



How Did They Do It? Analyzing the Landscape of HIV Criminalization Reform in the USA

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Abstract

Introduction This study investigates the strategies associated with successful reform or repeal of HIV-specific criminal laws in the USA. These laws penalize people living with HIV (PLWH), often for behavior posing minimal or no risk of transmission, and perpetuate stigma and discrimination.

Methods We applied McGarrell and Castellano’s integrative conflict model to analyze seven state-level legislative campaigns. Our dataset included legislative records and 135 media reports coded for thematic content related to stakeholder strategies and resonant framing.

Results We identified five key strategies for successful reform: (1) making rhetorical appeals that resonate with issues of broad political import; (2) mobilizing “moral entrepreneurs” to champion legislative change; (3) building coalitions across advocacy groups; (4) leveraging broader legislative movements; and (5) spotlighting egregious legal outcomes to erode the legitimacy of existing laws. These strategies aligned legislative efforts with public concerns and political opportunities, leading to significant reform in diverse political contexts.

Conclusions Reform campaigns are iterative and context-specific, requiring sustained advocacy and strategic alignment among stakeholders. Tailored approaches that align with state-specific political, social, and legal conditions enhance the likelihood of success.

Policy Implications

Policymakers and advocates should cultivate moral entrepreneurs to serve as public representatives, build cohesive coalitions with unified strategies, and deploy resonant frames that link HIV criminalization to issues of broad social import. Flexibility to seize emergent opportunities and focus on legislative strategies can help advance reform efforts. Long-term advocacy is critical to achieving meaningful change while avoiding unintended consequences, such as criminalizing other infectious diseases.

Keywords HIV/AIDS · Criminalization · Public health law · Stigma · Moral entrepreneurs

Introduction

How have advocates successfully reformed or repealed HIV criminalization laws in the USA? HIV criminalization refers to either “criminalizing otherwise legal conduct or

increasing the penalties for illegal conduct based on a person’s HIV-positive status” (Hasenbush et al., 2015). Efforts to modernize these laws have gained momentum over the past two decades, as scholars and activists drew attention to the harms caused by statutes that punished people living with HIV (PLWH) for behavior posing little or no transmission risk (Galletly and Pinkerton 2006; Hoppe, McClelland, and Pass 2022). Cases brought under these laws often resulted in harsh prison penalties. For example, Nick Rhodes of Iowa was initially sentenced to 25 years in prison despite using a condom during a consensual encounter where no transmission occurred (Young 2012). Cases like his underscore how outdated laws disproportionately punished PLWH for low-risk behavior, fueling calls for reform.

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Scientific advances have further undermined the rationale for HIV criminalization. In 2016, research confirmed that effective HIV treatment could reduce the risk of sexual transmission to zero, leading advocates to develop the slogan, “Undetectable = Untransmittable” (Rodger et al. 2016). This shift in understanding empowered advocates to argue that criminalizing PLWH for behavior with no risk of transmission is unjust and counterproductive to public health. Since 2014 in Iowa, reform campaigns have gained momentum as movements for change emerge in additional states. States have typically pursued two strategies: full repeal of HIV-specific laws or modernization, often by reducing penalties, revising to reflect advances in HIV science, and/or expanding the statutes to include other diseases (CDC, 2023).

According to the Center for HIV Law and Policy (2022), lawmakers in 15 states have either reformed or repealed their HIV criminalization laws between 1994 and 2022. This paper examines how those reform efforts have succeeded in different states by identifying the strategies advocates employed to drive change. Applying McGarrell and Castellano’s (1991) integrative conflict model of criminal law formulation, we analyze seven state campaigns, highlighting five key strategies: (1) making appeals using frames that resonate with broader social concerns; (2) securing support from influential “moral entrepreneurs,” who serve as champions for the issue; (3) building coalitions across advocacy groups; (4) leveraging broader legislative reform efforts; and (5) using harsh legal outcomes to delegitimize existing laws.

Our analysis explores how these strategies shaped the success of each campaign, offering lessons for future advocacy efforts. In the sections that follow, we first review the literature on HIV criminalization. Next, we introduce the integrative conflict theory framework, describe our data and methods, present our findings, review the limitations of our study, and conclude with policy recommendations.

HIV Criminalization: Origins and Impacts

Lawmakers began to introduce legislation specifically criminalizing the behaviors of PLWH in the 1980s in the midst of an “AIDS panic” (Lazzarini et al. 2013). Although no infectious disease in modern American history had been met with a similarly punitive criminal justice response, scholars argue a blend of homophobia, AIDS-related stigma, and fear of sex fomented the criminalization of PLWH (Novak 2021). Federal policies such as the Ryan White Care Act and the report by President Reagan’s Presidential Commission on HIV legitimized contemporary efforts to criminalize HIV (Harsono et al. 2017).

In total, thirty-three states and two US territories enacted HIV-specific criminal laws with felony or misdemeanor penalties, typically making it a crime for a person living with

HIV (PLWH) to have sex without first disclosing one’s status (Harsono et al. 2017).

