






## WHAT DOES THIS BILL DO?

**Removes** certain sentence enhancements and criminal offenses that cannot transmit HIV, and that were based on HIV stigma and lack of scientific understanding.

**Modernizes** remaining HIV criminal laws to reflect current advances in HIV science and also ensures acts against responding safety officers involving blood will still be punished.

**Advances** public health efforts to reduce HIV stigma, misinformation, and fear of prosecution as a barrier to testing and care, thereby moving us closer to ending the Indiana HIV epidemic.

What Changes?	What Stays the Same?
<p><b>35-42-2-1 (1995) &amp; 35-45-16-2 (2002)</b>  <b>Removes</b> certain sentence enhancements based on HIV status under the battery and malicious mischief by bodily fluid/waste law that pose <b>NO risk</b> of HIV transmission.</p>	<p>Those who <b>violate</b> the bodily fluids laws will still be punished but treated the same as others under the law.</p> <p>One <b>exception</b> is a new section if the act involves <i>'responding safety officers'</i> when the fluid is blood, then the HIV enhancement remains.</p> 
<p><b>35-45-21-1 (1988) &amp; 16-41-14-17 (1989)</b>  <b>Repeals</b> offenses concerning the donation, sale, or transfer of blood products, or semen for artificial insemination in fertility care, that pose <b>NO risk</b> of HIV transmission.</p>	<p>FDA policy to <b>destroy</b> products that test positive for HIV remains in place to protect the blood supply.</p> <p>State law still requires centers to report to IDOH anyone who <b>test HIV positive</b>; linkage to care &amp; disease intervention policies related to reporting remain.</p> 
<p><b>35-45-21-3 (1998)</b>  <b>Adds</b> the element of <i>'noncompliance with a physician directed treatment plan'</i> to the <b>existing felony crime</b> for people who know they have HIV, engage in a high-risk activity, and fail to inform the person of their HIV status.</p>	<p>The HIV <i>'failure to inform'</i> law remains <b>unchanged</b> in Public Health code 16-41-7-1 &amp; 16-41-7-5. People living with HIV will still be required to share their HIV status prior to a high-risk activity.</p> 

## WHO SUPPORTS HB1198?

- **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

### Scan for Comments From:

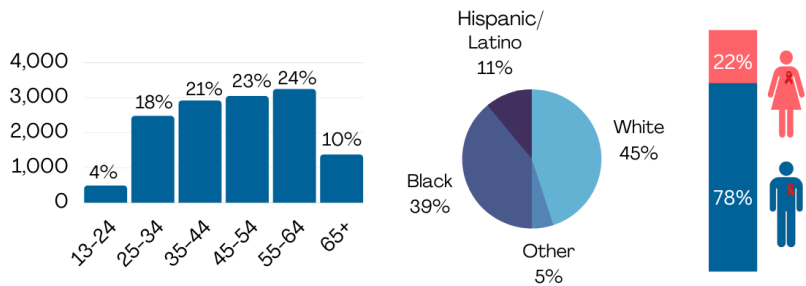


2022 Indiana General Assembly **Interim Study Committee** on HIV Criminal Law **recommends** modernizing the law to reflect advances in HIV science since law enactment.



# How many people live with HIV in Indiana?

**2022**  
**Hoosiers Living with HIV**  
 13,618 people  
**87%** know their status  
**75%** retained to care  
**67%** undetectable U=U



Existing HIV criminal laws and fear of prosecution can **discourage** testing, which **increases** transmission. You can only be charged if you know you have HIV. **HB1198 modernizes** the law to **reduce** this barrier to HIV testing.

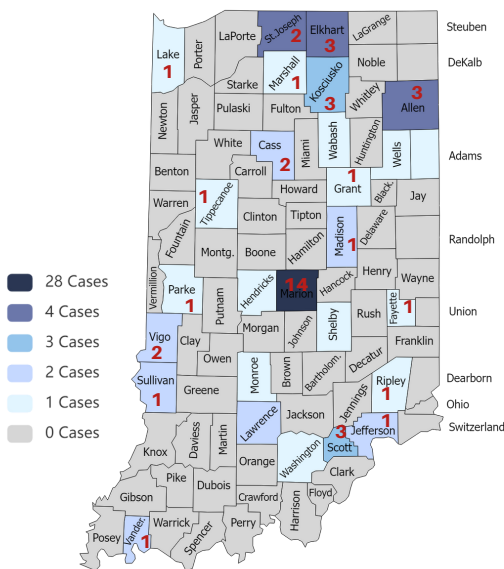
# How many persons have court cases involving an HIV criminal law?

