participated in the focus groups.

Figure 3. Gender Identity of Focus Group Participants



Steps Taken for Protection from Potential HIV Charges

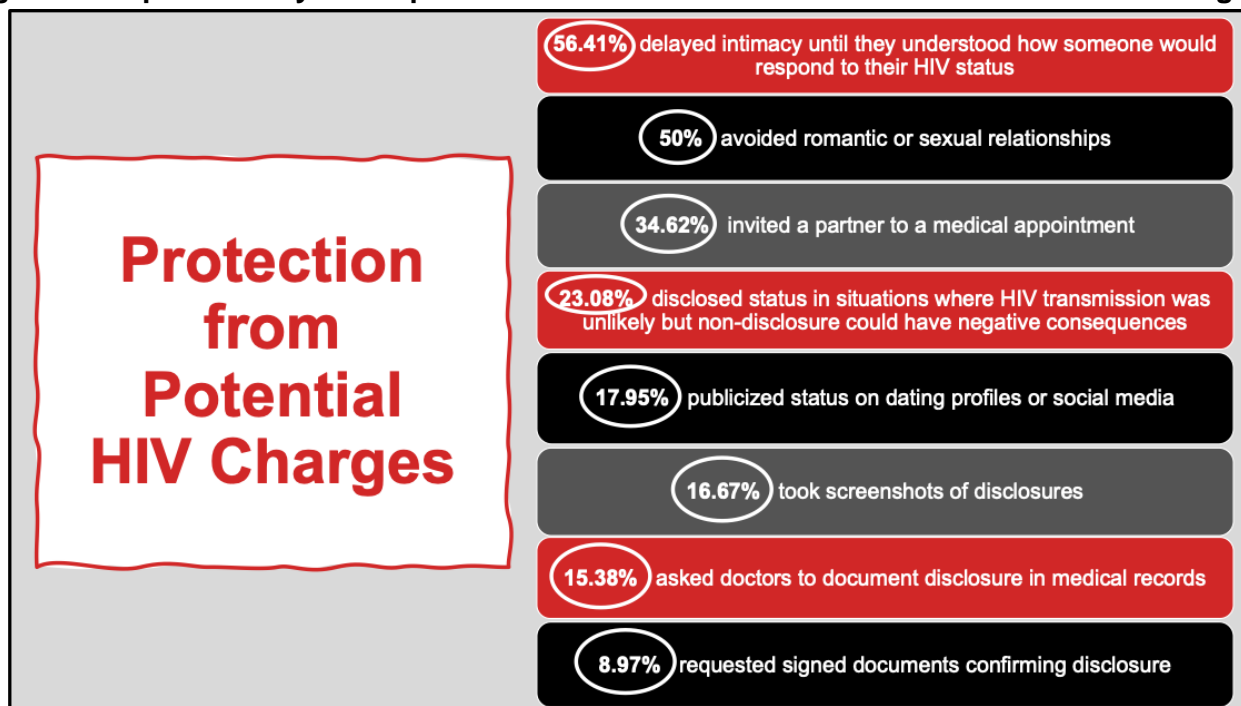
During the focus group survey, participants were asked about steps taken to protect themselves from potential HIV criminal charges. Their responses show that 56.41% delayed intimacy until understanding how others would react to their HIV status, and 50% chose to avoid romantic or sexual relationships altogether.

Noteworthy strategies included inviting a partner to a medical appointment (34.62%), disclosing their status in situations where HIV transmission was unlikely or impossible, but non-disclosure could have negative consequences (23.08%), and publicizing status on dating profiles or social media (17.95%). Less common approaches included taking screenshots of disclosures (16.67%), asking doctors to document disclosure in medical records (15.38%), requesting signed documents confirming disclosure (8.97%), with 10.26% choosing “none of the above.” Below, Figure 4 shows responses to this question from the participants.

Participants discussed the stress and mental health impacts having to use these strategies as a result of the commonly stated experience of disclosing one’s HIV status to someone, only to have them later threaten that the person had not disclosed their status, and wanting to ensure there was proof of disclosure if their word was called into question.

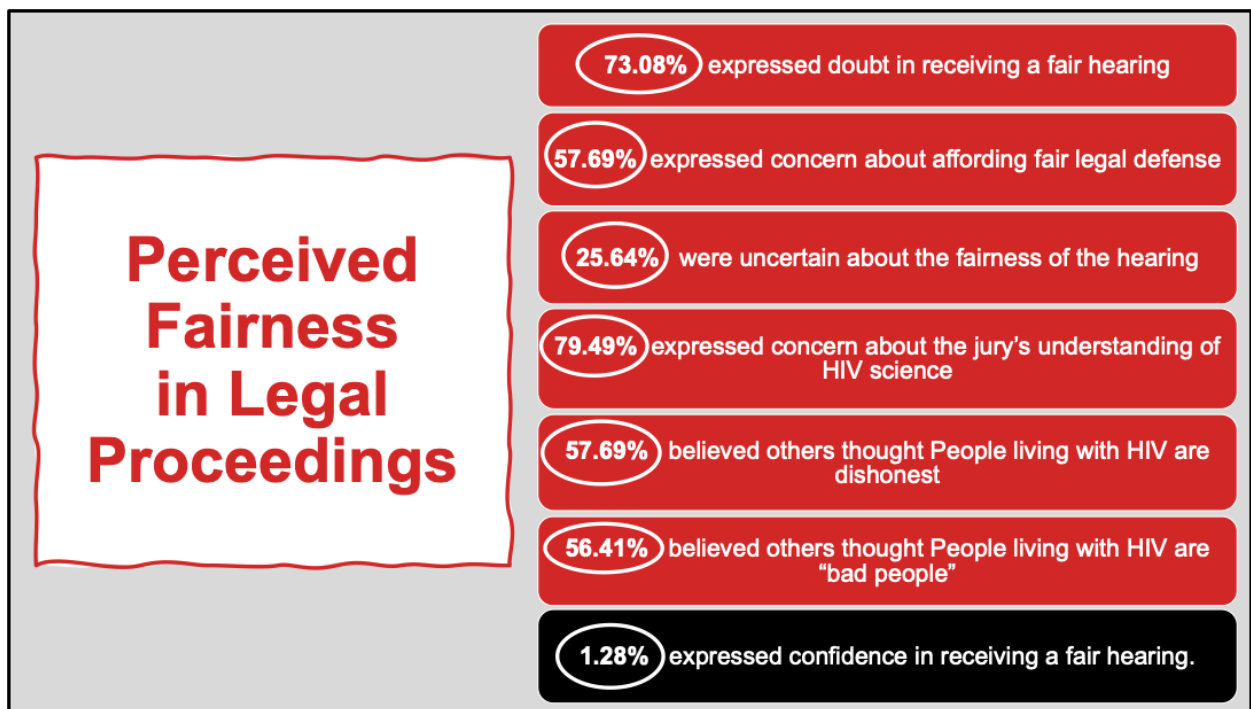
Participants shared their thoughts on whether they felt they would receive a fair hearing if they were accused of not disclosing their HIV status. Most of them (73.08%) were doubtful that they would receive a fair hearing. Only a small number (1.28%) felt confident in getting a fair hearing, and about a quarter (25.64%) were unsure about the fairness of the hearing.

Figure 4. Steps Taken by Participants to Protect Themselves from Potential Criminal Charges



In the exploration of perceived fairness in legal proceedings, a large majority (79.49%) of participants expressed concern about the jury's understanding of HIV science. Participants also highlighted other concerns, with 57.69% citing inaccurate perceptions that PLWH are dishonest, and 56.41% stating fear that a jury would stereotype them as being "bad people" inherently because of their HIV status. Financial barriers were also acknowledged, with 57.69% expressing concern about affording adequate legal defense. Another 19.23% of participants cited concerns that other factors like racism, classism, and homophobia would potentially influence their likelihood of a fair hearing. Below, Figure 5 shows responses to this question from the focus group participant survey.

Figure 5. How Participant Perceive Fairness in Legal Proceedings



Key Themes from the Focus Group Discussions

In the nine focus groups held across Louisiana's nine public health regions, participants shared their personal experiences, knowledge, and perceptions around HIV criminalization. From these discussions, we identified six common themes, each reflecting different aspects of how HIV criminalization impacts individuals and communities.

These six themes along with key quotes are presented below and on the following pages. They provide valuable insights into the challenges faced by those affected by HIV criminalization.



