

RESEARCH THAT MATTERS

ENFORCEMENT OF HIV CRIMINALIZATION IN MICHIGAN

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EXECUTIVE SUMMARY

Michigan's HIV criminal laws date back to the 1980s, and it is the state with the first known conviction under an HIV criminalization law. The Williams Institute analyzed data from 1991 to 2024 from the state of Michigan regarding individuals with criminal cases alleging HIV nondisclosure under Michigan Compiled Laws § 333.5210 in the state's penal code. Records were obtained from the state's Criminal History Record database maintained by the Michigan State Police Criminal Justice Information Center. These records contained information on 90 cases that resulted in misdemeanor or felony convictions or were pending outcomes for a felony charge at the time of the data request and contained at least one HIV-related nondisclosure charge.

GENERAL FINDINGS

- Between 1991 and 2024, there were at least 90 cases involving 79 people and 116 HIV-related criminal charges involving HIV nondisclosure in Michigan.
 - In all, 74 cases resulted in conviction on an HIV-related offense. These cases involved 68 people and 109 separate HIV-related charges.
 - Nine people are awaiting a decision for a current HIV-related felony charge.
- While enforcement of the HIV nondisclosure law occurred across Michigan, prosecutions were primarily concentrated in four counties.
 - Cases were concentrated in four counties in the Southeast Lower Peninsula region around the Metro Detroit area. Wayne County—home to Detroit—accounted for 16% of all HIV-related criminal cases, followed by Macomb County (7%), Washtenaw County (7%), and Oakland County (4%). Together they comprised one-third (34%) of all HIV-related cases in the state, but two-thirds (67%) of people living with HIV (PLWH) in the state.
 - While Wayne County was home to 42% of the state's PLWH, it recorded only 16% of the state's HIV nondisclosure cases.
- Men were overwhelmingly represented among individuals in the HIV-related cases analyzed, accounting for 85% of people with HIV-related cases in Michigan. Men were about 77% of PLWH in Michigan.
- When looking across race categories, Black (46%) and white (53%) Michiganders made up roughly equal shares of people criminalized.
 - However, Black people in Michigan accounted for 14% of the state's population and 53% of PLWH in the state. White Michiganders, by contrast, made up 78% of the population and 34% of PLWH in the state.
 - As a result, Black people in Michigan are overrepresented when compared to their share of the state's overall population, while white people in Michigan are overrepresented compared to their share of the state's population of PLWH.
 - Black men made up only 7% of Michigan's population, yet 40% of PLWH, and they account for 43% of individuals convicted or with pending HIV-related cases.

- White men comprised 41% and white women 13% of those convicted or with pending cases, despite representing only 29% and 4% of PLWH, respectively.
- Although Black women make up 8% of Michigan's population and 13% of PLWH, they account for only 1% of convictions or pending cases.

2019 LEGISLATIVE REFORM

- In 2019, Michigan reformed its HIV-related nondisclosure law. Before the reform, nondisclosure of HIV status before any form of "sexual penetration," including oral sex, was criminalized. The reform narrowed the scope of criminalized behaviors to anal and vaginal intercourse. It required either 1) intent to transmit HIV to an intimate partner, 2) actual HIV transmission, or 3) reckless disregard for transmission risk to sustain a conviction.
 - Prosecutions continued post-reform: since enactment of the 2019 legal change, there have been at least 11 HIV-related nondisclosure cases involving 30 individual HIV-related nondisclosure charges.
 - However, there appears to be a recent decline in enforcement. There were nine HIV-related cases between 2020 and 2024 (the five years after the law was reformed) compared to 23 HIV-related cases between 2014 and 2018 (the five years before the law was reformed).
 - Ten charges under the reformed law have resulted in a conviction. All but two were for reckless disregard (a misdemeanor offense); one was for felony intent to transmit, and one appeared to be under the pre-reform statute, although the final court disposition came after the law went into effect.
 - There have been no convictions of actual transmission of HIV (a felony) under the new law.
 - Another 10 charges are awaiting a final disposition under the new law: nine for alleged intent to transmit and one for alleged misdemeanor reckless disregard.