## Analyses for Cases Between: 2015-2022\*

HIV Criminal Codes	Persons	Persons with Convictions
35-42-2-1 Battery bodily fluid/waste	33	15
35-45-21-3 Failure to inform prior to high-risk act	25	14
35-45-21-1 Donate, sell, transfer blood products	6	5
35-45-16-2 Malicious mischief bodily fluid/waste	4	2
16-14-14-17 & IC sections for HIV transmission.	0	N/A

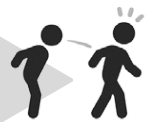
**Race** 48% White, 43% Black, 9% Other | **Sex** 76% Men, 14% Women | **Arrest Age** 18-58 yrs

- 74 HIV crime cases, involving
- 63 unique persons and
- 107 unique HIV charges, resulting in
- 52 convictions for a
- 49% HIV charge conviction rate.



Cases were in **27** of **92** Indiana counties;  
 Convictions in just **19** of them (count in red).  
**38%** of cases were filed in Marion County.

Most cases involve **NO risk** of HIV transmission. E.g., 94% of battery cases are for acts that **cannot** transmit HIV, such as spitting.



SPIT

The few donation cases occurred **only** at **plasma** centers & were **destroyed**. Blood and plasma are **SAFE**. No one has contracted HIV from US plasma products in **over 30 yrs**.



These HIV convictions **COST** Indiana taxpayers up to \$5 million just to incarcerate people (does **not** include law enforcement, court, or medical costs).



These prosecutions have **ZERO** public health benefits and actually **hurt** public health by being a barrier to testing and care. To end the epidemic we need to increase testing & treatment.



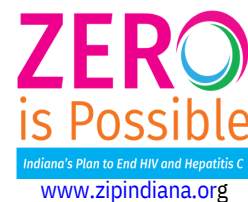
\*Source: Indiana University & UCLA Williams Law Institute Research Study | IU IRB#12095 | Contact: Dr. Foote @ foote@iu.edu. Data from: IDOH HIV/STD/Viral Hepatitis Division, Indiana Supreme Court Records and Probable Cause for Arrest Documents.



## Other FAQs

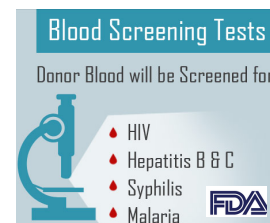
### How will this bill improve public health in Indiana?

HB1198 aligns with the Indiana Department of Health (IDOH) *Zero is Possible* plan to end the HIV epidemic. The plan also calls for reforming Indiana's HIV criminal codes. This bill aligns laws with current HIV science and reduces HIV-related law stigma and fears of prosecution linked to a positive HIV test, thereby eliminating a barrier to testing and care.



### How will this bill impact the safety of the blood supply?

It will remain safe; no one has contracted HIV from blood products in decades. The Indiana Red Cross is not opposed to reform because the blood supply will remain safe. Punishment adds no additional safety in the rare event that a person with HIV attempts to donate. By the time a person learns they have HIV, FDA screening will detect HIV and destroy the donation. This bill treats people with HIV like those with Hepatitis B and C, who are also screened but do not face penalties and, instead, are referred to treatment services.



### Will anyone who intentionally tries to transmit HIV be punished?

Yes. This bill continues to retain criminal penalties for anyone who may intentionally expose someone else to HIV via high-risk activities without informing them of their HIV status, and who are not in compliance with a physician directed treatment plan - HB1198 adds this last element to statute. Further if there is a substantial transmission risk, Indiana also has body injury laws under which a person could be charged for attempts to harm.

### What biomedical advances have occurred since law enactment?

- HIV is a highly manageable **chronic** condition with treatment.
- **Normal life expectancy**: a person with HIV, on treatment, can live as long as a person who does not have HIV.
- HIV is **not transmitted** through any kind of contact with saliva, sputum, tears, sweat, urine, and feces; HIV **can be transmitted** via penetrative sex and syringe sharing.
- We have numerous ways to **prevent** HIV transmission.
- 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 -- to **prevent** HIV.
- People living with HIV **can donate** organs to other people living with HIV.
- Safe conception medical practices are regulated by the FDA and enable people with HIV who may need assisted fertility care to **safely conceive** babies.



### What does the research show?

Numerous studies have found either (1) no effect of the laws on behavior or (2) negative public health effects of outdated HIV criminal laws. Outdated HIV criminal laws can actually work against effective public health measures. Learn more here:

- 2022 A global review of the history and harms of HIV criminalization. [The Lancet HIV](#).
- 2021 HIV Criminalization Laws and Ending the US HIV Epidemic. [CDC Website](#).

