



State Criminal Statutes on HIV Transmission – 2008

This chart, updated in 2008, is based on earlier compilations by the ACLU's National Prison Project and Lambda Legal.¹

State	Statute	Type of Crime	Summary	Notes
Alabama	Ala. Code § 22-11A21 (c)	Class C misdemeanor	Persons who knowingly engage in activities likely to transmit their STD are guilty of a Class C misdemeanor.	
Alaska	Alaska Stat. § 11.41.420	May be considered an aggravating factor in a felony conviction, allowing for imposition of a sentence beyond the presumptive range.	Where offense was a felony specified in A.S. § 11.41.410 -- 11.41.455 (sexual offenses), it can be considered an aggravating factor if the defendant had been previously diagnosed as having or having tested positive for HIV or AIDS, and the offense either (A) involved penetration, or (B) exposed the victim to a risk or a fear that the offense could result in the transmission of HIV or AIDS.	
Arizona	N/A	N/A	N/A	N/A
Arkansas	Ark. Code Ann § 514-123	Class A felony	It is a Class A felony for a person who knows he/she is HIV positive to expose another person through the parenteral transfer of blood or blood products or engaging in sexual penetration without informing his/her partner of his/her HIV status. Sexual penetration includes	There is an exception for consenting partners. If convicted, defendant is required to register as a sex offender. A.C.A. §12-12-903(12)(A)(i)(p)

¹ While we have made an effort to ensure that this chart is current and accurate, we cannot guarantee the accuracy of the information provided. This chart is not intended as a substitute for legal advice.

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			intercourse, cunnilingus, fellatio, anal intercourse or any other intrusion of any body part or object into the genital or anal openings of another person's body. Emission of semen is not required to violate the statute.	
	Ark. Code Ann. § 20-15-903	Class A misdemeanor	Persons who are HIV positive must inform their physician or dentist of their HIV status.	
California	Cal. Health & Saf. Code § 120291	Felony punishable by imprisonment for 3,5 or 8 years	Any person who, knowing he/she is HIV positive, engages in unprotected sexual activity without disclosing his/her status to his/her partner and acts with specific intent to infect the other person is guilty of a felony.	Exceptions for protected sex and informed consent to unprotected sex. Defendant must have specific intent to infect. Knowledge of HIV status is not enough to convict.
	Cal. Health & Saf. Code § 120290	Misdemeanor	A person afflicted with any contagious, infectious, or communicable disease who willfully exposes him/herself to another person is guilty of a misdemeanor.	
	Cal. Health & Saf. Code § 1621.5	Felony punishable by imprisonment for 2, 4 or 6 years	Persons who know they are HIV positive and donate blood, semen, breast milk, organs or other tissues to a medical center are guilty of a felony.	Does not apply to an individual who "self-defers" her blood or plasma or to one who donates her blood for an autologous donation.
	Cal. Pen Code § 12022.85	3 year sentencing enhancement	Persons who commit a sexual offense with knowledge that they were HIV positive at the time of commission will receive a 3 year sentencing enhancement.	Includes rape, statutory rape, spousal rape, sodomy and oral sex.
	Cal. Pen. Code § 647f	Felony (penalty enhancement)	A person convicted of soliciting or engaging in prostitution under Cal. Pen. Code §647(b) who was previously convicted one or more times of a violation of that subdivision or of any other sex offense, and in connection with one or more of those convictions a blood test was administered pursuant to § 1202.1 or 1202.6 with positive test results, of which the defendant was informed, is guilty of a felony.	
Colorado	Colo. Rev. Stat § 187-201.7	Class 5 felony	Persons who commit prostitution with knowledge of being HIV positive commit a	

