

FACTSHEET: HIV CRIMINALIZATION IN TEXAS

HOST: TEXAS STRIKE FORCE

CONTENT : The policy fellow created fact sheet that will serve as talking point for HIV criminalization in Texas; during HIV advocacy day; serving as a learning guide to educate legislatures and point out issues and threat affecting lives of people living with HIV while depriving them of their fundamental human right as well as not ending the Epidemic ; rather encouraging it.

HOST INTERACTION*:* The fellow is a Member of PWN and holds an office as the Greater Houston Chapter secretary and also a Member of Texas strike force holding an office as the co-chair to the DSHS committee. She got in-house support from her group as well as the community as she put her years of advocacy experience, networks and training into use.

Title: HIV Criminalization in Texas and across the Nation

Subtitle: The impact of Justice on Public health #Health not Prison

Description

HIV has always been a public health issue since the early 80s when it was an Epidemic across many nations. HIV got different reactions in the public health sector of so many nations where the USA was not an Exception.In the United state, HIV came with a lot of uncertainty and fear and very drastic measures were taken involving the justice department.Although, in Texas, laws criminalizing HIV non-disclosure, exposure or transmission are not properly profound but there are general laws that are challenging personal human rights of people that are living with HIV as well as impacting public health objectives because public health is also a human right issue .Most of the laws that criminalize people living with HIV are based on outdated information about the HIV Virus .The enforcement of those laws have shown to contribute to stigma and discrimination which have increased population of individuals refusing to seek testing or treatment that will openly expose their HIV status. We will talk more on laws in Texas impacting both individual and community and relating it to public health and the urgent need for reform in accordance with current medical standard and human right principles for the sanity of our beloved families, community, state and nation.

Definition of HIV Criminalization

HIV Criminalization refers to the imposition of criminal laws on people living with HIV particularly in contexts of not properly disclosing HIV status to their sexual partners, prior to any sexual activity thereby exposing others to HIV or transmitting the Virus.

History and Evolution

The beginning of HIV Criminalization laws in Texas and across the United States can be traced back to the early 80s' during the initial outbreak of the HIV/AIDS pandemic. At the inception of the HIV pandemic,there was a lot of uncertainty, fear and lack of information-Research. The public feared and there was misunderstanding of the transmission process, the implications of being diagnosed with HIV with no way of knowing a cure or treatment method led to widespread panic and stigmatization towards this population.

Legislative Responses

Many states including Texas passed laws with the aim to control the spread of the HIV Virus. These laws were strategies, encouraged by public health to contain the Virus through legal means to put fear in people rather than encouraging medical interventions and probably a temporary home lockdown to reduce panic and more spread.

As the years rolled by, more laws were passed specifically targeting people living with HIV with the belief of putting fear in people's minds as consequences of their sexual actions.The state/ public health believes these criminalizing laws will help control the pandemic's spread, it's not surprising that these laws are still the driving force behind every decision and laws governing people living with HIV till date.

Federal Input

At the federal level, the trend towards criminalization was further reinforced in 1990 by federal legislation using funding as an intermediary between the Justice department and public health. The Ryan White comprehensive AIDS Resources Emergency CARE Act was enacted which provided federal funds for HIV/AIDS treatment and care with the provision that encouraged states to enact laws criminalizing PLWHIV who knowingly exposed others to HIV. Texas was one of the states that adopted the federal guidelines expanding its criminal statutes law regarding PLWHIV under the common laws of the state.

Criminalization Laws and Immigrants.

Immigrants naturally have a lot to be worried about in a new country; mostly they already suffer from safety and a lot of psychological issues;living with HIV is another challenging situation yet HIV criminalization laws can still have significant implications for immigrants living with HIV in the United States, including in Texas. These laws, combined with federal and state immigration policies, can create additional challenges for immigrants.