1. Avoiding social or romantic interactions due to fear of criminalization as a result of being a person living with HIV
2. Concerns about lawmakers' and community members' lack of knowledge about HIV
3. Fear of legal and social punishment as a result of one's HIV status being exposed
4. Mental health impacts of experiencing exclusion and/or discrimination as a result of one's HIV status
5. Being stigmatized by healthcare providers in relation to HIV disclosure
6. Intersectionality/multiple challenges faced due to HIV criminalization

Focus Groups Theme 1:

Avoiding Social or Romantic Interactions Due to Fear of Criminalization as a Result of Being a Person Living with HIV

Participants shared that the fear of facing legal issues and negative outcomes under the law prevents them from discussing HIV, getting tested, starting new relationships, or leaving unhealthy ones. More than half of the participants stated that they would prefer to live an isolated life without social or romantic connections than risk being treated poorly due to the stigma associated with disclosing their HIV status to a new person. People expressed that this feeling was intensified by the law's potential to lead to criminalization if a person they disclosed their HIV status to were to claim that they never did, and they were then unable to prove that they had disclosed. This fear was found to be compounded by the reality of being forced to publicly disclose their status in court if they had to legally prove that they had, in fact, shared their HIV status.

These protective behaviors stem from concerns about the real risks that can result from one's HIV status becoming known, being forced to share one's HIV status, and the chance of facing stigma and punishment as a form of retaliation or revenge if a relationship with someone to whom they disclosed their status sours.

Focus Groups Theme 2:

Concerns About Lawmakers' and Community Members' Lack of Knowledge about HIV

This theme explores the general public's limited knowledge about HIV transmission, effective treatment, and the laws around the virus. This lack of knowledge can contribute to the unfair treatment of PLWH, resulting in increased stigma and making the lives of PLWH more challenging. Participants expressed frustration that law enforcement agents had the ability to press these kinds of charges when it should be nearly impossible for any law enforcement agent to find themselves in a situation in which HIV transmission was likely, or even possible. Participants also mentioned a lack of confidence that a judge, jury, or prosecutors would have enough current knowledge about HIV in general to make accurately informed choices about the risks associated with their interactions with others if they were to face criminal charges for HIV "exposure" in a court of law.

Focus Groups Theme 3:

Fear of Legal and Social Punishment as a Result of One's HIV Status Being Exposed

Participants expressed their fear of legal and social consequences based on their health status. This fear included concerns about potential legal actions and social judgment, leading to anxiety and avoidance in sharing their HIV status. Participants also highlighted additional anxiety, expressing concerns that even if they were to successfully plead their innocence in court, the forced public disclosure of their status could negatively impact their interpersonal relationships, as well as their access to housing and employment. Additionally, participants openly discussed the pain and anxiety that could result from being labeled as a sex offender and no longer being able to be present in the lives of the young people in their families as a result of being convicted of "intentional exposure."

Focus Groups Theme 4:

Mental Health Impacts of Experiencing Exclusion and/or Discrimination as a Result of One's HIV Status

Participants shared that living with HIV has a significant impact on their mental health, affecting relationships, work, and how they navigate healthcare and judicial systems. Some shared their struggles, such as losing jobs or facing discrimination at church or in jail. Others expressed the fear of telling their family or being treated like they're less than human. Common themes that emerged in all the focus groups reiterated participants' desires for people who were not living with HIV to consider how they would feel if they were legally required to disclose personal health information to every person they interacted with, even if that health condition did not pose any threat or risk to others. Multiple participants stated they wanted to be treated with basic dignity, just like anyone else.

Focus Groups Theme 5:

Being Stigmatized by Healthcare Providers in Relation to HIV Disclosure

Participants expressed frustration with the unequal treatment they received in healthcare settings as a direct result of their HIV status, particularly when compared to patients with other communicable health conditions. Stories included examples of blatant discrimination, a lack of medical understanding, and poor bedside manners from healthcare professionals upon disclosing their HIV status. Participants shared about negative experiences in hospitals, emergency rooms, ambulances, by nurses and front desk staff, and in dental offices, among other places where providers should have better understanding of HIV and the impacts of stigma on health outcomes. Others expressed concerns about the lack of privacy and confidentiality, especially noted by participants from small towns where the community is in close contact with one another.

Participants shared frustration at the frequently inadequate baseline understanding related to the real and perceived risks associated with healthcare providers serving PLWH. The need for providers to actively utilize universal precautions to effectively reduce the risk of occupational exposure to HIV was repeatedly stated. Comparisons were drawn to how society and healthcare providers approach other infectious diseases like COVID, Hepatitis C, and other sexually transmitted infections (STIs) without criminalization were also repeatedly referenced.

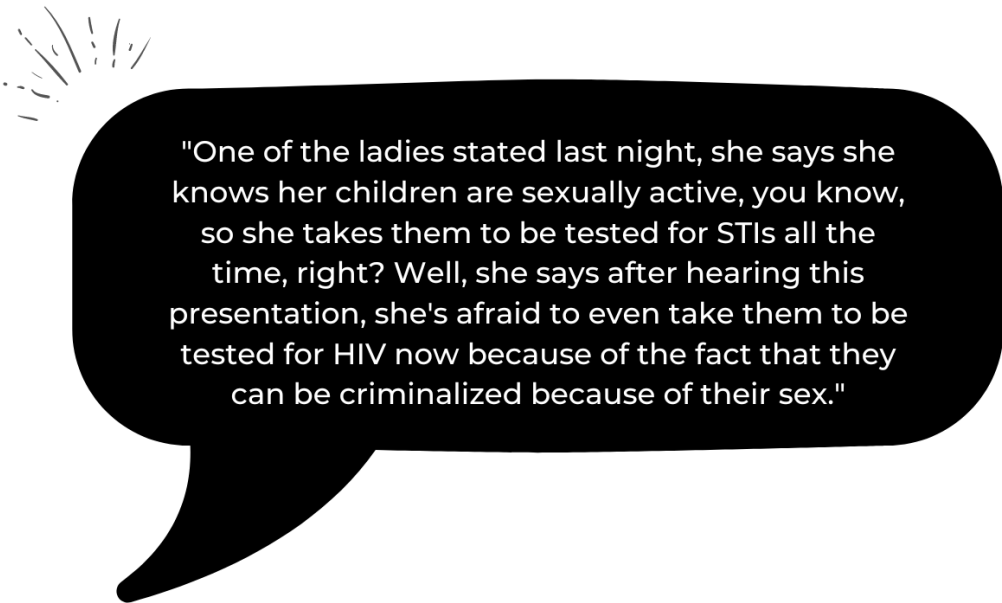
Focus Groups Theme 6:

Intersectionality/Multiple Challenges Faced Due to HIV Criminalization

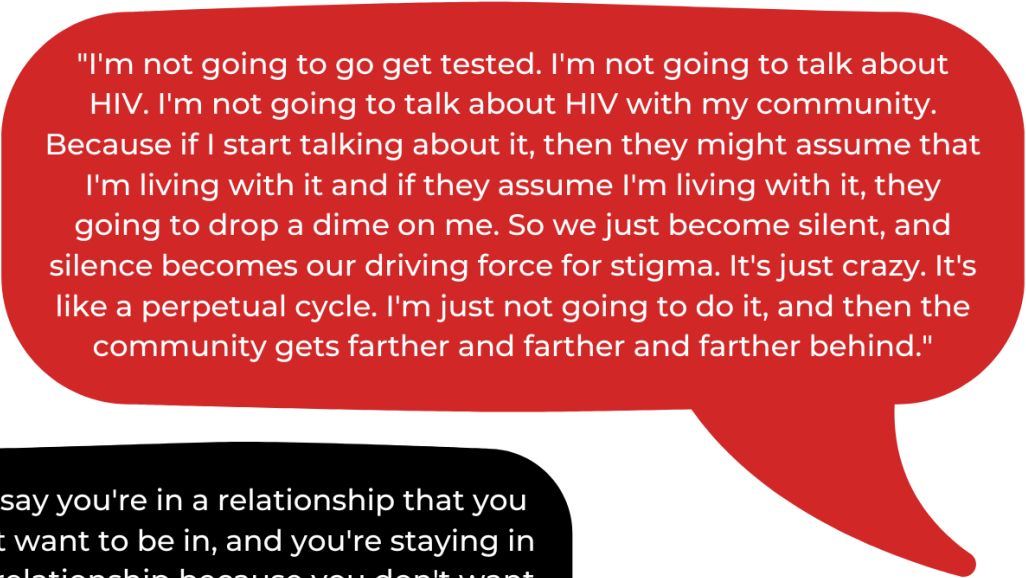
Participants expressed exhaustion from the burden of regularly managing the process of sharing their HIV status. For those who had lived experience of being wrongfully charged with “HIV exposure,” the ongoing financial strain involved with the sexual offender registration process and the difficulty of finding a job after being labeled as a sex offender were painfully cited as some of the longest-lasting negative impacts that these laws had on people’s lives and the lives of their loved ones. Additionally, finding informed healthcare providers, especially for transgender individuals, adds complexity to their already challenging experiences navigating the world of healthcare.

This theme stresses that HIV criminalization is not only costly and exhausting but also brings added shame and brutality, especially for those with intersecting marginalized identities such as race, gender, social status, sexual identity, or economic standing. Participants expressed consistent outrage upon learning data from UCLA’s Williams Institute that shows 91% of all “HIV exposure” charges in Louisiana were filed against Black men, while Black men only make up 20% of PLWH in the state.