Proponents of criminalization typically invoke sensational and often false claims about HIV transmission and PLWH to justify the need to enact criminal legislation targeting PLWH (Movement Advancement Project and Center for HIV Law & Policy, 2016). Rather than measures meant to promote public health, scholars and advocates counter that these statutes instead drove stigma, prejudice, racism, and other forms of marginalization and oppression (Bernard, Symington, and Beaumont 2022).

Although advocates often argue that these laws disproportionately impact marginalized communities, the social science evidence is mixed. One analysis of five state HIV laws found that they were disproportionately applied against white and/or heterosexual persons—especially white women (Hoppe 2017). Other analyses in different states find different outcomes. For example, one study found that, in Maryland, Black individuals account for 82% of HIV-related criminal cases, despite comprising just 30% of the population (Cisneros et al. 2024). In California, another study found that prosecutions under that state’s HIV-specific sex work statute disproportionately affected women, people of color, and transgender women (Hasenbush et al. 2017). These findings demonstrate how gender and race can intersect to shape the marginalization of certain groups under HIV-specific laws.

Moreover, research shows that these laws can undermine public health goals by decreasing testing rates (Dibble et al. 2022) and making it harder to end the HIV epidemic (Mermin, Valentine, and McCray 2021). Public health advocates argue that criminalizing PLWH who do not disclose their status to sexual partners is counterproductive to HIV prevention—especially in the wake of scientific studies confirming that PLWH with suppressed viral loads cannot transmit the virus sexually (CDC, 2023).

Scholars and advocates argue that HIV criminalization laws do not prevent or reduce the transmission of HIV (Bernard, Symington, and Beaumont 2022; Galletly and Pinkerton 2006; Cameron, Burris, and Clayton 2008). One study found no association between HIV and AIDS diagnosis rates and criminal exposure laws across states, indicating no HIV prevention effect (Sweeney et al. 2017). Other studies suggest that criminalizing PLWH can have negative public health effects. For example, HIV criminalization laws increase stigma for PLWH (Galletly and Pinkerton 2006; Yang and Underhill 2018). Increasing stigma can have negative public health effects, as studies show that stigma increases barriers to accessing HIV care and healthcare more generally (Geter, Herron, and Sutton 2018). Furthermore, studies suggest that HIV criminalization may have a modest negative impact on HIV testing behavior as individuals may fear that knowing their status could put them at greater risk

of being criminalized (Dibble et al. 2022; Kesler et al. 2018). To this point, a recent study found that HIV criminalization laws were associated with higher countywide HIV incidence rates overall, as well as for Black and Latino populations (Keralis 2023).

Scientific evidence overwhelmingly indicates that HIV criminalization laws in the USA do not reflect the relative possibilities around HIV transmission and risk (Mayer et al. 2018). Many past and current laws cite kissing, touching, and biting as possible means of HIV transmission despite having no scientific proof behind such behaviors transmitting HIV (Lazzarini et al. 2013). In a 2014 report, The United States Department of Justice released guidance for states seeking to reform their state HIV criminalization laws (Civil Rights Division, 2014). However, this guidance has not been universally implemented since its release (Harsono et al. 2017).

The Integrative Conflict Model of Criminal Law Formulation

This paper applies McGarrell and Castellano's (1991) integrative conflict model of the criminal law formulation process. This model conceptualizes the origins of criminal law as operating on three "levels": macro, structural foundations (such as the economy); meso, the actual and perceived experience of crime (such as shared perceptions of crime as out of control); and micro, or the immediate triggering events (such as high-profile criminal cases). Below, we briefly describe each level and how it applies to our analysis of HIV-criminalization.

Structural foundations refer to broad, macro-level social contexts—such as economic inequality, entrenched racism, and moral beliefs—that shape public understanding and legislative priorities. Advocates for HIV law reform align their messaging with broader social values—like public health, racial equity, and modern science—to build consensus. Given low public awareness of HIV criminalization, advocates use frames that connect the issue to widely recognized concerns, such as outdated laws, stigma, and racial or gender disparities. By embedding HIV criminalization within these resonant frameworks, they mobilize diverse support and strengthen the case for change.

At the meso level, public perceptions of crime, often shaped by media coverage, generate demands for legal change. Activists working to reform HIV criminalization laws seek to create a "legitimation deficit," drawing attention to cases where individuals living with HIV receive disproportionate punishments for low-or-no-risk behavior. By exposing these injustices, advocates attempt to erode the perceived legitimacy of existing laws and foster public support for reform.

At the micro level, law reform is often catalyzed by triggering events, such as the involvement of individual champions, typically lawmakers and grassroots advocates, acting as moral entrepreneurs or coalition-building by nongovernment organizations (NGOs). These actors leverage symbolic moments—like high-profile criminal cases, or broader legislative reform efforts—to generate momentum for change. In our analysis, we also explore how HIV criminalization reform efforts have successfully "piggybacked" on parallel movements, such as criminal justice reform, to build political support.