OTHER FINDINGS

- Between 1991 and 2024, the Michigan State Police Criminal Justice Information Center, which maintains the state's Criminal History Record database, did not identify any records in response to our data request documenting convictions under Michigan's law that criminalizes PLWH for donating blood.
- Further, between 1991 and 2024, the data provided by the Michigan State Police Criminal Justice Information Center included no mandatory testing charges that resulted in a conviction for that charge, and no convictions stemming from a mandatory testing charge have occurred since 2008.

BACKGROUND

HIV criminalization refers to laws that make otherwise legal behavior a criminal offense or that impose harsher penalties for illegal conduct based on an individual's HIV-positive status.¹ While there is only one federal HIV criminalization law,² more than half of states and territories across the United States have broader HIV-related criminal laws.³ Most HIV criminal laws, including most in Michigan, do not require actual transmission of HIV or an intent to transmit HIV to sustain a conviction. Many laws also criminalize conduct that poses no actual risk of transmission, such as spitting or biting.⁴ Most laws criminalizing people living with HIV (PLWH) were enacted decades ago in the early years of the HIV/AIDS epidemic,⁵ long before there were effective tests for HIV,⁶ before treatments became available that allow PLWH to live normal lifespans in good health,⁷ and before highly effective methods for preventing transmission of HIV became widely available.⁸

MICHIGAN'S HIV CRIMINALIZATION STATUTES

Michigan has criminalized people living with HIV (PLWH) since 1989,⁹ and the first known conviction under an HIV criminalization law occurred in Michigan.¹⁰ There are three statutes under which PLWH may be subject to criminal penalties in Michigan. The primary statute, Michigan Compiled Laws (MCL) § 333.5210, criminalized “[s]exual penetration [by a PLWH] as felony” until 2019, and thereafter

¹ Dini Harsono, Carol Galletly, Elaine O’Keffe, & Zita Lazzarini. “Criminalization of HIV Exposure: A Review of Empirical Studies in the United States.” *AIDS and Behavior* 21, no. 1 (2017): 27-50.

² See 18 U.S.C. § 1122 (2015) (pertaining to the donation or sale of blood or other potentially infectious fluids or tissues).

³ Center for HIV Law and Policy. (2025). “Mapping HIV Criminalization Laws in the U.S.” <https://www.hivlawandpolicy.org/maps>.

⁴ See Barré-Sinoussi, F., et al. (2018). “Expert consensus statement on the science of HIV in the context of criminal law.” *Journal of the International AIDS Society*, 21(7), 251-261. <https://doi.org/10.1002/jia2.25161>; and Lehman, J.S., et al. (2014). “Prevalence and public health implications of state laws that criminalize potential HIV exposure in the United States.” *AIDS and Behavior*, 18, 997-1006. <https://doi.org/10.1007/s10461-014-0724-0>.

⁵ Harsono, D., Galletly, C., O’Keffe, E., & Lazzarini, Z. (2017). Criminalization of HIV exposure: A review of empirical studies in the United States. *AIDS and Behavior*, 21(1), 27–50. <https://doi.org/10.1007/s10461-016-1540-5>; Lehman, J.S., et al. (2014). Prevalence and public health implications of state laws that criminalize potential HIV exposure in the United States. *AIDS and Behavior*, 18, 997–1006. <https://doi.org/10.1007/s10461-014-0724-0>.

⁶ HIV.gov. (n.d.). A timeline of HIV/AIDS. <https://files.hiv.gov/s3fs-public/aidsgov-timeline.pdf>.