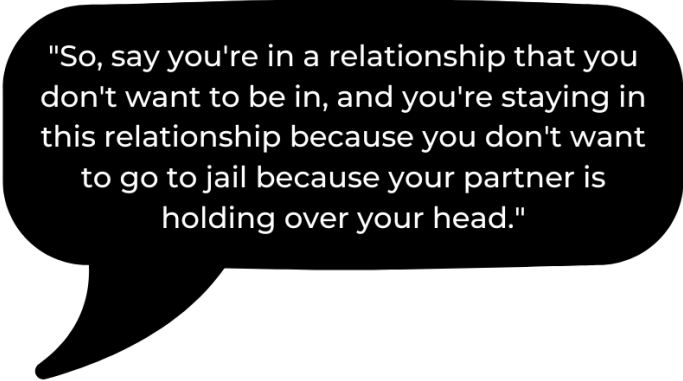
Theme 1: Avoiding Social or Romantic Interactions Due to Fear of Criminalization as a Result of Being a Person Living with HIV



"One of the ladies stated last night, she says she knows her children are sexually active, you know, so she takes them to be tested for STIs all the time, right? Well, she says after hearing this presentation, she's afraid to even take them to be tested for HIV now because of the fact that they can be criminalized because of their sex."



"I'm not going to go get tested. I'm not going to talk about HIV. I'm not going to talk about HIV with my community. Because if I start talking about it, then they might assume that I'm living with it and if they assume I'm living with it, they going to drop a dime on me. So we just become silent, and silence becomes our driving force for stigma. It's just crazy. It's like a perpetual cycle. I'm just not going to do it, and then the community gets farther and farther and farther behind."



"So, say you're in a relationship that you don't want to be in, and you're staying in this relationship because you don't want to go to jail because your partner is holding over your head."



Theme 2: Concerns About Lawmakers' and Community Members' Lack of Knowledge about HIV

"I just met a 19-year-old guy who I was trying to educate; take him under like my son. I said, 'Do you know what HIV is?' He said, 'Here?' 19... Sexually active. Bisexual. In 2023. I thought he was joking. He said, 'Tell me more about it.'"

Quote in relation to young people not having access to adequate HIV health education.

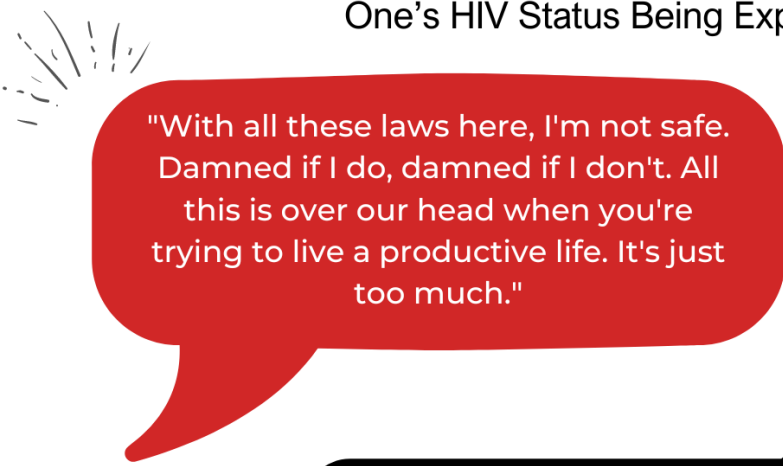
"I didn't know that I could keep hugging and kissing my brother. I was going through 3 or 4 gallons of bleach a day, not a week. Nobody gave me any information... I didn't read nothing. I was just terrified that I was either going to go to jail or I was going to die. That's it. That's all I knew. And my youngest child came in the bathroom, apparently more knowledgeable than me, and told me, mama, we are not going to get HIV, but you are going to kill us with this bleach."

Quote in relation to people who are newly diagnosed with HIV not being provided with adequate HIV health education.

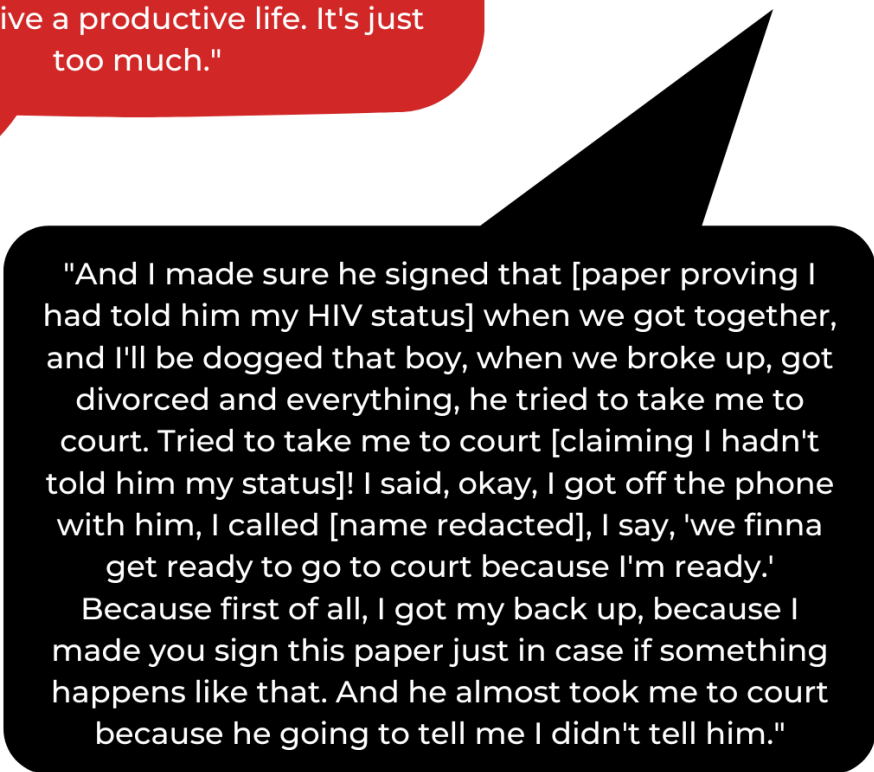
"Down here in Louisiana, I've never met any activist in my life. I've never met, other than the people that I go to at the pharmacy or Crescent Care. Outside of that, there is no outreach. I've never seen anyone passing out pamphlets about it or 'hey, let me ask you about this or what do you think?' Like I've never, you have to come to very secretive things to come and get any information or even get your voice heard or you know that I've just never seen anything."

Quote in relation the public's general lack of adequate HIV health education.

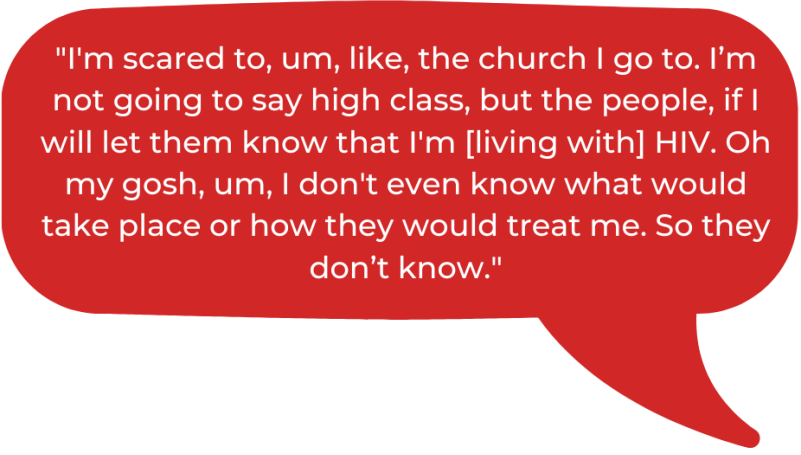
Theme 3: Fear of Legal and Social Punishment as a Result of One's HIV Status Being Exposed




"With all these laws here, I'm not safe. Damned if I do, damned if I don't. All this is over our head when you're trying to live a productive life. It's just too much."



"And I made sure he signed that [paper proving I had told him my HIV status] when we got together, and I'll be dogged that boy, when we broke up, got divorced and everything, he tried to take me to court. Tried to take me to court [claiming I hadn't told him my status]! I said, okay, I got off the phone with him, I called [name redacted], I say, 'we finna get ready to go to court because I'm ready.' Because first of all, I got my back up, because I made you sign this paper just in case if something happens like that. And he almost took me to court because he going to tell me I didn't tell him."



"I'm scared to, um, like, the church I go to. I'm not going to say high class, but the people, if I will let them know that I'm [living with] HIV. Oh my gosh, um, I don't even know what would take place or how they would treat me. So they don't know."