Data and Methods

To identify states that had amended their state HIV criminalization laws, we began using a list of 15 state HIV criminal law reforms compiled by the Center for HIV Law and Policy (2022). This approach focuses our analysis on state HIV-specific criminal laws (a subset of the broader phenomenon of HIV criminalization, which can include sentence enhancements and other policies targeting PLWH). We excluded three of these 15 states for analysis because the legislation referenced did not substantially amend a criminal status disclosure or HIV exposure law (Indiana) or the state did not have such a criminal law on the books (Colorado and North Carolina).¹ We then constructed a dataset of legislation in 12 states that either reformed or repealed their state's HIV-specific criminal law. We then categorized these laws as either "modernization" (e.g., reforms that left an HIV-specific criminal penalty on the books) or "repeal" (e.g., reforms that totally repealed any HIV-specific criminal law). Using public records, we also identified the political party of the Governor who signed the bill into law and partisan control of the legislature, both House and Senate, and when the bill was signed into law by the governor.

We conducted a facial review² of each modernization bill's language to construct a scale that assesses the scope of each reform. We then chose a sample of seven states to maximize variation in legislative outcomes and partisan contexts, allowing for a robust comparative analysis. This binary scale evaluates whether the law explicitly applies to four

¹ Colorado's bill repealed penalties specific to sex work for PLWH. Indiana's bill removed stigmatizing language found in some of the state's HIV healthcare laws. North Carolina's penalties are housed in administrative law, and, thus, were updated internally by the health department without legislative action in 2018.

² A facial review in this manuscript refers to the systematic examination of the language within each bill to assess whether it explicitly addresses specific legal scenarios (like criminalizing people with suppressed viral loads or condom use). This helps categorize laws based on their textual provisions, without necessarily examining how they are enforced or interpreted by courts.

common low-or-no-risk scenarios: (1) Can a PLWH who is virally suppressed be prosecuted under the new law? (2) Can a PLWH be prosecuted for engaging in vaginal or anal sex with a condom? (3) Can a PLWH be prosecuted for engaging in oral sex without disclosing their status? and (4) Can a PLWH be prosecuted for spitting at or biting someone?

The four scenarios identified in the scale reflect the most common low-or-no risk scenarios identified in the co-author's previous research (Author Year). We selected these scenarios because they represent recurring legal questions in HIV criminal cases and capture the most contentious points of reform. Affirmative responses were scored 0 points, while negative responses were scored 1 point; if the bill language was ambiguous or unclear, it was scored as 0. Table 1 presents the results of this analysis.

From these 12 states, we chose a sample of seven states to conduct in-depth case studies of the public debates that led up to each bill's passage. These seven states were selected to maximize variation in the legislative outcome and partisan context, based on the scores

assessed previously. We selected one state scored as 0 points (Iowa); one state scored as 1 point (Missouri); 1 state scored as 3 points (Michigan); one state scored as 4 points (California); and all three repeal states that were not scored (New Jersey, Illinois, and Texas).

To study the public debates in these seven states, we then compiled an archival dataset of 135 newspaper reports over an 18-month period (one year before the bill's was signed into law through six months after that date) across all selected states. During the summer of 2024, we searched ProQuest Newspapers and Newsbank using the following keywords: "HIV" (in the case of Texas, "AIDS"); "law"; "HIV"; "felony"; "criminalization"; and the state name in question.

We coded these 135 newspaper reports for themes related to the bill's passage, especially (1) references to key stakeholders and advocacy groups advocating for or against the bill; and (2) rhetorical appeals to enact or oppose the bill. We categorized these appeals into 11 types of what we describe below as "resonant frames."

Table 1 Analysis of legislation amending or repealing state HIV-specific criminal laws

State/bill characteristics					Facial review				
					<i>Yes or unclear=0; no =1</i>				
					Can a PLWH be prosecuted if...				
<i>State</i>	<i>Bill (year)</i>	<i>Modernization or repeal?</i>	<i>Governor party</i>	<i>Legislature party</i>	<i>... they are virally suppressed?</i>	<i>... a condom is used?</i>	<i>... they only engage in oral sex?</i>	<i>... accused of spitting or biting?</i>	<i>Total score:</i>
Louisiana	HB 275 (2018)	Modernization	Democratic	Republican	0	0	0	0	0
Iowa	SF 2297 (2014)	Modernization	Republican	Split	0	0	0	0	0
Georgia	SB 164 (2022)	Modernization	Republican	Republican	1	0	0	0	1
Missouri	SB 53 (2021)	Modernization	Republican	Republican	1	0	0	0	1
Michigan	HB 6020 & 6021 (2019)	Modernization	Republican	Republican	1	0	1	1	3
Washington	HB 1551 (2020)	Modernization	Democratic	Democratic	1	1	1	1	4
California	SB 239 (2017)	Modernization	Democratic	Democratic	1	1	1	1	4
Nevada	SB 275 (2021)	Modernization	Democratic	Democratic	1	1	1	1	4
Virginia	SB 1138 (2021)	Modernization	Democratic	Democratic	1	1	1	1	4
New Jersey	SB 3707 (2022)	Repeal	Democratic	Democratic	-	-	-	-	-
Illinois	HB 1063 (2021)	Repeal	Democratic	Democratic	-	-	-	-	-
Texas	SB 1067 (1993)	Repeal	Democratic	Democratic	-	-	-	-	-