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			class 5 felony.	
	Colo. Rev. Stat §187-205.7	Class 6 felony	Patronizing a prostitute with knowledge of being HIV positive is a class 6 felony.	Includes sexual intercourse or entering place of prostitution with intent to engage in prostitution.
Connecticut	N/A	N/A	N/A	N/A
Delaware	Del. Code Ann. 16 § 2801	Class E felony	Knowing, reckless or intentional use of HIV-infected human tissue or organs is a Class E felony.	
District of Columbia	N/A	N/A	N/A	N/A
Florida	Fla. Stat. Ann. § 384.24		It is unlawful for any person, knowing him/herself to be HIV positive and knowing the risk of transmission through sexual intercourse, to have intercourse without informing his/her partner of his/her HIV status and receiving consent.	Explicit exception for informed consent.
	Fla. Stat. Ann § 381.0041 (11)(b)	3rd degree felony punishable by not more than 5 years.	Any person who, knowing him/herself to be HIV positive and knowing that HIV may be transmitted through donating blood, plasma, organs, skin or other human tissue, donates blood, plasma, organs, skin or other human tissue is guilty of a felony of the 3rd degree.	
Georgia	Ga. Code Ann. § 165-60(c)	Felony punishable by imprisonment for not more than 10 years	A person with knowledge that he/she is HIV positive who knowingly 1) engages in sexual intercourse or any sexual act involving the sex organs of one person and the mouth or anus of another person without prior disclosure of HIV status 2) shares hypodermic needles 3) offers or consents to perform sexual intercourse with another person for money without disclosing HIV status 4) solicits another person to perform or submit to an act of sodomy without disclosure of HIV status 5) donates blood, blood products, other body fluids, or any body organ or body part without disclosing HIV status to the person drawing blood or collecting body parts or fluid, is guilty of a felony.	Exception for informed consent.
	Ga. Code Ann. § 165-	Felony punishable by	Any person knowing him/herself to be HIV	

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	60(d)	imprisonment for not less than 5 and not more than 20 years	positive who commits an assault with the intent to transmit HIV or hepatitis using body fluids (blood, semen or vaginal secretions), saliva, urine or feces upon a peace officer or a correctional officer while they are engaged in official duties or “on account of the officer’s performance of his/her official duties” commits a felony.	
Hawaii	N/A	N/A	N/A	N/A
Idaho	Idaho Code § 39-608	Felony punishable by imprisonment for a period not to exceed 15 years or by fine not in excess of \$5,000 or by both.	Any person knowing he/she is HIV positive who transfers or attempts to transfer body fluid, body tissue or organs to another person is guilty of a felony.	Consent with full disclosure is an affirmative defense.
Illinois	720 Ill. Comp. Stat. 5/1216.2	Class 2 felony	Any person knowing that he/she is HIV positive who 1) engages in intimate contact with another, 2) transfers, donates or provides his or her blood, tissue, semen, organs, or other potentially infectious body fluids for transfusion, transplantation, insemination or other administration to another, 3) dispenses, delivers, exchanges, sells or in any other way transfers to another any non-sterile intravenous or intramuscular drug paraphernalia, is guilty of a felony.	Informed consent is an affirmative defense. Statute does not require that the other party must contract HIV. “Intimate contact” is defined as “the exposure of the body of one person to the bodily fluid of another person in a manner that could result in the transmission of HIV.”
Indiana	Ind. Code Ann. § 35-42-1-7	Class C felony for committing the act. Class A felony if the act results in transmission of HIV.	A person who recklessly, knowingly or intentionally donates, sells or transfers blood, blood component, or semen that contains HIV is guilty of a felony.	Does not apply to a person who first notifies the blood center that the blood or blood component must be disposed of and not used for any purpose or to a person who donates fluid for research purposes.
	Ind. Code Ann. § 35-42-2-6(c)	Class D felony for committing the act. Class C felony if the defendant knew or recklessly failed to know that the bodily fluid or waste was infected with Hepatitis B, HIV or	A person who knowingly or intentionally, in a rude, insolent or angry manner, places blood or another body fluid or waste on a law enforcement or corrections officer commits battery by body waste.	Applies to officers identified as such and engaged in the performance of official duties. Includes firefighters and first responders.

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		<p>TB. Class B felony if the person knew or recklessly failed to know that the fluid or waste was infected with Hepatitis B or TB and the offense results in transmission.</p> <p>Class A felony if the person knew or recklessly failed to know that the bodily fluid or waste was infected with HIV and the offense resulted in transmission.</p>		
	Ind. Code Ann. § 35--42-2-6(d)	<p>Class D felony if the person knew or recklessly failed to know that the blood, semen, urine or fecal waste was infected with Hepatitis B, HIV or TB.</p> <p>Class C felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with Hepatitis B or TB and the act results in transmission.</p> <p>Class B felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected</p>	A person who knowingly or intentionally, in a rude, insolent or angry manner, places human blood, semen, urine or fecal waste on another person commits battery by body waste.	