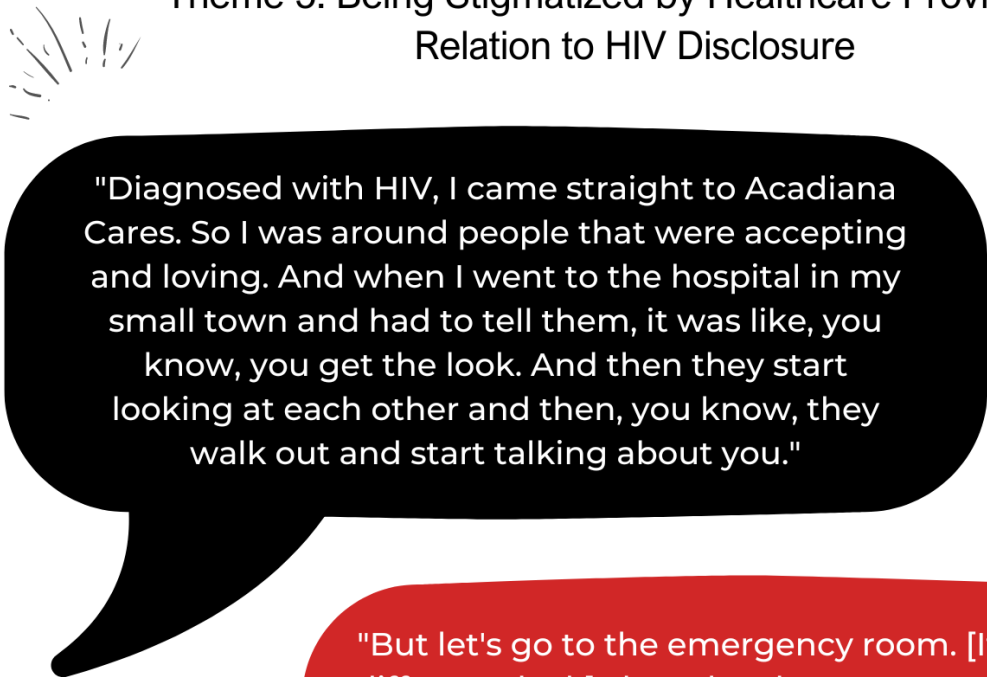
Theme 4: Mental Health Impacts of Experiencing Exclusion and/or Discrimination as a Result of One's HIV Status

" I used to work for the City, but I mean, after hearing my status, I eventually had to disclose it to my supervisor. But, I mean, even still, it affected me because I still felt more closed off than I normally am as far as like me being open and honest. So, I mean, it just makes you more cautious about who you tell because you're so worried about all the backlash."

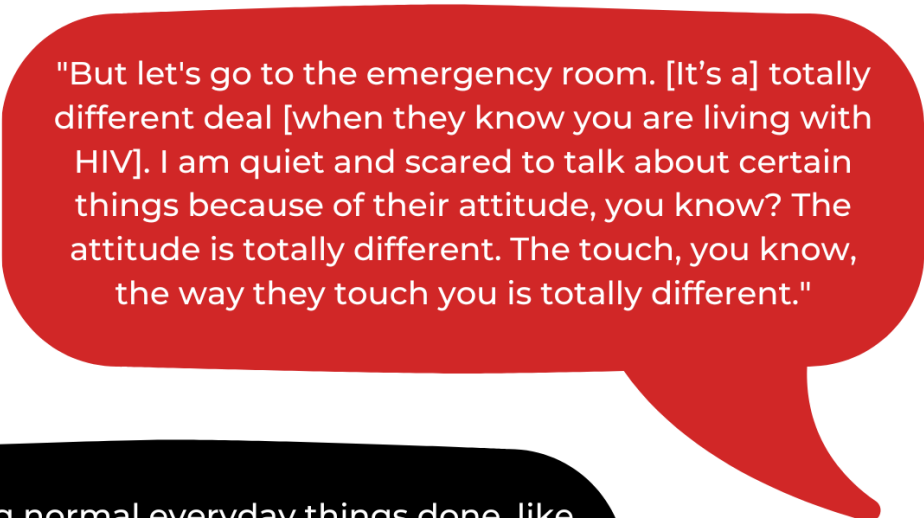
"I would advise nobody to go to jail because I had an incident in jail right here in Lafayette. And I'm not going to say what jail it is, but when I went to jail and I told them that I had HIV, they treated me like a dog. They treated me like a dog! I went without my meds over a month. All the symptoms that I had, I told them. I fell out in the system, in the jail. You know, they wouldn't even take me to the hospital, and I begged them. Please take me to the hospital. Don't let me die in here. The nurse told me, "I don't give a damn," but they got to face God. And it hurts."

"When my people thought something was wrong with me because they heard I was working the streets and all that. My mama gave me one plate, one fork, one spoon, and made me use that one thing the whole time. And I wanted to tell my family, but my sister was having a baby and I knew that I probably would never get to see my nephew because y'all not educated on it."

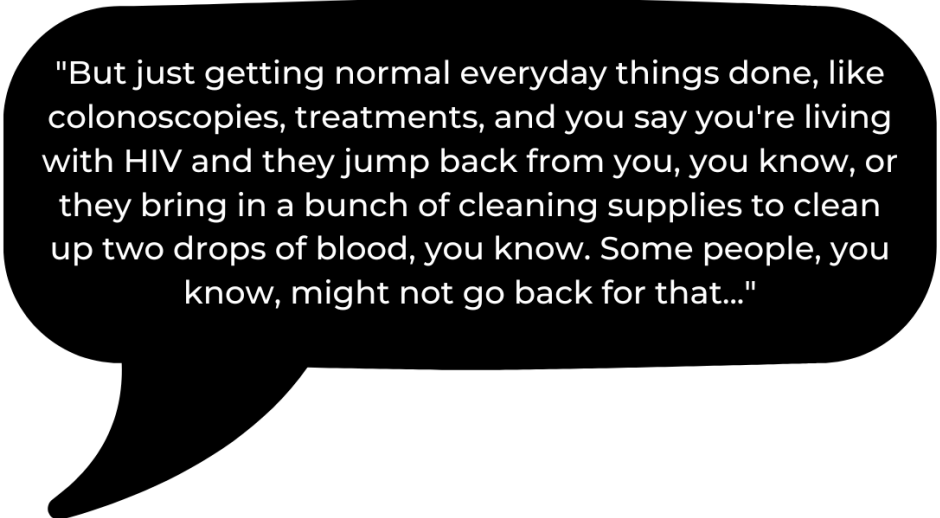
Theme 5: Being Stigmatized by Healthcare Providers in
Relation to HIV Disclosure



"Diagnosed with HIV, I came straight to Acadiana Cares. So I was around people that were accepting and loving. And when I went to the hospital in my small town and had to tell them, it was like, you know, you get the look. And then they start looking at each other and then, you know, they walk out and start talking about you."



"But let's go to the emergency room. [It's a] totally different deal [when they know you are living with HIV]. I am quiet and scared to talk about certain things because of their attitude, you know? The attitude is totally different. The touch, you know, the way they touch you is totally different."



"But just getting normal everyday things done, like colonoscopies, treatments, and you say you're living with HIV and they jump back from you, you know, or they bring in a bunch of cleaning supplies to clean up two drops of blood, you know. Some people, you know, might not go back for that..."

Theme 6: Intersectionality/Multiple Challenges Faced Due to HIV Criminalization

"A person I know that is dealing with this [being unjustly charged with HIV exposure], like, we recently had a conversation and, like, I'm tired, man. He was like, 'I am tired. If I don't have this amount of money, I'm going back to jail,' and just broke down and cried. And it was so sad to me, like, and I didn't even understand how severe it was until this now."

"And I got to be registered as a sex offender for 15 years because 'he said, she said,' [when she had known my status for years]."

"I lived with a friend that's dealing with it. And this child was 16, 17—well, 18 years old when it happened, and 37 now. And terrified every time the cops come past or knock on the door. Run and hiding. Has to pay all this money [for the sexual offender registry]. So we are [in a] state of second chances? You know, get out of jail and you get a second chance. How the hell can I have a second chance and I gotta pay this? Those cards are high as hell."

"Not just that. You want me to have a second chance, [even though I did disclose my status] but I can't. I have to be ashamed to walk out my damn door because everybody in the neighborhood got a card with my picture on it that puts me in the same category as a sex offender, a child molester."