Findings

Resonant Frames: Crafting a Message That Appeals to Shared Concerns

Across all states analyzed, stakeholders framed the need for reform using arguments that resonated with broader social issues. Given the low public awareness of HIV criminalization, connecting their advocacy to widely shared values likely helped stakeholders build consensus for change and made their efforts more compelling. These “resonant frames” linked HIV reform to concerns about public health, racial equity, gender justice, and fairness in criminal law, enhancing the persuasiveness of their campaigns.

We identified 11 resonant frames used in the seven states analyzed, listed here by prevalence (from most to least common): public health, fear/stigma, science/modernity, moral, political, race/racism, legal, HIV exceptionalism, sexuality/homophobia, sex work, and gender. Below, we describe each frame and provide representative examples of its use.

Public Health (CA, IL, IO, MI, MO, NJ)

Public health arguments were the most common, with advocates framing HIV criminal laws as counterproductive to public health goals. Activists emphasized that these laws deterred HIV testing and disclosure, ironically increasing public health risks. For example, Donna Red Wing, Executive Director of One Iowa, argued, “This law is a public health risk, as it discourages testing and disclosure by punishing those who know their status” (Weiser 2013).

Fear/Stigma (CA, IL, IO, MI, MO, NJ)

Many advocates criticized HIV laws for being rooted in fear and stigma rather than science. Reformers highlighted how these laws perpetuate stigma, as expressed by the Illinois HIV Action Alliance, which stated that the statutes “have done nothing other than spread fear and stigma” (Bellamy-Walker 2021).

Science/Modernity (CA, IL, IO, MI, MO, NJ)

Advocates frequently cast existing HIV statutes as woefully outdated and out of step with the current science of HIV. Mallory Rusch, Executive Director of Empower Missouri, told reporters that “The laws that are on the books... were really written at the height of the HIV epidemic in the early ‘90s, and I think most people are not aware that there have been just significant changes in the prevention, testing and treatment of HIV” (Hoffmann 2021).

Morality (CA, IL, IO, MI, MO)

Both supporters and opponents of reform invoked moral arguments. Reform advocates criticized the laws as unjust, citing examples where minor offenses resulted

in disproportionate punishments. For instance, Jeanne Brager, identified as a friend of the defendant, commented on the 25-year sentence for Nick Rhoades, noting, “Murderers and child rapists receive less time than this young man did” (Hernandez 2013). Conversely, opponents framed non-disclosure as inherently immoral and deserving of punishment, with California State Senator Joel Anderson telling reporters that “If I infect someone with a disease from which they’ll never recover, and I do it purposefully, should I not be punished to the fullest extent of the law? I believe you should be” (Opsahl 2017).

Political (CA, IL, NJ)

Reform efforts were often tied to broader political agendas. For example, Dr. Perry Halkitis, a leading HIV expert, appealed to New Jersey lawmakers to implement recommendations from Governor Murphy’s Task Force to End the HIV Epidemic, including decriminalizing HIV (Halkitis 2021). Conversely, opponents framed reforms as partisan overreach. In California, conservative commentators criticized the law as the product of “a San Francisco liberal” (Valles 2017).

Race/Racism (CA, IL, MI, MO, NJ)

Reform advocates highlighted the racially disparate impact of HIV criminal laws. Michael Johnson’s case in Missouri exemplifies this disparity; his attorney described Johnson as “an innocent man sentenced to life for being a gay Black man... and having the nerve to have sex” (Hurwitz 2021). In Michigan, local chair of the Ingham County Health Center Board, Todd Heywood, testified against the bill because its penalties could only apply to PLWH with detectable viral loads. “People of color have less access to medical care and have higher viral loads already. The way the current legislation is written will... create a deeper racial disparity that is unfair to people of color” (Kucharski 2018).

Legal (IO, MI, TX)

Some advocates framed HIV criminalization as legally flawed. For example, Missouri Senator Matt McCoy argued that individuals were convicted of felonies “for engaging in safe sex practices and following their doctor’s consent [that they could not sexually transmit the virus]” (Pitt 2014a). In Texas, prosecutors preferred to use general criminal statutes, like attempted murder, because they believed the existing HIV-specific law’s intent provision to be legally problematic (Robson 1993).

