

Support Ending HIV Criminalization in North Dakota

Executive Statement:

The North Dakota Public Health Association (NDPHA) supports the repeal of HIV criminalization statutes or laws that create HIV-specific crimes or which increase penalties for persons who are HIV positive and convicted of criminal offenses.

NDPHA supports efforts ending punitive laws that single out HIV over other STIs and that impose penalties for alleged nondisclosure, exposure and transmission that are severely disproportionate to any actual resulting harm.

NDPHA recommends ending stigma and discrimination against people living with HIV by ensuring that HIV statutes are consistent with current knowledge of HIV transmission and support public health approaches to screening for, preventing and treating HIV.

Background:

During the early years of the HIV epidemic, many states implemented HIV-specific criminal exposure laws to discourage actions that might lead to transmission, promote safer sex practices, and, in some cases, receive funds to support HIV prevention activities. These laws were passed at a time when little was known about HIV including how HIV was transmitted and how best to treat the virus.

In North Dakota and many other states, these laws criminalize actions that cannot transmit HIV – such as biting or spitting – and apply regardless of actual transmission, or intent. After more than 40 years of HIV research and significant biomedical advancements to treat and prevent HIV transmission, many state laws are now outdated and do not reflect our current understanding of HIV. In many cases, this same standard is not applied to other treatable diseases. Further, these laws have been shown to increase stigma, exacerbate disparities, and may discourage HIV testing.

Quick facts:

HIV criminal laws serve as barriers to testing, prevention and adherence to medical care and treatment for people living with HIV.

Currently in ND, people living with HIV can be charged with a felony even if they do not have the intent to transmit or actually transmit HIV to others.

ND HIV criminal laws are inconsistent with modern science, undermine public health, and disproportionately target already- marginalized and stigmatized communities.



Recommendations:

The North Dakota Public Health Association (NDPHA):

- Requests that current legislation is reviewed as recommended in the National HIV/AIDS Strategy Federal Implementation Plan strategy 3.1.1 to ensure HIV statutes promote public health approaches to HIV prevention and care.
- Requests the no person living with HIV in North Dakota be able to be imposed with HIV-related penalties and criminal offenses for behaviors that pose no risk of HIV transmission or in situations in which no transmission of HIV occurs.
- Requests the promotion of public education regarding the screening, prevention and treatment of HIV to decrease the stigma and discrimination and against people living with HIV in North Dakota communities.

Key Points:

- After more than 40 years of HIV research and significant biomedical advancements to treat and prevent HIV transmission, many state laws are now outdated and do not reflect our current understanding of HIV.
- Many organizations such as the NASTAD, HIV Medicine Association, Positive Justice Project, Presidential Advisory Council on HIV/AIDS, National Association of County and City Health Officials and the American Medical Association support ending discriminatory and stigmatizing HIV-specific criminal laws.
- People living with HIV who have an undetectable viral load, will not transmit HIV to their sexual partners. Individuals with an undetectable viral load do not need to disclose their status to protect their sexual partners.