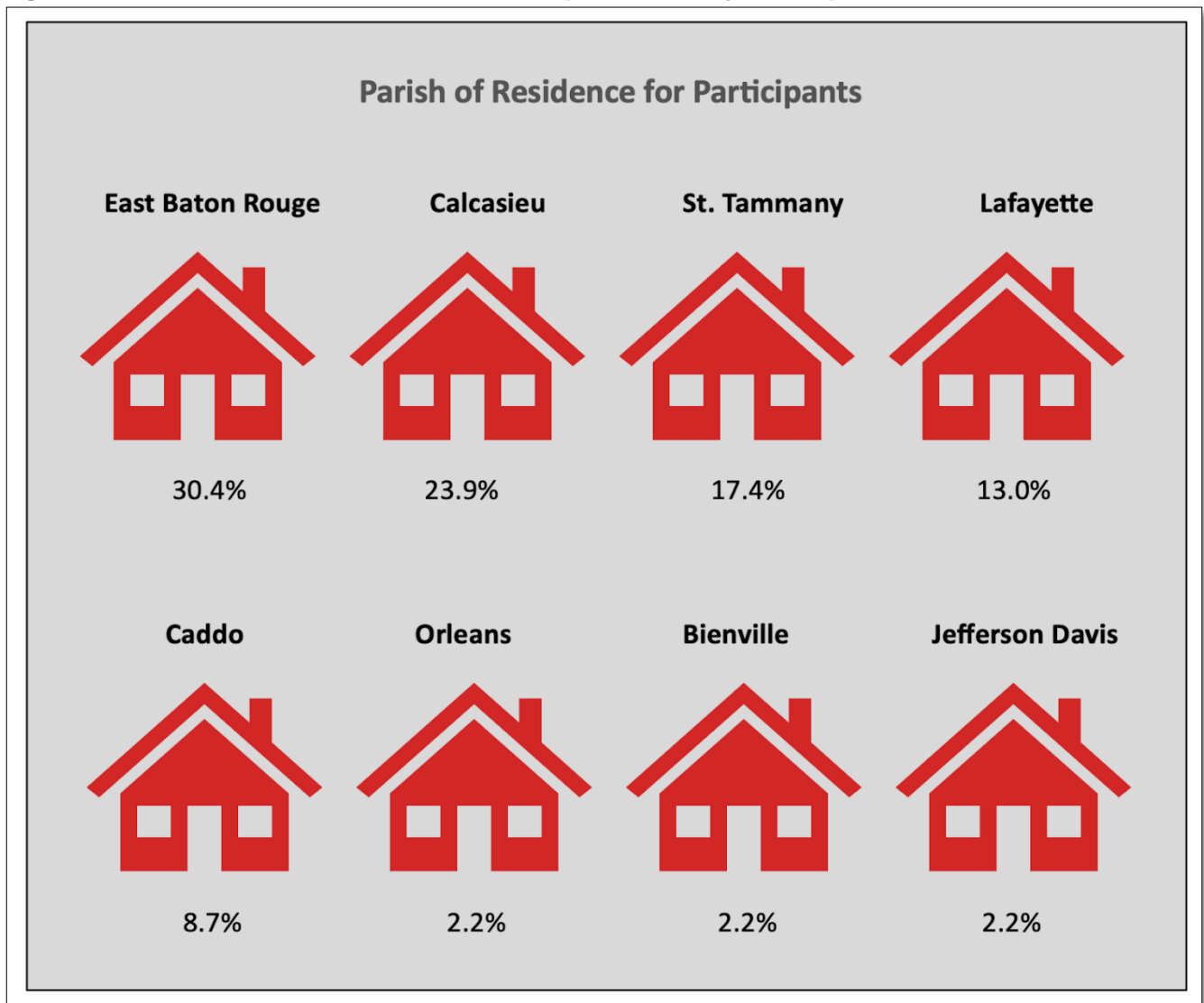
INSIGHTS FROM THE PUBLIC OPINION SURVEY

Survey Demographics

A total of 46 people from eight parishes (See Figure 6) in Louisiana responded to the survey. Due to the small sample size, LCCH is hesitant to generalize broader statewide opinions from this data, though we hope to provide more robust data in the future to better understand the attitudes and opinions Louisiana residents hold about the law.

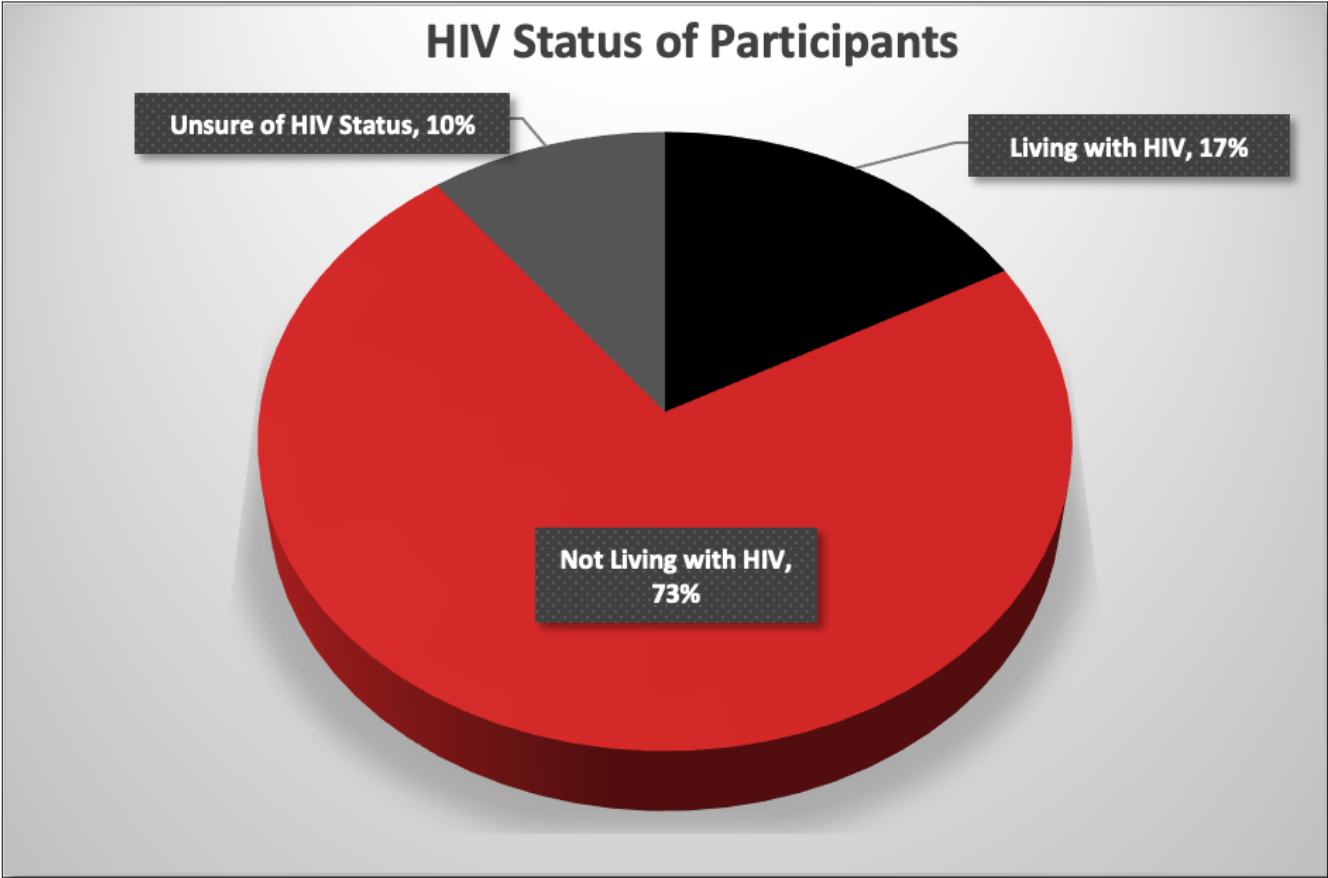
Please find below a sample of what we found from the existing surveys. Feel free to contact LCCH directly for additional demographic information of the participants.

Figure 6. Parish of Residence for 46 Public Opinion Survey Participants



The majority of people were not living with HIV (76.1%), 13.0% were living with HIV, and 10.9% did not know their status. Figure 7 displays the HIV status of the participants.

Figure 7. HIV Status of Public Opinion Survey Participants



Public Opinion on Louisiana's HIV Criminalization Law

Participants shared how much they agreed with seven statements about Louisiana's HIV Criminalization Law, using a scale from 1 (strongly disagree) to 5 (strongly agree). Figure 6 shows the most commonly reported responses for each of these statements.

Figure 6. Public Opinion on Louisiana's HIV Criminalization Law from Survey Participants



What the Public Opinion Survey Participants Want Their Legislators to Know About HIV Criminalization

At the end of the brief survey, participants were offered the opportunity to share their perspectives and thoughts about our current HIV law in Louisiana. From what they shared, we identified seven common topics or themes. These themes give us important insights into what the participants think about Louisiana's HIV Criminalization Law.

Below, we'll go through each theme we found and share some quotes from the people who took part in the Public Opinion Survey. This will help you understand more about what they said and what each theme is about.



1. Louisiana's HIV criminalization law needs to be updated to reflect modern science
2. Louisiana's HIV criminalization law needs to be repealed
3. Louisiana's HIV criminalization law makes people living with HIV a target for discrimination and potential harm
4. Louisiana's HIV criminalization law deters people from getting tested and knowing their status
5. Louisiana's HIV criminalization law stigmatizes those living with HIV
6. Legislators and the public need to be educated on modern HIV science
7. Louisiana's HIV criminalization law negatively impacts all residents, regardless of HIV status

Public Opinion Survey Theme 1:

Louisiana's HIV Criminalization Law Needs to Be Updated to Reflect Modern HIV Science

Participants expressed a desire for an updated law that aligns with modern HIV science. They emphasized the outdated nature of current legislation and the importance of considering the vulnerability of those affected by the laws.