HIV Exceptionalism (CA, IL, MO)

Advocates in some states criticized HIV-specific laws as perpetuating “HIV exceptionalism” by treating HIV differently from other communicable diseases. For example, *The Missouri Independent* noted that “For several years, Senator-elect Holly Rehder, R-Sikeston, has filed legislation in the House that would update Missouri’s laws to better reflect today’s science and broaden the state’s criminal code to apply to all serious infectious or communicable diseases—not just HIV” (Weinberg 2020). California’s

legislation aimed to align HIV statutes with those for other diseases, and HIV expert Dr. Edward Machtinger described this reform as eliminating “this form of HIV exceptionalism” (Opsahl 2017).

Sexuality/Homophobia (CA, NJ, TX)

Advocates argued that HIV criminal laws disproportionately impacted LGBTQ communities, reinforcing homophobic narratives. In New Jersey, the director of Garden State Equality pointed out that these laws “disproportionately impacts... LGBTQ+ people” (US Fed News 2021). Opponents, conversely, couched calls to change the law as favoritism of a minority group. For example, an *East Bay Times* op-ed argued that “this legislation could be potentially a pander to a specific and large constituency of Wiener and other gay legislators” (Kleier 2017).

Sex Work (CA, NJ)

In a couple of states, advocates focused on the disproportionate impact of HIV laws on sex workers. The *San Francisco Chronicle* reported that HIV criminal laws “unfairly targeted vulnerable and disenfranchised people, in particular sex workers” (San Francisco Chronicle 2017).

Gender (CA)

In California, advocates emphasized how HIV criminalization laws harmed women, particularly those in abusive relationships. Naina Khanna, Executive Director of the Positive Women’s Network, explained that “she’s heard of women in abusive relationships whose partners threatened to go to police and claim that they’d lied about being HIV-positive” (Allday 2017).

Finding a Champion: How Moral Entrepreneurs Keep Legislation Moving Forward

In five of the states analyzed (CA, IL, IO, MI, NJ), moral entrepreneurs played a critical role in advancing HIV criminalization reform. Moral entrepreneurs, a term from sociological theory referring to individuals who take leadership roles in moral campaigns, played a critical role. These champions emerged both from within legislative institutions and from grassroots advocacy networks, working to build political momentum and public support for change. Their efforts were essential in navigating complex political landscapes and ensuring that reform remained a legislative priority.

Champions Inside the State

Bills sponsors often played a key role in championing their own legislation. In California, State Senator Scott Wiener became a key figure in HIV reform efforts. Sen. Wiener emphasized the importance of aligning the law with modern medical science, introducing Senate Bill 239, which repealed HIV-specific statutes. He argued that these laws no

longer reflect current HIV practices and undermined public health goals (Opsahl 2017).

In Illinois, Representative Carol Ammons and Senator Robert Peters co-sponsored repeal legislation, positioning it as essential to protecting the privacy and dignity of PLWH. Their advocacy highlighted the need to eliminate statutes that allowed law enforcement access to individuals’ HIV status. As one news report noted, Rep. Ammons emphasized that the bill would entirely remove criminal penalties for HIV transmission (Troncoso 2021).

Similarly, in Michigan, Representative Jon Hoadley played a key role in crafting a reform bill that could garner bipartisan support. Hoadley’s strategy involved addressing concerns from Republican legislators while maintaining the bill’s public health focus. He reflected on the legislative challenges, explaining to reporters that “the process is never linear” and required compromise and persistence to secure progress (Kucharski 2018).

In Missouri, Representative Holly Rehder exhibited sustained commitment by introducing reform bills over four consecutive sessions. Her persistence paid off when the legislation was eventually passed as part of a broader police reform package in 2021. Rep. Rehder emphasized the importance of educating fellow lawmakers about the personal impact of HIV criminalization, which helped secure legislative support (Weinberg 2020).

State officials also played pivotal roles in some cases. In New Jersey, Acting Attorney General Andrew Bruck took the lead in coordinating HIV reform efforts, working closely with LGBTQ advocates. Bruck underscored the stigma caused by the existing law and leveraged his influence within the state government to push for its repeal. His behind-the-scenes efforts were credited with aligning political actors and advancing the bill through the legislature (Difilippo and Neito-Munoz 2022).

Champions on the Outside

Beyond legislative institutions, external advocates also served as moral entrepreneurs, often working over several years to build momentum for reform. In Iowa, activists Tami Haught and Donna Red Wing led grassroots campaigns that emphasized the public health harms of HIV criminalization. Their consistent messaging framed the law as a barrier to HIV testing and disclosure, reinforcing stigma and undermining health outcomes (Weiser 2013). Their efforts were widely credited with shaping the public debate and securing legislative change.

It Takes a Village: Building Coalitions in HIV Criminalization Reform Movements

In four of the seven states (CA, IL, MO, NJ) analyzed, coalitions of non-governmental organizations (NGOs),

academic institutions, and public health agencies played a role in advancing legislation. As we show below, these coalitions varied in the degree of formality and organizational structure.

Formal Coalitions

In three states, advocates formalized their efforts by creating specific coalitions to focus on HIV criminalization reform.

