

HOW CAN NEVADA MODERNIZE ITS HIV CRIMINALIZATION LAWS?

A summary of the statutory recommendations from
The Advisory Task Force on HIV Exposure Modernization (2020)

BACKGROUND

During Nevada's 80th Legislative Session in 2019, Senate Bill 284 created the Advisory Task Force on HIV Exposure Modernization. The Task Force formed to conduct a comprehensive examination of the statutes and regulations in Nevada related to the criminalization of exposing a person to the human immunodeficiency virus (HIV). HIV criminalization is the use of state statutes that criminalizes otherwise legal conduct or increases the penalties for illegal conduct based upon an individual's HIV status. In September 2020, the Task Force submitted a report of its findings and recommendations to the Governor and the Legislative Counsel Bureau. Working with state and national organizations, the Task Force identified thirteen statutes for possible amendment or repeal. Below is a summary of the Task Force's recommendations to modernize Nevada HIV criminalization laws:

MAIN RECOMMENDATIONS

NRS 201.205: Nevada's primary HIV criminalization statute

- Lower from felony to misdemeanor, require intent and actual transmission
- Move amended statute to Public Health Code

NRS 201.356 and 201.358: Statutes relating to sex work and HIV

- Repeal mandatory HIV test if arrested for unlicensed sex work
- Repeal enhanced felony sentence for sex workers who are HIV+

NRS 441A.160, 441A.180, and 441A.300: Statutes relating to the authority of health departments

- Specify what a health department can do to investigate diseases
- Require health departments to document the necessity/restrictiveness of their order
- Specify the type of diseases that the law applies to (casual contact)
- Repeal AIDS specific law that allows for confinement of PLHIV

OTHER RECOMMENDATIONS

- Repeal a law that allows inmates to be segregated based on HIV status (**NRS 209.385**)
- Amend a law that allows public employees to claim that a person exposed them to a disease; clarify behavior that is likely to transmit (**NRS 441A.190**)
- Language changes:
 - Don't mention "HIV" in isolation (ex: "STDs" instead of "HIV and STDs")
 - Ensure that HIV and AIDS are used correctly in all statutes

Read the full Task Force report here: https://endhivnevada.org/wp-content/uploads/2021/03/SB284_Task_Force_Report_for_the_Governors_Office_FINAL.pdf