⁷ Trickey, A., et al. (2017). Survival of HIV-Positive Patients Starting Antiretroviral Therapy Between 1996 and 2013: A Collaborative Analysis of Cohort Studies. *The Lancet HIV*, 4(8), p. 349-356; Barré-Sinoussi, F., et al. (2018). Expert consensus statement on the science of HIV in the context of criminal law. *Journal of the International AIDS Society*, 21(7), 251-61; Lehman, J.S., et al. (2014). Prevalence and public health implications of state laws that criminalize potential HIV exposure in the United States. *AIDS and Behavior*, 18, 997-1006.

⁸ Grant, R. M., Lama, J. R., Anderson, P. L., McMahan, V., Liu, A. Y., Vargas, L., ... & iPrEx Study Team. (2010). Preexposure chemoprophylaxis for HIV prevention in men who have sex with men. *The New England Journal of Medicine*, 363(27), 2587–2599. <https://doi.org/10.1056/NEJMoa1011205>; Rodger, A. J., Cambiano, V., Bruun, T., Vernazza, P., Collins, S., Degen, O., ... & PARTNER Study Investigators. (2019). Risk of HIV transmission through condomless sex in serodifferent gay couples with the HIV-positive partner taking suppressive antiretroviral therapy (PARTNER). *The Lancet*, 393(10189), 2428–2438. [https://doi.org/10.1016/S0140-6736\(19\)30418-0](https://doi.org/10.1016/S0140-6736(19)30418-0).

⁹ 1988 Mich. Pub. Acts 1960 (No. 490); 1988 Mich. Legis. Serv. 490 (West).

¹⁰ Hoppe, T. (2014). From sickness to badness: The criminalization of HIV in Michigan. *Social Science & Medicine*, 101, 139–147.

“[i]ntercourse with specific intent or reckless disregard to infect with HIV.”¹¹ Despite the title change in 2019 (discussed in more detail below), both before and after 2019, Michigan’s HIV-specific criminal law only criminalized intimate contact if the PLWH failed to disclose their HIV-positive status.

In addition to the state’s primary HIV nondisclosure law, Michigan has two additional statutes that create offenses for violating Michigan’s Public Health Code. One offense specifically criminalizes PLWH who donate blood.¹² The second establishes that PLWH may be guilty of a misdemeanor for violating all other aspects of Michigan’s Public Health Code generally.¹³ Under the Public Health Code, people with certain communicable diseases, including HIV, may be subject to mandatory testing, reporting, isolation, confinement, or compliance with warning notices or orders, among other requirements (“mandatory testing”).¹⁴ Violations of the Public Health Code requirements, such as these, are misdemeanors unless otherwise labelled.

Every HIV-related conviction in Michigan between 2019 and 2024 occurred under the state’s nondisclosure law, and it is that law we focus on in this report. Between 1991 and 2024, the Michigan State Police Criminal Justice Information Center, which maintains the state’s Criminal History Record database, did not identify any records in response to our data request documenting convictions under Michigan’s law that criminalizes PLWH for donating blood. Further, between 1991 and 2024, the data provided by the Michigan State Police Criminal Justice Information Center included no mandatory testing charges that resulted in a conviction for that charge, and no convictions stemming from a mandatory testing charge have occurred since 2008.

Michigan’s HIV-Related Nondisclosure Law

Pre-Reform Law

Michigan’s HIV-related nondisclosure statute, § 333.5210, was enacted in December 1988 under H.B. 5026.¹⁵ According to sociologist Trevor Hoppe, the Michigan legislature relied on arguments based on “moral regulation and social control” rather than public health when it passed the law.¹⁶ One member of the legislature said that they wished that capital punishment could be instituted as the associated penalty for violating the proposed HIV criminal law.¹⁷

¹¹ MICH. COMP. LAWS § 333.5210 (2018); MICH. COMP. LAWS § 333.5210 (2025).

¹² MICH. COMP. LAWS § 333.11101 (2025).

¹³ MICH. COMP. LAWS § 333.1299 (2025).