In one case, the coalition operated as independent organizations, serving as a clearinghouse for advocacy work within their respective states. For example, in Illinois, the formation of the Illinois HIV Action Alliance exemplified the strategic use of coalitions to drive reform. The alliance united over 90 member organizations, including the Illinois Public Health Association and AIDS Foundation Chicago, facilitating a more unified campaign to repeal HIV criminal laws.

In two other cases, pre-existing NGOs took ownership of reform efforts by coordinating statewide campaigns. For example, in Missouri, Empower Missouri played a central role in advancing legislative change, working in partnership with both local and national organizations like the ACLU of Missouri, the Sero Project, and the Elizabeth Taylor AIDS Foundation. Empower Missouri's long-term commitment to the issue was reflected in the organization's repeated advocacy over several years. As its executive director, Mallory Rusch, noted, "This is the fourth consecutive year that a bill has been filed in the Missouri legislature, each year sort of making progress here and there and creeping forward" (Riddell 2021).

Similarly, in California, the state's largest LGBTQ rights group, Equality California, assembled a subgroup called Californians for HIV Criminalization Reform. This coalition led the campaign to repeal the state's HIV criminal laws, with support from high-profile international organizations such as the Elton John AIDS Foundation and the Elizabeth Taylor AIDS Foundation.

Informal Coalitions

In one other state, advocates formed a more informal coalition that had appeared to be less directly involved in legislative advocacy. In New Jersey, several advocacy groups, including Garden State Equality, the Hyacinth AIDS Foundation, and the Harm Reduction Coalition, supported the bill to repeal the state's HIV criminalization law. However, reports suggest that the state's Acting Attorney General Andrew Bruck took the lead in coordinating reform efforts (Difilippo and Neito-Munoz 2022). In such a context, a formal coalition may not have been necessary to mobilize advocates on the ground.

Hitching a Ride: Piggybacking on Broader Reform Movements to Enact Change

In four states (IL, MI, NJ, TX), legislative reform efforts for HIV criminalization were made possible by aligning with broader reform movements, demonstrating how seizing windows of opportunity can facilitate policy change. Integrating HIV criminalization reform into larger legislative efforts allowed these changes to progress more smoothly within existing political momentum, reducing resistance and amplifying advocacy efforts.

Texas became the first state to repeal its HIV criminalization law in 1993, leveraging a sweeping overhaul of the state's penal code. The HIV law, which had not yet been enforced, was quietly included in this massive reform bill, spanning hundreds of pages. The comprehensive nature of the overhaul minimized political opposition, illustrating how systemic reforms create rare opportunities for specific changes. Law professor Mary Anne Bobinski emphasized that "it's easier politically to repeal a statute that has defects like that when you are revising the penal code" (Robson 1993).

In Michigan, advocates linked HIV criminalization reform with broader efforts to address criminal justice system fairness. State Representative Jon Hoadley championed the modernization bill, framing it as part of a larger political commitment to equity in healthcare and criminal justice. Governor Rick Snyder, a Republican, signed the bill toward the end of his term, potentially mitigating political risks associated with controversial legislation. Rep. Hoadley reflected on the bill's passage, saying "I think we have to continue to tackle places where we see discrepancies in health care. For me, this shows why this project is a step in the right direction but not a finishing line" (Kucharski 2018).

In Illinois, the repeal of the state's HIV criminal statute was included within a broader legislative package focused on LGBTQ+ rights (Bellamy-Walker 2021). Governor J.B. Pritzker framed the HIV repeal as part of a comprehensive effort to advance equality and justice for LGBTQ+ residents, enhancing the bill's political appeal. By embedding HIV legal reform within this broader agenda, advocates capitalized on existing momentum and aligned with the state's broader commitment to equality.

In New Jersey, reforming HIV criminal laws was part of a larger public health initiative led by Governor Phil Murphy's Task Force to Combat the HIV/AIDS Epidemic. Noted HIV expert Dr. Perry Halkitis played a key role in advocating for the task force's recommendations, explicitly urging lawmakers to prioritize the repeal of HIV criminal statutes. "We are calling on New Jersey's Legislative leadership to enact the policies developed by Governor Murphy's Statewide Task Force to End the HIV Epidemic...including eliminating HIV criminalization laws" (Halkitis 2021). By embedding HIV

reform within this broader health initiative, advocates linked the issue to the state's public health goals, making the reform harder to oppose.

Unjust: How High-Profile Cases Can Undermine the Legitimacy of Existing Law

In two states, high-profile criminal cases triggered legislative reform efforts by exposing the disconnect between the intent of HIV criminal laws and their harsh enforcement. These cases generated what sociolegal scholars term a “legitimation deficit,” where public trust in the legitimacy of legal institutions is undermined by perceived failures to align punishment with justice. Scholars typically observe these deficits as “created by the state's apparent inability to reduce either crime or the fear and concern about crime” (McGarrell and Castellano 1991, pg. 182). In this case, the legitimacy of the law is undermined by high-profile criminal sentences that seem out of step with the alleged crimes.

