

Black People Make Up 82% of HIV Crime Cases in Maryland

Maryland's HIV laws "are disproportionately enforced based on gender and race," notably against Black men, finds the Williams Institute.

January 5, 2024 By [Trent Straube](#)

Black Americans make up an "overwhelming majority" of HIV-related criminal charges in Maryland, according to findings from a [report by the Williams Institute](#). Specifically, [Black people](#) constituted 82% of [HIV](#) crime cases in Maryland despite making up 30% of the state's population.

What's more, Black men were "overrepresented" in HIV criminalization cases. Black men make up 14% of Maryland's population and 44% of the people living with HIV in the state but accounted for 68% of arrests related to HIV.

"The state's HIV-related criminal laws are disproportionately enforced based on gender and race," [a Williams Institute press release sums up](#). "Black people, and Black men in particular, are overrepresented in HIV-related crimes."

[HIV criminalization](#) refers to the use of unfair laws to target people who have HIV—notably, [African-American](#), [Latino](#) and [LGBTQ](#) people and [women](#)—and to punish them because of their HIV status, not because of their actions. Under outdated laws, people with HIV can be sentenced to prison in cases where HIV was not transmitted and their only crime was allegedly not disclosing their status.

It should be noted that repealing HIV laws does not mean that people can't be held accountable for intentionally transmitting HIV. Other laws may apply to the situation.

Many HIV laws were passed in the early days of the epidemic, when fear and lack of scientific knowledge about the virus reigned. Fast-forward four decades, and today we know, for instance, that people with HIV who take their meds and maintain an [undetectable viral load](#) do not transmit the virus sexually, a fact referred to as Undetectable Equals Untransmittable, or U=U.

Nearly two thirds of U.S. states and territories have HIV criminalization laws on the books, though progress is being made in modernizing such outdated laws. For example, in 2021, Illinois became the second state to completely repeal its discriminatory HIV crime laws (California did so in 2017).

The Williams Institute, a research center on sexual orientation and gender identity laws that's part of the University of California Law School, has been releasing a series of reports on the impact of state HIV criminalization laws.

According to its press release, additional key findings from the Maryland report include:

- From 2000 to 2020, between 82 and 104 people have been prosecuted under Maryland's HIV criminal law.
- HIV criminal prosecutions continue to the present day. There were more HIV criminal cases from 2010 to 2020 (61) than from 2000 to 2010 (39).
- The enforcement of HIV criminal laws is highly concentrated by geography—over two thirds (69%) of all people accused in HIV-related cases originated in Baltimore City (32%), Montgomery County (19%) and Prince George's County (18%).

The report notes that in many states, women of color are disproportionately represented in arrests because their HIV crime laws target sex workers. That's not the case in Maryland. The Williams Institute writes:

Maryland has one HIV-specific criminal law that makes it a misdemeanor for a person living with HIV, who is aware of their HIV-positive status, to "knowingly transfer or attempt to transfer" HIV to another person. The maximum sentence for a conviction is three years in prison and may include a fine of up to \$2,500. Maryland's HIV criminal law does not require actual transmission of HIV, intent to transmit, or even conduct that can transmit HIV.

"Maryland's law was enacted in 1989 at the height of the AIDS crisis, before we had effective treatments for HIV," said lead study author Nathan Cisneros, the HIV criminalization project director at the Williams Institute. "We now have medical treatments that wholly eliminate the risk of transmitting HIV through sex, yet these advances are not reflected in Maryland law despite several reform attempts in recent years."

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