

Felony HIV disclosure law criminalizes illness

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Michigan's felony HIV disclosure law is driven by stigma and fear rather than medical science, according to a new University of Michigan study.

The study investigated the enforcement of Michigan's disclosure law,

which makes it a felony for HIV-positive people to engage in a wide range of sexual behaviors without first telling their partner they are HIV-positive. The law does not distinguish between sexual practices that could transmit the virus and those that pose no risk of transmission.

New medications have transformed HIV from a terminal illness to a chronic, manageable disease. Yet, despite these scientific advances, judges and prosecutors in criminal nondisclosure cases routinely describe HIV as a death sentence and compare not disclosing one's HIV-positive status to murder. Only four defendants charged under the law were accused of transmitting the virus, according to the study's author, Trevor Hoppe, a U-M doctoral student in sociology and women's studies.

Thirty-three states have enacted criminal statutes that require all HIV-positive individuals to disclose their infection before engaging in sexual practices. The vast majority are similar to Michigan's, in that they do not distinguish between high and low or no risk [sexual practices](#).

Hoppe analyzed 58 trial court cases under Michigan's felony HIV disclosure law from 1992 to 2010. He found that defendants were convicted for not disclosing even when their alleged sexual conduct did not pose a significant risk of transmission.

"Cases like these illustrate the lack of logic of the law—punish HIV-positive people for being HIV-positive, not because they're putting anyone else at risk," he said.

Many cases that Hoppe investigated had a risk level that was "arguably small to negligible," while others involved no risk at all to the HIV-positive person's partner.

"While some might think that cases without any risk would not be

criminal, under Michigan law even a pelvic exam could be construed to be a felonious act," he said.

More information: Trevor Hoppe, From Sickness to Badness: The Criminalization of HIV in Michigan, *Social Science & Medicine*, Available online 16 November 2013, ISSN 0277-9536, [dx.doi.org/10.1016/j.socscimed.2013.11.007](https://doi.org/10.1016/j.socscimed.2013.11.007).

Provided by University of Michigan

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