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		with HIV and transmission resulted.		
Iowa	Iowa Code § 709 C	Class B felony	A person who knows he/she is HIV positive and a) engages in intimate contact with another person, b) transfers, donates or provides blood, tissue, semen, organs or other potentially infectious bodily fluids for transfusion, transplantation, insemination or other administration to another person, or c) dispenses, delivers, exchanges, sells or in any other way transfers to another person any non-sterile intravenous or intramuscular drug paraphernalia previously used is guilty of a felony.	Informed consent is an affirmative defense. Actual transmission of HIV is not necessary for conviction.
Kansas	Kan. Stat. Ann. § 21-3435	Class A misdemeanor	It is a Class A person misdemeanor for an individual who knows him or herself to be infected with a life threatening communicable disease to knowingly: engage in sexual intercourse or sodomy (defined as penetration with the male sex organ only) with another individual with the intent to expose that individual to that disease; to sell or donate his or her own blood, blood products, semen, tissue, organs or other body fluids with the intent to expose the recipient to a life threatening communicable disease; or to share with another individual a hypodermic needle, syringe, or both for the introduction of drugs or any other substance or for the withdrawal of blood or body fluids with the intent to expose another person to a life threatening communicable disease.	
Kentucky	Ky. Rev. Stat. § 529.090	Class D felony	Anyone who knows him/herself to be HIV positive and commits, offers or agrees to commit prostitution by engaging in sexual activity in a manner likely to transmit HIV is guilty of a class D felony.	
	Ky. Rev. Stat. § 529.090 (4)	Class D felony	Any person who knows he/she is HIV positive and procures another to commit	

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			prostitution in a manner likely to transmit HIV is guilty of a class D felony.	
	Ky. Rev. Stat. § 311.990 (24) (b)	Class D felony	A person who knows he/she is HIV positive and has been informed that HIV can be transmitted through tissue donation, and then donate organs, skin, or other human tissue, is guilty of a class D felony.	
Louisiana	La. Rev. Stat. § 43.5	Fined not more than \$5,000 or imprisoned for not more than 10 years or both. If the victim is a police officer acting in the line of duty then the fine increases by \$1,000 and imprisonment for not more than 11 years.	No person shall expose another to the AIDS virus through sexual contact or any means or contact without the knowing and lawful consent of the victim.	“Means or contact” is defined as “spitting, biting, stabbing with an AIDS contaminated object, or throwing of blood or other bodily substances.”
Maine	N/A	N/A	N/A	N/A
Maryland	Md. Code Ann. Health-General § 18-601.1	Fine of \$2,500 or imprisonment not exceeding 3 years or both.	A person with HIV may not knowingly transfer or attempt to transfer HIV to another person.	
Massachusetts	N/A	N/A	N/A	N/A
Michigan	Mich. Comp. Laws § 333.5210	Felony	A person who knows he/she has HIV and engages in sexual penetration (sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body, but emission of semen is not required) without first informing the other party of his/her HIV status is guilty of a felony.	Exception for informed consent.
Minnesota	N/A	N/A	N/A	N/A
Mississippi	Miss. Code Ann. § 97-27-14(1)	Felony	A person who knowingly exposes another person to human immunodeficiency virus (HIV) is guilty of a felony.	Prior knowledge and willing consent to the exposure is a defense.

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	Miss. Code Ann. § 97-27-14(1)	Felony	A person who knows he is HIV positive who attempts to cause or knowingly causes a corrections employee, a visitor to a correctional facility or another prisoner or offender to come into contact with blood, seminal fluid, urine, feces or saliva is guilty of a felony.	
Missouri	Mo. Rev. Stat § 191.677	Class B felony. Class A felony if transmission occurs.	It is unlawful for a person who is HIV positive to 1) be or attempt to be a blood, blood products, organ, sperm or tissue donor except as deemed necessary for medical research, 2) act in a reckless manner by exposing another person to HIV without their knowledge and consent through contact with blood, semen, or vaginal secretions in the course of oral, anal or vaginal sexual intercourse, the sharing of needles, biting or purposely acting in any other manner which causes the HIV infected person's semen, vaginal secretions or blood to come into contact with the mucous membranes or non-intact skin of another person.	Exception for informed consent. Use of condom is not a defense. "Recklessness" includes (1) knowledge of infection when other person does not know or does not consent; (2) evidence of infection with primary and secondary syphilis, gonorrhea or Chlamydia; or (3) another person provides evidence of sexual contact with the HIV infected person after a diagnosis of HIV infection.
Montana	Mont. Code Ann. § 50-18-112	Misdemeanor	A person with a sexually transmitted disease may not knowingly expose another person to infection.	
Nebraska	N/A	N/A	N/A	N/A
Nevada	Nev. Rev. Stat. § 201.205	Category B felony punishable by imprisonment for not less than 2 years and not more than 10 years or by a fine of not more than \$10,000 or both.	A person who has received actual notice that he/she tested positive for HIV and intentionally, knowingly or willfully engages in conduct that is intended or likely to transmit the disease to another person is guilty of a class B felony.	Affirmative defense when other person knew of infection, knew exposure could result, and consented.
	Nev. Rev. Stat § 201.358	Category B felony punishable by imprisonment for not less than 2 years and	A person who works as a prostitute who tests positive for HIV and continues to engage in prostitution is guilty of a Category B felony.	