Public Opinion Survey Theme 2:

Louisiana's HIV Criminalization Law Needs to Be Repealed

This theme advocates for the complete repeal of Louisiana's HIV Criminalization Law. Participants call for an end to the existing law describing it as “outdated,” “draconian,” and “unjust.”

Public Opinion Survey Theme 3:

Louisiana's HIV Criminalization Law Makes People Living with HIV a Target for Discrimination and Potential Harm

Participants highlighted the negative impact of the “exposure” law, emphasizing how the non-specific language of the law easily allows people’s HIV statuses to be weaponized against them, making them feel like targets. They discussed the need for an updated law that considers the real risks PLWH face when required to disclose their statuses. Such disclosure may jeopardize their access to housing or employment, result in sub-par healthcare, complicate or end interpersonal relationships, or at worst, threaten their physical safety. Participants stated that the current law promotes fear and ignorance about HIV and those living with it, contrary to its supposed goal of ensuring safety.

Public Opinion Survey Theme 4:

Louisiana's HIV Criminalization Law Deters People from Getting Tested and Knowing Their Status

Concerns were raised about how criminalization discourages individuals from getting tested, ultimately hindering efforts to know one's HIV status and preventing transmission. As someone can only be charged with this offense if they know their HIV status, many participants stated they would be more comfortable getting tested if there was no legal threat involved in knowing their HIV status.

Public Opinion Survey Theme 5:

Louisiana's HIV Criminalization Law Stigmatizes Those Living with HIV

Participants emphasized the additional stigma imposed on individuals living with HIV due to the current laws. They argued that the laws contribute to discrimination and hinder efforts to reduce transmission rates.

Public Opinion Survey Theme 6:

Legislators and the Public Need to Be Educated on Modern HIV Science

This theme underscores the importance of educating legislators and the public on modern HIV science. Participants suggested methods like press conferences and community calls to raise awareness and understanding of advances in both HIV treatment and prevention.

Public Opinion Survey Theme 7:

Louisiana's HIV Criminalization Law Negatively Impacts All Louisiana Residents Regardless of HIV Status

This theme focuses on the broader impact of the laws, extending beyond those living with HIV. Participants highlighted that when people are unjustly charged for “HIV exposure” when no transmission has occurred, the consequences of these individuals being forced to register as felons and sexual offenders have many negative impacts that ripple out to families, neighborhoods, and entire communities. Respondents emphasized that these stigmatizing laws affect communities’ broader attitudes and opinions about PLWH and underscored the contradiction between strict criminalization laws and modern HIV science.

See quotes from all seven themes on the following pages.



Theme 1: Louisiana's HIV Criminalization Law Needs to Be Updated to Reflect Modern HIV Science



"These laws are not consistent with modern science and are damaging to people who are HIV+."

"HIV is not a crime."

"Please consider that some people are born with it."



"Review and come up with a law that takes in consideration the fact that the law is affecting human beings in a very vulnerable situation."

"These laws are based on ignorance."

"This law needs to be updated. The jail time required for innocent lives impacted by Louisiana's current HIV laws is unjust."


Theme 2: Louisiana's HIV Criminalization Law Needs to Be Repealed




"...End it."



"It's unjust! Inhumane and disgusting."



"The laws are outdated and draconian and need to be repealed."

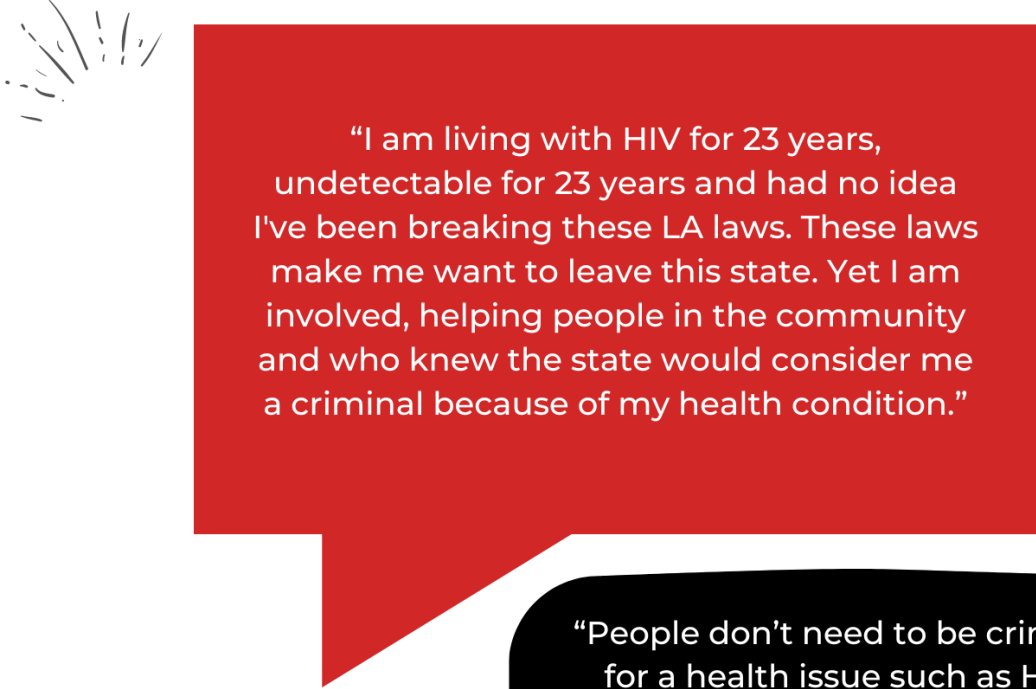


"The laws are outdated and draconian and need to be repealed."

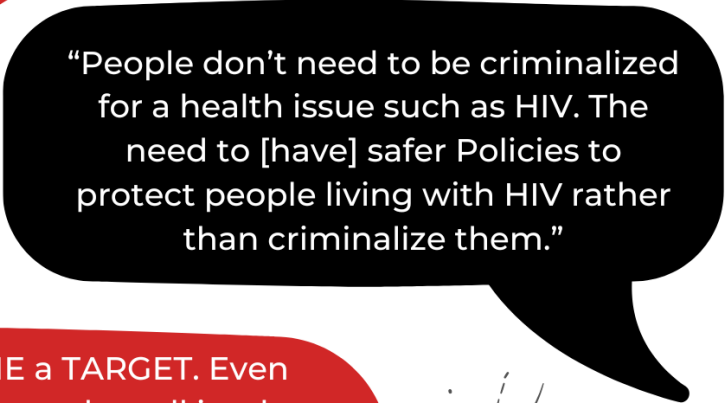


"These laws should be repealed and abolished."

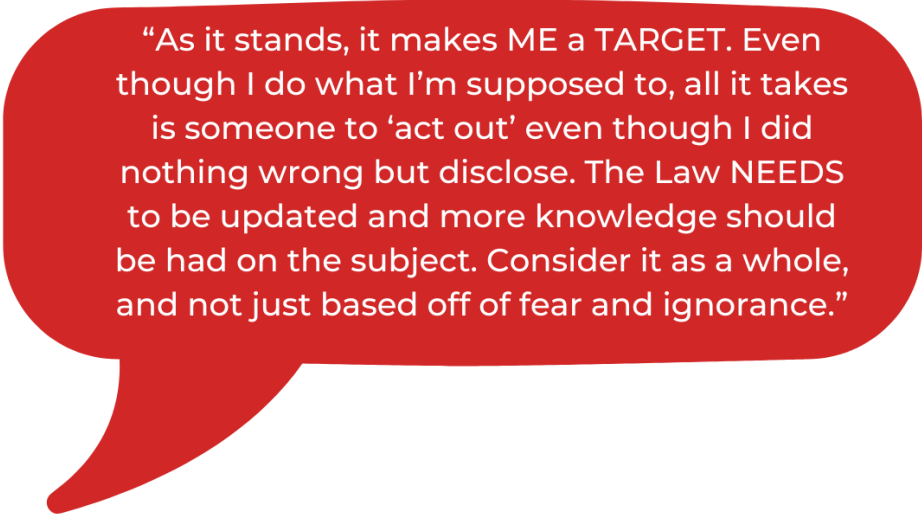
Theme 3: Louisiana's HIV Criminalization Law Makes People Living with HIV a Target for Discrimination and Potential Harm



"I am living with HIV for 23 years, undetectable for 23 years and had no idea I've been breaking these LA laws. These laws make me want to leave this state. Yet I am involved, helping people in the community and who knew the state would consider me a criminal because of my health condition."



"People don't need to be criminalized for a health issue such as HIV. The need to [have] safer Policies to protect people living with HIV rather than criminalize them."



"As it stands, it makes ME a TARGET. Even though I do what I'm supposed to, all it takes is someone to 'act out' even though I did nothing wrong but disclose. The Law NEEDS to be updated and more knowledge should be had on the subject. Consider it as a whole, and not just based off of fear and ignorance."

