

## Iowa

### *Iowa Changed its HIV Criminal Law in 2014*

In 2014, Governor Branstad signed Senate File 2297 into law. It revised a section of the Code of Criminal Law and Procedure and added provisions to protect people who use practical means to prevent transmission, created several levels of criminal liability, and added other communicable diseases.

#### BEFORE 2014

It was a felony punishable by up to 25 years if a person living with HIV (PLHIV) engaged in any “intimate contact” without disclosing their HIV status to a partner beforehand.

Prosecution required only intentionally exposing another to bodily fluids in a manner that could transmit HIV; transmission not required.

Defendants convicted under the law were also required to register as sex offenders.

The law exclusively targeted PLHIV.

#### WHAT CHANGED?

**There are different levels of intention and punishment for transmission** and the definition of exposure is “a substantial risk of transmission.”

**Taking measures to prevent transmission** (e.g., using a condom, taking treatment that reduces transmission risk) **is a defense to prosecution.**

The new law **eliminates sex offender registration** for past as well as future convictions.

**In addition to HIV, the law targets “contagious or infectious disease” defined as hepatitis, tuberculosis, and meningococcal disease.**

It is a felony punishable by up to 25 years for a PLHIV to expose someone to a “contagious or infectious disease” with the intent to transmit where transmission occurs. If transmission does not occur, then it is a felony punishable by up to five years.

#### WHO IS STILL AT RISK?

**By broadening the definition of contagious or infectious disease to include several other diseases in the criminal transmission law, people who previously were not subject to felony prosecution now are.**

**Prosecution only for behaviors that pose substantial risk of transmission marks an improvement for HIV,** but hepatitis, tuberculosis and meningococcal disease are much more easily transmitted and exposure is more likely to pose a substantial transmission risk.

**The additional diseases are poorly understood, often stigmatized, and most likely to affect more marginalized communities.** For example, most new cases of tuberculosis disproportionately affect immigrants and people of color.

It is easier for a prosecutor to make the case that someone living with one of the above diseases acted with “reckless disregard” for whether they transmit the disease to another than it is to prove the person acted with intent to transmit. Although the punishments for acting with reckless disregard are lower, **the new law broadens the scope of conduct that can result in arrest and conviction.**