


# HIV Modernization Amendment to SB419

## FAQS: WHAT WOULD THE AMENDMENT DO?

**Remove** penalty enhancements that **cannot** transmit HIV to reflect current advances in HIV science.

**Advance** public health efforts to **reduce** HIV stigma, misinformation, and fear of prosecution as a barrier to testing and care. Therefore this ammendment helps otimize **wellness** and HIV **prevention** efforts, and moves us closer to **ending** the Indiana HIV epidemic.

What Changes?	What Stays the Same?
<p>IC# (Year Enacted)</p> <p><b>35-42-2-1 (1995) &amp; 35-45-16-2 (2002)</b>  <b>Removes</b> penalty enhancements based on HIV status under the battery and malicious mischief by body fluid/waste law that pose <b>NO risk</b> of HIV transmission.</p>	<ul style="list-style-type: none"> <li>Those who <b>violate</b> the body fluid/waste laws will still be punished, but treated the same as others under the law. </li> <li>If the victim is a <b>PSO</b> (public safety official) or <b>HCP</b> (health care provider), violators will still be charged with a <b>felony</b>.</li> </ul>

## WHO SUPPORTS HIV LAW MODERNIZATION?

- **IPAC:** Indiana Prosecuting Attorneys Association
- **PDC:** Indiana Public Defender Council
- **ISMA:** Indiana State Medical Association
- **IPHCA:** Indiana Primary Health Care Association
- **IMHC:** Indiana Minority Health Coalition
- **HMM:** HIV Modernization Movement-Indiana

2022 Indiana General Assembly Interim Study Committee on HIV Criminal Law **recommended modernizing** the law to reflect advances in HIV science since law enactment.

Scan for Study Committee Exhibits



# 2025 HIV Modernization Amendment SB419 - Frequently Asked Questions

- **How will this amendment improve public health in Indiana?**

It will help move us closer *to ending the HIV epidemic* by modernizing these laws to reflect advances in HIV science since law enactment and eliminate HIV stigma in our laws which can pose a barrier to engagement in HIV prevention and optimizing care.

- **How will this amendment impact the safety of public safety officials like the police? *They will remain safe.***

This amendment ONLY removes enhancements for acts that cannot transmit HIV. People living with HIV will still be charged for battery by body fluid like anyone else under the law, including a felony enhancement if against a public safety officer or health care provider.

- **Will anyone who intentionally tries to transmit HIV be punished?**

*Yes.* Indiana has bodily injury laws under which a person could be charged for attempts to harm when there is a substantial risk of transmission. Anyone who threatens another person with transmission can be charged under intimidation laws.

- **What biomedical advances have occurred since law enactment?**

HIV is a highly manageable chronic condition with *treatment* and we have numerous ways to *prevent* HIV.

- A person with HIV, on treatment, can have a normal life expectancy.
- A person on HIV treatment and virally suppressed cannot transmit HIV sexually; Undetectable=Untransmittable (U=U).
- People who don't have HIV can take certain medications -- called PrEP and PEP -- that are proven to almost eliminate the risk of HIV transmission.
- Safe conception medical practices are regulated by the FDA and enable people with HIV who may need fertility care to safely conceive babies.
- People living with HIV can donate organs to other people living with HIV.

- **What does the research show?**

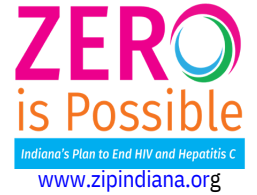
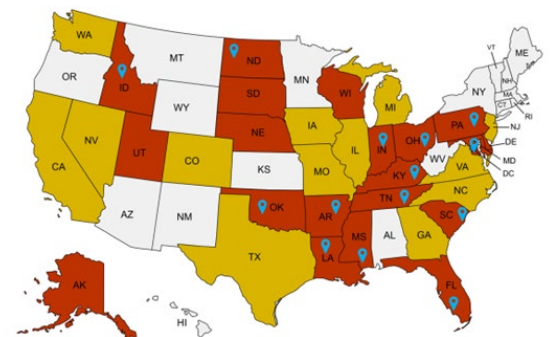
Numerous studies have found either (1) *no effect* of the laws on behavior or (2) *work against* effective public health measures

- 2023 CDC HIV Criminal Laws & Ending the US HIV Epidemic. [Click here](#) or Scan QRC.
- 2023 A global review of the history and harms of HIV criminalization. [Click here](#).
- 2024 Indiana research shows outdated HIV criminal laws. [Click here](#).

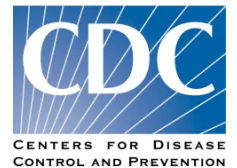
- **Are other states modernizing their laws?**

*YES!* Map Key:

- 17 never had any HIV criminal laws.
- 13 have modernized some, or all, of their HIV criminal laws.
- 20 have not modernized any of their HIV criminal laws.
- 14 of the 20 have ongoing modernization efforts.