In Iowa, the case of Nick Rhoades became a flashpoint for reform. Rhoades was initially sentenced to 25 years in prison under the state's HIV exposure law, despite having an undetectable viral load and using a condom during the consensual encounter. No HIV transmission occurred. The severity of the sentence drew national media attention, framing the case as emblematic of the irrationality and injustice of HIV criminal statutes.

Rhoades' legal team, led by Christopher Clark of Lambda Legal, successfully argued for the sentence to be overturned, emphasizing that the defendant posed no risk of transmission. The state's Assistant Attorney General, Kevin Cmelik, conceded that while the existing statute justified the prosecution, the law itself needed revision. “I would say we need to go back to the Legislature and ask them to rewrite [the law],” Cmelik stated (Pitt 2014b). Tom Miller, the acting Attorney General, echoed this sentiment, telling reporters he was “firmly convinced that statute needs to be changed” (Foley 2013). The public outrage and legal criticism surrounding Rhoades' case galvanized reform efforts, providing stakeholders with a focal point to advocate for change.

In contrast to Iowa, Missouri's criminal justice response to HIV was marked by the case of Michael Johnson, a gay Black man sentenced to 30 years in prison under the state's HIV criminal law. When he was tried in 2017, Johnson's case drew national scrutiny. Advocates frame it as a stark example of how race, sexuality, and HIV stigma intersect in harmful ways. As Tony Rothert of the ACLU described, Johnson's harsh sentence was not just about the law but also reflected broader racial and sexual biases: he was “convicted for being a gay Black man... and having the nerve to have sex” (Hurwitz 2021).

Johnson's case received considerable public attention in 2017 when the case was decided. However, Johnson's case

was rarely mentioned by advocates during the 2020–2021 campaign to reform the state's HIV criminalization statute. Media coverage of the state's HIV criminalization reform efforts did not consistently link Johnson's case to the need for legislative reform—diminishing its impact as a catalyst for change.

Study Limitations

A key limitation of this study is that our analysis relies primarily on newspaper coverage of state-level legislative campaigns to reform or repeal HIV-specific criminal laws. We acknowledge that print media alone does not provide a comprehensive view of media influence, as other formats like TV and radio also shape public perception. Moreover, while media reports provide valuable insights into how these efforts were framed publicly and which narratives gained traction, they offer only a partial perspective. Newspaper coverage is shaped by editorial choices, journalistic framing, and limitations in access to sources, which may result in the exclusion of certain voices or dimensions of the campaigns. Additionally, our reliance on media accounts may not capture behind-the-scenes advocacy and lobbying efforts, stakeholder negotiations, use of state specific HIV criminalization enforcement data as evidence justifying reform, or the nuanced perspectives of legislators and impacted communities. As a result, our findings should be interpreted with an understanding that they reflect the media's portrayal of these campaigns, rather than a comprehensive account of all factors influencing legislative outcomes. Future research could complement this approach with interviews, archival research, or policy analysis to provide a more holistic view.

A second limitation of this study is that it focuses exclusively on successful campaigns to reform or repeal HIV-specific criminal laws. This selective approach may introduce bias by excluding failed efforts, which could offer valuable insights into the barriers and challenges associated with achieving policy change. Analyzing only successful cases limits the generalizability of our findings, as it overlooks the full spectrum of strategies that were attempted, including those that did not result in legislative or policy outcomes. Future research should examine both successful and unsuccessful campaigns to provide a more comprehensive understanding of the factors that contribute to or inhibit success in efforts to reform HIV criminalization laws.

Third, we recognize that many of the leaders referenced in this article are likely PLWH themselves. This is almost certainly a sixth, unspoken strategy employed by advocates, reflecting long standing commitments in HIV advocacy work to ensure that PLWH are in positions of leadership (National Association of People with AIDS 1983). However, news reports analyzed for this study rarely mention the

HIV status of persons quoted, making it nearly impossible to assess this strategy in a meaningful way using the methods employed here. Future studies should be designed to better highlight the leadership role of PLWH.

Discussion and Recommendations

Achieving the modernization or repeal of HIV criminalization laws in the USA requires nuanced strategies tailored to state-specific contexts. No single policy approach guarantees success, and legislative progress often hinges on sustained advocacy efforts, capitalizing on political opportunities, and aligning key stakeholders. However, the outcomes of these efforts are not guaranteed, instead reflecting the complex political landscape surrounding criminal law reform in a particular state and time.

Reform campaigns must contend with multiple barriers, including entrenched stigma, political inertia, competing issues, and limited public awareness. The legislative reforms analyzed in this paper offer valuable insights into how stakeholders can successfully push for change. Our analysis of state-level case studies identified several essential components for successful reform efforts, including the role of moral entrepreneurs, coalition-building, strategic framing, and seizing political opportunities.

While this paper focuses on reform efforts within the USA, comparative insights from international contexts can also inform advocacy strategies. For instance, Zimbabwe recently undertook a comprehensive reform of its HIV criminalization laws, demonstrating the effectiveness of coordinated advocacy and strategic framing. A detailed case study of this effort highlights how civil society engagement and coalition-building played pivotal roles in legislative success (HIV Justice Network 2025).