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		not more than 10 years or by a fine of not more than \$10,000 or both.		
New Hampshire	N/A	N/A	N/A	N/A
New Jersey	N.J. Stat § 2C:34-5	3rd degree crime punishable by up to 5 years imprisonment and up to \$15,000 fine.	A person who knows he/she is HIV positive and commits an act of sexual penetration without the informed consent of the other party is guilty of a crime in the 3rd degree.	Exception for informed consent.
New Mexico	N/A	N/A	N/A	N/A
New York	NY Public Health Law § 2307	Misdemeanor	Any person who, knowing him/herself to be infected with an infectious venereal disease, has sexual intercourse with another is guilty of a misdemeanor.	
North Carolina	N/A	N/A	N/A	N/A
North Dakota	N.D. Cent. Code § 12-1-20-17	Class A felony	A person who knows he/she is infected with HIV and willfully transfers body fluid to another person is guilty of a class A felony.	Affirmative defense for informed consent with the use of an appropriate prophylactic device. Violations of this statute are sex crimes.
Ohio	Ohio Rev. Code Ann. § 2927.13	4th degree felony	A person, knowing him/herself to be HIV positive, who donates blood, plasma or product of blood that the person knows or should know is being accepted for the purpose of transfusion to another individual, is guilty of a fourth degree felony.	
Oklahoma	Okla. Stat. § 1192.1	Felony punishable by imprisonment for not more than 5 years.	It is unlawful for any person, knowing he/she has HIV and with intent to infect another, to engage in conduct reasonably likely to result in the transfer of the person's own blood, bodily fluids containing visible blood, semen, or vaginal secretions into the bloodstream of another or through the skin or other membranes of another person except during in-utero transmission of blood or bodily fluids.	Exception for informed consent. Exception for any transmission that occurs as a result of pregnancy or birth.
	Okla. Stat. § 1031	Felony punishable by imprisonment for not more than 5 years.	Any person who engages in prostitution with knowledge that he/she is HIV positive is guilty of a felony.	

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	Okla. Stat. § 1-519	Felony	Any person, after being infected and before being discharged and pronounced cured by a physician in writing, who marries any other person or exposes any other person by the act of copulation or sexual intercourse to such venereal disease or to liability to contract the venereal disease, is guilty of a felony.	
Oregon	N/A	N/A	N/A	
Pennsylvania	18 Pa. Cons. Stat. § 2703	2nd degree felony	A person who is confined in or committed to any local or county detention facility, jail, prison, state penal or correctional institution is guilty of a second degree felony if he/she intentionally or knowingly causes another to come into contact with blood, seminal fluid, saliva, urine or feces when at the time the person knew, had reason to know, or should have known or believed, such material to be infected with a communicable disease, including but not limited to HIV.	
	18 Pa. Cons. Stat. § 2704	Penalty shall be the same for murder in the 2nd degree, which is punishable by death or life imprisonment.	A person who already has been sentenced to death or life imprisonment and who intentionally or knowingly causes another to come into contact with blood, seminal fluid, saliva, urine or feces by throwing, tossing, spitting or expelling such fluid or material when at the time of the offense the person knew, had reason to know, should have known or believed such fluid or material to have been obtained from an individual infected with a communicable disease including but not limited to HIV, is guilty of a crime (penalty same as murder in the second degree).	
	18 Pa. Cons. Stat. § 5902(a)	Felony of the 3rd degree	Any person who commits prostitution knowing he/she is HIV positive is guilty of a felony.	
	18 Pa. Cons. Stat. § 5902(b)	Felony of the 3rd degree	A person who knowingly promotes the prostitution of another who is HIV positive	

