



■ Colorado

Colorado Changed its HIV Criminal Law in 2016

In 2016, Governor Hickenlooper signed Senate Bill 146 into law. It reduced mandatory penalties for HIV-related offenses and updated the language in Colorado's HIV laws.

BEFORE 2016

Engaging in sex work while knowingly living with HIV was a felony.

Those accused of soliciting or engaging in sex work were required to submit to HIV testing. Test results could be used by prosecutors to establish a defendant's knowledge of their status for later prosecutions.

People living with HIV (PLHIV) convicted of sex offenses involving oral, vaginal or anal intercourse were subject to sentence enhancements only when transmission occurred.

Sentence enhancements for PLHIV convicted of sex offenses, even in the absence of alleged transmission, were severe and required a penalty of at least three times the normal maximum for the offense.

WHAT CHANGED?

It is no longer a felony for PLHIV to engage in sex work.

People accused of engaging in sex work are no longer required to get tested for HIV.

PLHIV convicted of sex offenses are now subjected to less severe sentence enhancements and only if HIV is transmitted.

WHO IS STILL AT RISK?

PLHIV face the possibility of prosecution under general criminal laws, such as felony menacing.

While the new law requires HIV transmission in order to trigger increased sentences for PLHIV convicted of sex offenses, the sentence increases are severely punitive when compared to sentence ranges for people not living with HIV:

A Class 2 felony conviction for a sex offense (sexual assault) in which transmission is proven will carry a sentence anywhere from 24 years to life imprisonment. The range for a person not living with HIV would be eight to 24 years. For a Class 3 felony (sexual assault), the sentence will be between 12 years and life, where 12 years would otherwise have been the maximum. A Class 4 felony conviction (unlawful sexual contact) will carry between six years and life, a huge distinction from the six-year maximum that would apply in a case not involving HIV.

To read the full text of the current law, as well as additional analysis, please visit www.hivlawandpolicy.org/states/colorado.