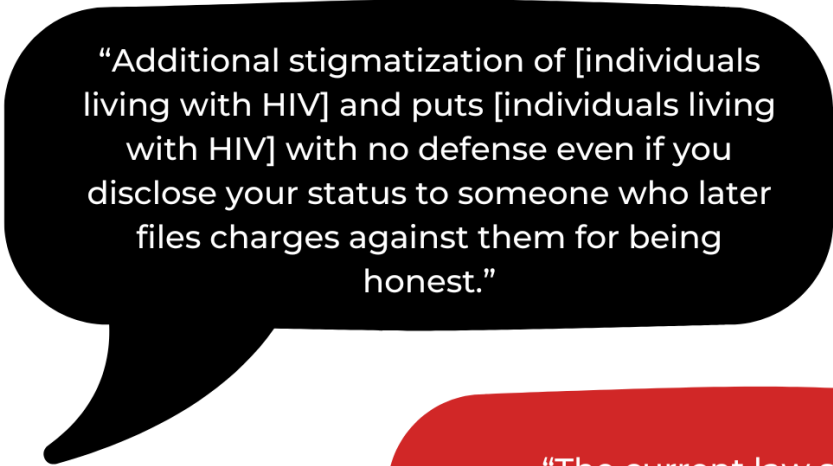
Theme 4: Louisiana's HIV Criminalization Law Deters People from Getting Tested and Knowing Their Status

“Criminalization does not reduce rates of transmission but does deter individuals from knowing their status.”

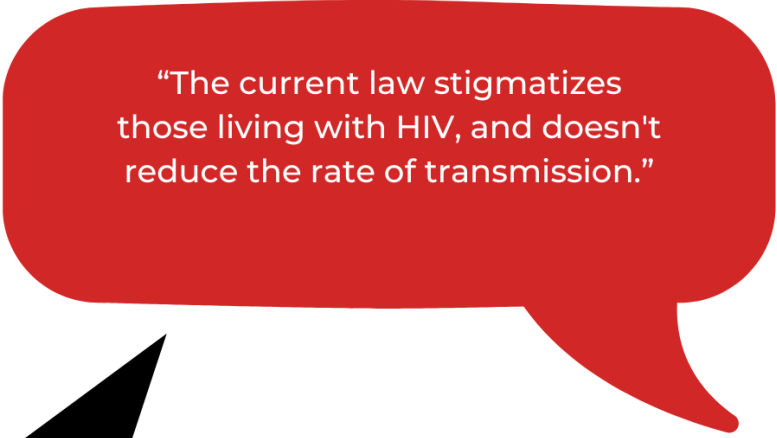

“It doesn't work; deters testing; can be weaponized against people who have not committed a crime; does not promote healthy behaviors.”

“HIV criminalization is making people scared to know their status.”

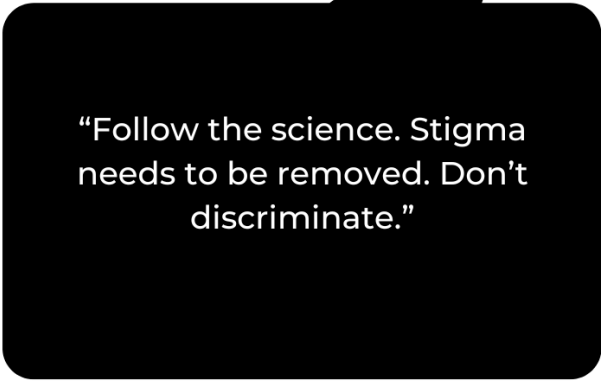
Theme 5: Louisiana's HIV Criminalization Law Stigmatizes Those Living with HIV




“Additional stigmatization of [individuals living with HIV] and puts [individuals living with HIV] with no defense even if you disclose your status to someone who later files charges against them for being honest.”



“The current law stigmatizes those living with HIV, and doesn't reduce the rate of transmission.”



“Follow the science. Stigma needs to be removed. Don't discriminate.”



Theme 6: Legislators & the Public Need to Be Educated on
Modern HIV Science



“To educate themselves about it so
they can at least change the law.”

“Press conference and through
community call their offices.”




“That they don't
understand science”

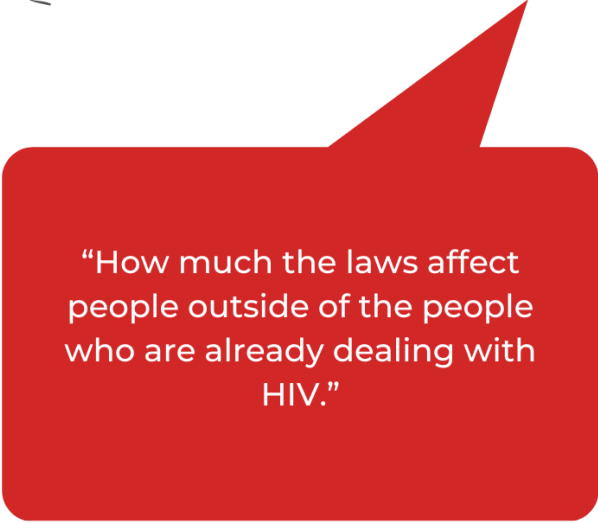

Theme 7: Louisiana's HIV Criminalization Law Negatively Impacts
All Louisiana Residents Regardless of HIV Status



“How it is affecting the people living with HIV and [the] community. As well as how modern science contradicts the criminalization laws.”



“[They need to know the] cause of [what] having strict Criminalization laws do in the Communities.”



“How much the laws affect people outside of the people who are already dealing with HIV.”

Conclusions

SUMMARY OF KEY FINDINGS

Throughout these conversations, participants discussed how intersecting identities like race and sexual identity further intensified their fears of how the laws would be enforced against them, as a result of compounded discrimination.

Findings from community discussions suggest that most people, including those living with HIV, have very little understanding of the existing HIV “exposure” law. However, after learning more about the unintended impacts, most participants disagreed with the current legal consequences for not disclosing one’s HIV status in Louisiana.

Participants living with HIV expressed concerns about the law's heavy reliance on disclosing HIV status. They openly discussed the associated risks with the disclosure of their HIV status, such as potential discrimination, violence, and the stigma faced in their communities when their HIV statuses were made public without consent.

Across the state, PLWH shared their personal experiences of disclosing their status to trusted individuals, only to have it later used against them in a retaliatory manner. Many reported this weaponization of HIV status impacting their willingness to stay in violent or unhealthy relationships, fearing that a jury might not believe them, especially if they had no way to prove they disclosed their HIV status.

Other themes that surfaced in our group discussions were related to avoiding talking about one’s HIV status due to fear of the legal and social consequences it would have in other areas of PLWH’s lives—such as work, school, and family. Participants expressed frustration at feeling inadequately informed about the law in general and the risks associated with disclosing one’s HIV status, which could then be used against them.

Individuals highlighted how the pressure around HIV disclosure and its legal implications had negatively affected their mental health. They also mentioned how stigma related to HIV from healthcare providers impacted their willingness to discuss their status in medical settings.

Implications for Public Health

The results of the community findings indicate the need to modernize Louisiana's HIV laws to align with current HIV science and reduce stigma associated with HIV. Due to a lack of adequate sexual health education in Louisiana, many people are uninformed about HIV, including how it can be transmitted and prevented. This lack of awareness often results in unfair treatment of PLWH and hinders efforts to combat the virus. Participants also noted that the law negatively affected their willingness to get tested for HIV, a crucial step in ending the HIV epidemic.

Implications for Advocacy and Policy Change

Those who want to make a difference should focus on updating Louisiana's HIV “exposure” law. The themes uncovered in the focus group discussions and surveys indicate a widespread desire for changes or removal of this law. Participants who expressed any support for an HIV criminal law largely agreed that the language of the law should move away from being dependent on HIV disclosure. They emphasized the need for the wording to be more specific and explicit, particularly in addressing the incredibly rare instances in which someone may *intentionally and successfully transmit HIV to another person without their consent*.

Advocacy groups can utilize this information to engage with policymakers, raise awareness, and facilitate informed conversations about HIV law. It is crucial to collaborate with legislators, public health leaders, and community figures to ensure that HIV criminal law aligns with public opinion and does not further marginalize people, contribute to stigma, or cause undue harm.

Recommendations for HIV Modernization

POLICY RECOMMENDATIONS FOR LOUISIANA STATE LEGISLATORS

- **Modernize RS 14:43.5 to decrease unjust criminalization of people living with HIV.**
 - This includes requiring proven intent to transmit the virus, reducing the felony charge, and removing the mandatory sex offender registration requirement (See LCCH's eight tenants for HIV modernization in Appendix B).
- Implement comprehensive HIV education for legislators and law enforcement agents.
- Prioritize public education on HIV prevention, care, and treatment.
- Foster collaborative efforts for effective legal and public health interventions.