Law and Public Safety



Scan for research reports: available cases 2001-2023

# Indiana HIV Criminal Law Research - 5 Year Snap Shot

## Court Cases & Outcomes Between: 2019-2023\*

HIV Criminal Enhancement and Donation Codes	PLHIV Cases	Convictions
35-42-2-1 Battery body fluid/waste	22	12
35-45-16-2 Malicious mischief body fluid/waste	2	0
Allegations of HIV Transmission.	0	N/A

### Hoosiers Living with HIV in 2024

14,749 people  
 88% know their status  
 76% retained to care  
 68% undetectable U=U



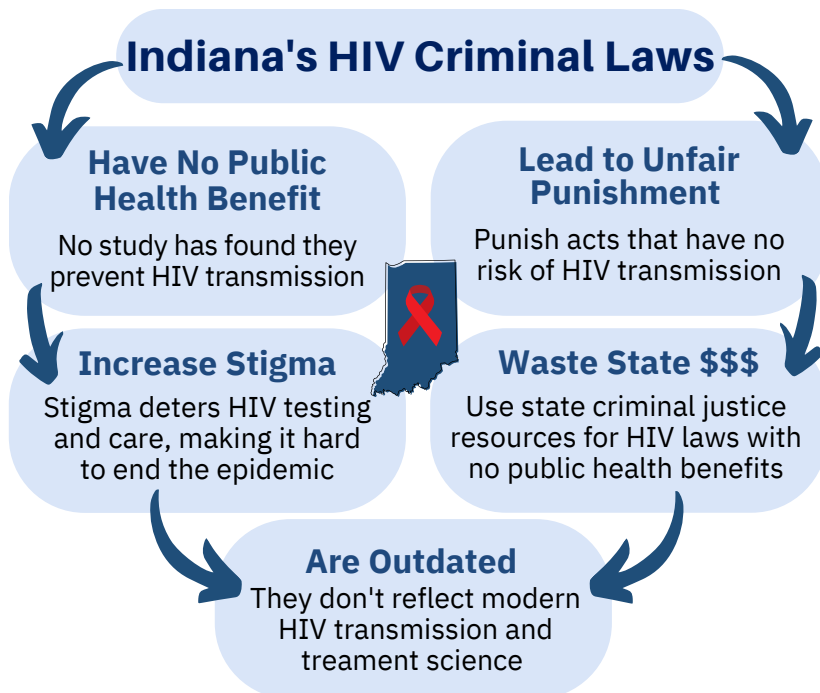
### Key Findings

- Laws **enacted decades ago** (1996-2002), prior to effective HIV treatment and prevention.
- Laws increase penalties for acts which **DO NOT** transmit HIV.
- NO** allegations of transmission.
- Between 2012 and 2023 there were **41 cases** involving the **battery by body fluid/waste** HIV enhancement charge.
  - Nearly ALL** (82%) involved saliva (e.g., spitting)/3% involved urine; both **DON'T** transmit HIV.
  - The few cases involving blood were for acts (e.g., smearing, flinging) that **DON'T** transmit HIV.
  - Despite **NO** transmission risk, battery HIV cases increased over time -- about 2.7 pre-2019, vs 4.4 post 2019, per year.
  - About **half** of the cases involved people in **acute mental distress** and/or intoxicated (i.e., impaired mind).
  - About a quarter of cases occurred in **medical settings**; Relatively few (only 6) occurred in **jails/prisons**.

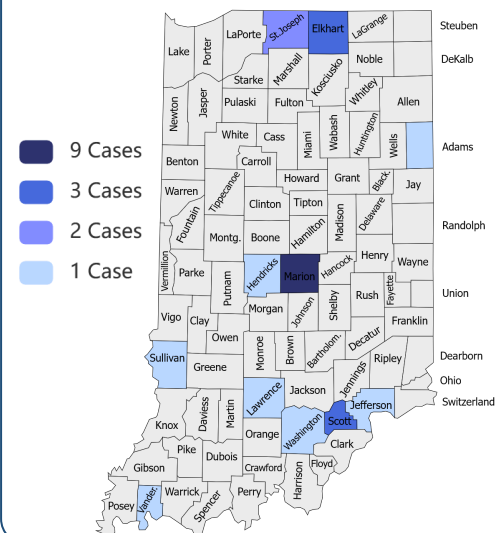
Scan for research reports:  
 available cases 2001-2023



### Indiana's HIV Criminal Laws



### Where Cases Occurred 2019-2023



A person *must know* they are HIV+ to be charged. Fear of prosecution *discourages* HIV testing, which *increases* HIV transmission.

\*Data Source: IU & UCLA Williams Law Institute Study | IU IRB#12095 | Contact: foote@iu.edu. | Data are for HIV only and do not include hepatitis or TB. Sources: Indiana Supreme Court and Arrest Records | Fact Sheet Authors Dr. C. Foote & P. Schlebecker IU Indianapolis. updated 1.12.25 p. 3