In our study, champions who were moral entrepreneurs—whether legislators, PLWH advocates, or state officials—played a central role in pushing reform efforts forward. These individuals were described as instrumental in crafting bill language, garnering support from fellow legislators, and navigating political opposition. The diversity of moral entrepreneurs across states demonstrates that no single type of actor can guarantee success; rather, the key lies in strategically leveraging the influence of individuals best positioned to advance the cause in each context. However, while moral entrepreneurs are essential, their efforts alone are insufficient to secure legislative victories.

Recommendation: Reform campaigns should identify and cultivate moral entrepreneurs capable of acting as public representatives of the movement, working closely with coalitions to maintain momentum throughout the legislative process.

Our analysis revealed that coalitions of NGOs, advocacy groups, public health organizations, and other stakeholders played a vital role in legislative success. These coalitions varied in structure and effectiveness, with some formalized as dedicated advocacy organizations and others operating more informally. The most successful coalitions appeared to be those that maintained consistent messaging and aligned their efforts with moral entrepreneurs to maximize influence. However, even informal coalitions added value by broadening the base of support and enhancing the visibility of reform efforts.

Recommendation: Coalitions should align closely with moral entrepreneurs and operate with a unified strategy to enhance their impact. Formalized coalitions may be more effective at influencing the legislative process, but even loosely organized alliances can contribute meaningfully by expanding the scope of advocacy.

Successful reform efforts employed multiple resonant frames to align HIV criminalization with broader social issues such as public health, racial justice, and human rights. These frames strengthened advocacy by contextualizing HIV criminalization as part of larger systemic injustices. However, the effectiveness of particular frames varied across states, depending on the political tenor of the local context. For example, appeals to public health and modern science were frequently deployed in all states regardless of political culture, but framing the issue around race or gender proved more salient in specific, more liberal states.

Recommendation: Reform movements should deploy resonant frames tailored to the political and social context of each state, ensuring that their messaging aligns with prevailing public concerns.

Opportunities for reform often arise unpredictably, through either broader legislative initiatives or high-profile legal cases that expose the flaws of existing laws. Our analysis shows that several successful campaigns were able to “piggyback” on broader reform movements, such as criminal justice reform, or leveraging the momentum generated by controversial legal cases. However, not all high-profile cases result in legislative change, as evidenced by the differing outcomes in Iowa and Missouri. These examples underscore the importance of strategic coordination among advocates to seize opportunities when they arise.

Recommendation: Reform efforts should maintain flexibility to capitalize on emergent political opportunities or legal controversies. Stakeholders must be prepared to pivot quickly and align their efforts with broader reform movements if the opportunity arises.

The timing of reform efforts plays an important role in determining their success. Our findings suggest that multiple attempts at legislative reform may be necessary, as the politi-

cal environment must align favorably for reform to occur. The iterative nature of these efforts means that even partial victories may pave the way for future repeal. However, advocates and lawmakers must remain vigilant to avoid (1) complacency that may reduce future reform momentum and, further, (2) unintended consequences, such as the expansion of criminalization to other infectious diseases.

List_StartRecommendation: Reform campaigns should adopt a long-term perspective, recognizing that multiple legislative sessions may be required to achieve full repeal. Advocacy efforts must remain focused to avoid diluting the original goals of the movement.

Our research identified several key limitations to the reform process. First, all states that successfully repealed their HIV criminalization laws had Democratic control of both legislative chambers and the governorship, suggesting that partisan control may play a role in achieving repeal. Second, while not explicitly stated, we found that every state identified by CHLP as having reformed its HIV-specific criminal laws did so through legislative action, not through judicial remedies. This implicit pattern underscores the importance of focusing efforts on legislative advocacy.

Recommendation: Reform campaigns should prioritize legislative strategies and consider the political landscape when planning their efforts, recognizing that bipartisan or cross-party support may be necessary to overcome political opposition.

In sum, while the path to HIV criminalization reform is neither linear nor guaranteed, our research offers several insights into how stakeholders can maximize their chances of success. Reform efforts benefit from the presence of committed moral entrepreneurs, well-organized coalitions, strategic framing, and the ability to seize political opportunities. The iterative nature of reform suggests that modernization efforts may serve as important stepping stones toward eventual repeal, though advocates must remain vigilant to ensure the movement stays focused on its long-term goals.

Our findings underscore the importance of tailored strategies that align with the specific political, social, and legal contexts of each state. As the movement to end HIV criminalization continues, the lessons learned from these case studies can provide a roadmap for future advocacy efforts. By building coalitions, aligning with moral entrepreneurs, and deploying resonant frames that reflect broader public concerns, stakeholders can help to create the conditions necessary for meaningful reform.

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contributed to the drafting of the first draft of the manuscript. Both authors read and approved the final manuscript

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