Prioritize Public Education on HIV Prevention, Care and Treatment

LCCH recommends new policies prioritizing educating the general public on HIV prevention, care, and treatment in order to combat stigma, increase awareness, promote access to vital resources, and reduce the spread of HIV in Louisiana. By empowering individuals with accurate and recent information about HIV transmission, prevention methods, and the importance of regular testing, we can dismantle misconceptions and foster a more supportive environment for those living with HIV.

Foster Collaborative Efforts for Effective Legal and Public Health Interventions

LCCH recommends that Louisiana legislators engage in collaborative efforts and make informed decisions to pave the way for a future where HIV is met with understanding, compassion, and effective legal and public health interventions. Your commitment to proactive measures will significantly contribute to building a healthier and more supportive environment for all residents of Louisiana.

Legislators' commitment to remaining up to date with advances in HIV prevention and treatment, along with action steps to legally remove stigmatizing laws, will contribute significantly to building a healthier and more supportive environment for all residents of Louisiana.

RECOMMENDATION FOR COMMUNITY MEMBERS AND ADVOCATES

- Advocate for decriminalization of HIV.
- Combat HIV-related stigma through education and outreach.
- Connect efforts to public health principles.
- Adopt an equity-centered approach for inclusive healthcare and addressing systemic inequalities.

Advocate for Decriminalization of HIV

LCCH encourages you to advocate for the removal of criminal penalties solely based on disclosure of HIV status and for the modernization of Louisiana's current HIV "exposure" law. After learning about the many harmful impacts that HIV criminal law can have on our community, many participants in LCCH's study demanded a repeal or complete removal of Louisiana's HIV criminal law. While this response is understandable, other states have shown that when HIV laws are completely removed, other general criminal statutes are sometimes used in their place in even more harmful and negatively impacting ways (e.g., PLWH being charged with "reckless endangerment" or "attempted murder").

Because of this, LCCH believes that the best way to move forward is to reduce the harm the current law causes by bringing it into alignment with modern HIV science and making the language of the law much more specific to address the incredibly rare behavior that the law claims to address (intentional and successful transmission of HIV). Modernization promotes trust in healthcare systems, encourages testing and treatment, and reduces fear of unjust legal actions.

Take action by participating in awareness campaigns, engaging with policymakers, and supporting organizations working towards legislative changes that prioritize public health and destigmatize HIV. Your involvement can make a meaningful impact on fostering a more supportive and inclusive environment for individuals affected by HIV.

Combat HIV-related Stigma Through Education and Outreach

LCCH urges advocates and community members to take a proactive stance in combating HIV-related stigma through education, community outreach, and anti-discrimination measures. Within your organizations, initiate awareness campaigns to dispel myths surrounding HIV and foster a culture of understanding and empathy. In your community, organize events that promote inclusivity and educate on the realities of living with HIV, emphasizing that PLWH are able to live healthy, successful, *thriving* lives. At home, engage in conversations to challenge stereotypes and misinformation about HIV. Consider having discussions with your loved ones about taking accountability and ownership of their own sexual health prevention methods, such as condom use and PrEP. These actions will benefit all people in our communities, regardless of HIV status, and contribute to more accurate and just policymaking.

Use an Equity-Centered Approach

LCCH strongly encourages you to prioritize the needs of marginalized communities, including Black and LGBTQIA+ individuals, by addressing social determinants of health, such as housing, education, and economic stability that impact people's well-being. Promote inclusive healthcare services, extending this commitment to encompass healthcare in jails and prisons, and address systemic inequalities in HIV prevention and care to ensure fair and effective support for all.

HIV Modernization Laws in Other Southern States

In recent legislative changes, both Georgia and Tennessee have taken steps to modernize their HIV laws, addressing key issues related to criminalization and registration requirements.^{5,6}

Georgia, through the passage of SB 164 in May 2022, updated its HIV criminalization law.^{5,6} The focus has shifted towards intentional transmission, resulting in a reduced felony charge. The amendments also prioritize the protection of sexual assault victims. Furthermore, Georgia has embraced a more inclusive approach by decriminalizing syringes and adopting people-first language.

Tennessee, in its efforts to reassess sex offender registration laws in the Deep South, enacted SB 0807 in May 2023.⁶ This legislation removes mandatory sex offender registration for individuals previously registered for "criminal exposure," impacting around 70 individuals. The move reflects a broader reconsideration of registration requirements in the region.

These developments underscore a positive trend toward the modernization of HIV laws in Southern states, emphasizing a more nuanced and compassionate approach to address legal and public health concerns.



Acknowledgements

LCCH extends its heartfelt gratitude to the following organizations for their collaborative spirit and commitment which has been instrumental in advancing the mission of LCCH and in promoting a more inclusive and supportive environment for all individuals affected by HIV. We express our deepest appreciation for their ongoing partnership and shared dedication to creating a healthier and more compassionate Louisiana.

Fiscal Sponsor:

- Foundation for Louisiana - LCCH

Funders:

- Elizabeth Taylor AIDS Foundation

Community Partners:

- Acadiana CARES
- Acadiana Reproductive Freedom
- Baton Rouge Ending the Epidemic
- Cause Engagement Associates LLC
- Central Louisiana AIDS Support Services
- Connect North Shore
- Get Loud Louisiana
- Go Care
- Legislative Organizing Coalition for All LGBTQ Louisianans
- Lallie Kemp Regional Medical Center
- Louisiana Citizens Against Censorship
- Louisiana Organizers for Refugees and Immigrants
- Louisiana State Legislative Commission on HIV / HCV
- LSU School of Allied Public Health: Shreveport
- Moss Memorial Health Clinic
- NOLA Bounce to Zero
- People Acting for Change and Equality
- Philadelphia Center, The
- Positive Women's Network: Louisiana
- Promise of Justice Initiative: Survivors for Reform
- Rabun Group
- STAR Corporation
- Step Up Louisiana
- Southwest Louisiana Area Education Center: Do No Harm
- The Center for HIV Law and Policy
- The SERO Project
- Volunteers of America: Slidell
- Women With a Vision
- Xavier University

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Appendices

APPENDIX A

RS 14:43.5 - Intentional exposure to HIV

RS 14:43.5

§43.5. Intentional exposure to HIV

A. No person shall intentionally expose another to the human immunodeficiency virus (HIV) through sexual contact without the knowing and lawful consent of the victim, if at the time of the exposure the infected person knew he was HIV positive.

B. No person shall intentionally expose another to HIV through any means or contact without the knowing and lawful consent of the victim, if at the time of the exposure the infected person knew he was HIV positive.

C. No person shall intentionally expose a first responder to HIV through any means or contact without the knowing and lawful consent of the first responder when the offender knows at the time of the offense that he is HIV positive, and has reasonable grounds to believe the victim is a first responder acting in the performance of his duty.

D. For purposes of this Section, "first responder" includes a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, and probation and parole officer, any licensed emergency medical services practitioner as defined by R.S. 40:1131, and any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state or any volunteer firefighter of the state.

E.(1) Whoever commits the crime of intentional exposure to HIV shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than ten years, or both.

(2) Whoever commits the crime of intentional exposure to HIV against a first responder shall be fined not more than six thousand dollars, imprisoned with or without hard labor for not more than eleven years, or both.

F.(1) It is an affirmative defense, if proven by a preponderance of the evidence, that the person exposed to HIV knew the infected person was infected with HIV, knew the action could result in infection with HIV, and gave consent to the action with that knowledge.


(2) It is also an affirmative defense that the transfer of bodily fluid, tissue, or organs occurred after advice from a licensed physician that the accused was noninfectious, and the accused disclosed his HIV-positive status to the victim.

(3) It is also an affirmative defense that the HIV-positive person disclosed his HIV-positive status to the victim, and took practical means to prevent transmission as advised by a physician or other healthcare provider or is a healthcare provider who was following professionally accepted infection control procedures.

Acts 1987, No. 663, §1; Acts 1993, No. 411, §1; Acts 2018, No. 427, §1.

APPENDIX B

LCCH's Eight Tenants for HIV Modernization



What would modernizing HIV law look like in Louisiana?

The Louisiana Coalition on Criminalization and Health (LCCH) is a statewide group of HIV activists, organizers, and people living with HIV who believe that no person should be criminalized for their health status.

While we believe in total HIV decriminalization, our coalition believes that a reformed, or "modernized" law would need to include the following:

- 1** Include scientifically accurate information regarding HIV transmission
- 2** Mandate proof of intent to transmit HIV in line with other similar statutes
- 3** Remove this charge from the sexual offense registry
- 4** Reduce this charge to a misdemeanor offense
- 5** Retroactively remove anyone on sexual offender registry
- 6** Remove the requirement for disclosure of HIV status
- 7** Include language explaining that not using condoms or not having an undetectable viral load doesn't mean intent to transmit
- 8** Transmission must occur for conviction

www.lacch.org





**LOUISIANA COALITION ON
CRIMINALIZATION & HEALTH**