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			is guilty of a felony.	
	18 Pa. Cons. Stat. § 5902(e)	Felony of the 3rd degree	A person who knows he/she is HIV positive and patronizes a prostitute is guilty of a felony.	Second or more offenses require publication by court of sentencing order in newspaper.
Rhode Island	N/A	N/A	N/A	N/A
South Carolina	S.C. Code Ann. § 4429-145	Felony punishable by fine of not more than \$5,000 or imprisonment for not more than 10 years.	It is unlawful for a person who knows he/she is infected with HIV to knowingly engage in sexual intercourse (vaginal, anal or oral) with another person without first informing them of their HIV status, to knowingly commit an act of prostitution, to forcibly engage in vaginal, anal, or oral sex without the consent of another person including one's legal spouse, to knowingly sell or donate blood, blood products, semen, tissue, organs or other bodily fluids, and/or to knowingly share a hypodermic needle, syringe or both without first informing them of their HIV status.	Exception for informed consent.
South Dakota	S.D Codified Laws § 22-18-31	Class 3 felony	Any person who, knowing him/herself to be infected with HIV, intentionally exposes another person to infection by (1) engaging in sexual intercourse or other intimate physical contact with another person; (2) transferring, donating, or providing blood, tissue, semen, organs, or other potentially infectious body fluids or parts for transfusion, transplantation, insemination or other administration to another in any manner that presents a significant risk of HIV transmission; (3) dispensing, delivering, exchanging, selling or in any other way transferring to another person any non-sterile intravenous or intramuscular drug paraphernalia that has been contaminated by himself/herself; or (4) throwing, smearing or otherwise causing blood or semen to come in contact with another person for the purpose of exposing that person to HIV infection, is guilty of	Affirmative defense for informed consent. Actual transmission is not necessary for conviction.

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			criminal exposure to HIV.	
Tennessee	Tenn. Code Ann. § 39-13-109	Class C felony	A person, knowing that he/she is HIV positive, who knowingly (1) engages in intimate contact with another; (2) transfers, donates or provides blood, tissue, semen, organs, or other potentially infectious body fluids or parts for transfusion, transplantation, insemination or other administration to another in any manner that presents a significant risk of HIV transmission; or (3) dispenses, delivers, exchanges, sells or in any other way transfers to another any non-sterile intravenous or intramuscular drug paraphernalia, is guilty of a class C felony.	Informed consent is an affirmative defense. Actual transmission of HIV is not necessary for a conviction.
	Tenn. Code Ann. § 68-10-107	Class C misdemeanor	Any person infected with an STD who exposes another to such infection commits a violation.	
Texas	N/A	N/A	N/A	<i>Weeks v. State</i> (1992, Tex App Eastland) 834 SW2d 559, petition for discretionary review ref (Oct 14, 1992) (Upholding attempted murder conviction of HIV positive defendant who spat twice in face of prison guard was supported by evidence where record showed that (1) defendant knew he was HIV positive, (2) defendant had stated that he was going to take as many with him as he could, (3) defendant believed that he could kill victim by spitting on him, and (4) experts had not entirely ruled out possibility of transmitting HIV through saliva.).
Utah	Utah Code Ann § 7610-1309	Felony of the 3rd degree	A person who has actual knowledge that he/she tested positive for HIV and then committed prostitution, patronized a prostitute or committed sexual solicitation is guilty of a 3rd degree felony.	
Vermont	N/A	N/A	N/A	N/A
Virginia	Va. Code Ann § 18.2-67, 4:1(A)	Class 6 felony	Any person who, knowing he/she is infected with HIV, syphilis or Hepatitis B,	

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			has sexual intercourse, cunnilingus, fellatio, analingus or anal intercourse with the intent to transmit the infection to another person is guilty of a class 6 felony.	
	Va. Code Ann § 18.2-67, 4:1(B)	Class 1 misdemeanor	Any person who, knowing he/she is infected with HIV, syphilis or Hepatitis B, has sexual intercourse, cunnilingus, fellatio, analingus or anal intercourse with another person without having previously disclosed their HIV status is guilty of a class 1 misdemeanor.	Exception for informed consent.
	Va. Code Ann § 32.1-289.2	Class 6 felony	Any person who donates or sells, attempts to donate or sell, consents to the donation or sale of blood, other body fluids, organs and tissues, knowing that the donor is or was infected with HIV and who knows that such material may transmit the infection, is guilty of a class 6 felony.	Exception for use in medical or scientific research.
Washington	Rev. Code Wash. § 9A.36.011(1)(b)	Class A felony	A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm, administers, exposes, or transmits to another the human immunodeficiency virus.	
West Virginia	N/A	N/A	N/A	N/A
Wisconsin	N/A	N/A	N/A	N/A
Wyoming	N/A	N/A	N/A	N/A