Criticisms and Modern Perspectives

Over three decades of the existence of HIV, HIV has received a lot of attention in the medical sector and a lot of research has evolved and treatments improved, yet the criticisms of the laws around HIV Virus continue to grow negatively as well as stigmatization. The research around HIV took another dimension in the early 20s when there was a shift that signified that HIV could be well managed as well as the risk of transmission can be reduced to the minimal wear someone with the HIV diagnosis can be undetectable when tested /during a blood work; this stage is referred to as U=U meaning, Undetectable = Untransmittable; Furthermore it means it is very unlikely for an undetectable person to transfer HIV Virus to another person.

Despite all the advancement in HIV research and its progress in terms of effective treatment, many of the Laws created as far back in the 80s, are still unchanged and criminalizing or increasing more penalties for people living with HIV which have led to more increase in stigmatization and impacting individuals human rights. This has not only affected this population alone, it has also not ended the epidemic as firstly proposed because of fear of criminalization. A lot of people have been reduced to get tested or know their status and this has increased the numbers of HIV diagnoses over the years due to people not knowing their status.

Ongoing efforts for Reform

History of HIV criminalization laws in Texas is a reflection of social attitudes and lack of scientific understanding. HIV Virus is a continuous learning virus just like Covid-19 and we should continue to review any laws we are sure are beneficial to this population to ensure that the public's interest is served.

In recent years, there has been a growing movement within Texas and across the United State to re-evaluate and reform these laws. Advocates and HIV Coalitions argue that reforming these

Laws is important for protecting human rights and also improve quality of public health by reducing stigma and encouraging more people to get tested and if positive start receiving HIV treatment . These Laws are not just affecting the people living with HIV alone; it's affecting immediate families thereby impacting what this beautiful nation was built upon.

Impact of HIV Criminalization Laws on people living with HIV in Texas

In Texas, people living with HIV can face criminal charges under various circumstances related to their HIV status. AlthoughTexas does not have a specific statute that criminalizes the transmission of HIV, individuals can still be prosecuted under general assault and aggravated assault laws. These prosecutions often occur when there is an alleged intentional exposure of another person to HIV without disclosure of the HIV status. Here are some recent examples and details of cases involving HIV criminalization in Texas:

1.Case of a Healthcare Worker: In one instance, a healthcare worker in Texas was accused of knowingly exposing patients to HIV without proper notification. The state's laws require healthcare workers who are HIV-positive to disclose their status to patients if performing exposure-prone procedures. Failure to do so can result in legal consequences, including criminal charges for endangerment or assault.

2.Prostitution-Related Convictions: Individuals with HIV involved in prostitution face enhanced penalties if they are aware of their HIV status. For example, a case reported involved a person convicted of prostitution while being HIV-positive. This individual faced felony charges, which are more severe than the misdemeanor charges typically associated with prostitution. The increased penalty was due to the potential risk of HIV transmission.

3.General Assault Charges: In another case, a person living with HIV was charged with aggravated assault after engaging in unprotected sexual activity without disclosing their HIV status to their partner. The charge was elevated to aggravated assault due to the perceived risk of serious bodily injury from potential HIV transmission.

These examples highlight how people living with HIV in Texas can be subject to criminal prosecution under existing assault laws, even in the absence of explicit HIV criminalization statutes. The laws focus on the non-disclosure of HIV status and the potential risk of transmission, often leading to serious legal consequences for those involved.

Conclusion

HIV criminalization laws in Texas have impacted individuals living with HIV across legal, social, and psychological dimensions. Legally, those prosecuted often face severe penalties, including imprisonment, which significantly disrupts their personal and professional lives. Socially, these laws contribute to stigma and discrimination against the HIV-positive community, isolating individuals and deterring them from seeking testing or disclosing their status. Psychologically, the fear of legal repercussions can lead to anxiety, depression, and a sense of hopelessness as the application of these laws raises significant ethical and public health concerns.

Advocates argue that such laws may discourage individuals from getting tested and seeking treatment for HIV due to fear of criminal prosecution. They also highlight the importance of considering intent and actual transmission risk in these cases.Part of our effort as organization is to educate / sensitize our legislators and other bodies in the position of using law making or implementation that HIV have advanced in care and research and requesting for these laws to be decriminalized for the betterment of the public health and reduction in stigmatization for the purpose of ending the epidemic.