¹⁴ See MICH. COMP. LAWS § 333.5101, et seq.

¹⁵ 1988 Mich. Pub. Acts 1960 (No. 490); 1988 Mich. Legis. Serv. 490 (West).

¹⁶ Hoppe at 141.

¹⁷ *Id.*

Under the state’s HIV-related nondisclosure law from enactment until its reform in 2019, a person living with HIV in Michigan could be prosecuted for nondisclosure of their HIV status to an intimate partner if they

1. knew of their HIV positive status,¹⁸ and
2. “engage[d] in sexual penetration with another;”
3. “without having first informed the other person” of their HIV status.¹⁹

“Sexual penetration” was defined in the same statute as “sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body, but emission of semen is not required.”²⁰ The law did not require actual HIV transmission or the intent to transmit to sustain a conviction. It also criminalized behaviors that cannot transmit HIV,²¹ and did not acknowledge mitigation or prevention strategies—condoms and other barrier methods. Further, the law did not contemplate medical advances that eliminate the risk of transmission. Medications have been developed in the decades since the law was enacted that either partner can take to eliminate the risk of HIV transmission.²²

A person found guilty under Michigan’s prior nondisclosure law, before the 2019 reform, was convicted of a felony that carried a sentence of up to four years in prison and a fine of \$5,000.²³

Post-Reform Law

Efforts to amend Michigan’s HIV nondisclosure law go back to at least 2011.²⁴ Ultimately, Michigan reformed the law on December 27, 2018, with an effective date of March 28, 2019.²⁵ The reform initiative was bipartisan, linked to broader efforts to “address criminal justice system fairness,” and

¹⁸ The original law reads “A person who knows that he or she has or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome related complex, or who knows that he or she is HIV infected...” See MICH. COMP. LAWS § 333.5210 (2018).

¹⁹ See MICH. COMP. LAWS § 333.5210 (2018).

²⁰ See MICH. COMP. LAWS § 333.5210 (2018).

²¹ CDC.gov. (2024, Jan 18) “How HIV spreads” <https://www.cdc.gov/hiv/causes/>.

²² Grant, R. M., Lama, J. R., Anderson, P. L., McMahan, V., Liu, A. Y., Vargas, L., ... & iPrEx Study Team. (2010). Preexposure chemoprophylaxis for HIV prevention in men who have sex with men. *The New England Journal of Medicine*, 363(27), 2587–2599. <https://doi.org/10.1056/NEJMoa1011205>; Rodger, A. J., Cambiano, V., Bruun, T., Vernazza, P., Collins, S., Degen, O., ... & PARTNER Study Investigators. (2019). Risk of HIV transmission through condomless sex in serodifferent gay couples with the HIV-positive partner taking suppressive antiretroviral therapy (PARTNER). *The Lancet*, 393(10189), 2428–2438. [https://doi.org/10.1016/S0140-6736\(19\)30418-0](https://doi.org/10.1016/S0140-6736(19)30418-0).

²³ MICH. COMP. LAWS § 750.503 (2018). In least one reported prosecution under the old law, the person accused claimed that they were in medication treatment and could not transmit HIV, but that evidence was not allowed to be presented. The accused person was also required to register on the state’s sex offender registry after conviction. No actual transmission or intent to transmit was alleged. Heywood, T. A. (2021, June 4). HIV law has changed, but those prosecuted under former measure struggle to overcome convictions. *Michigan Advance*. <https://michiganadvance.com/2021/06/04/hiv-law-has-changed-but-those-prosecuted-under-former-measure-struggle-to-overcome-convictions/>.

²⁴ Heywood, T., (2013, Aug. 23), *Mich. Health Dept. Puts HIV Criminal Law Review ‘On Hold’*. Pride Source. <https://pridesource.com/article/61814-2>.

²⁵ 2018 Mich. Pub. Acts 2144 (No. 537); 2018 Mich. Legis. Serv. P.A. 537 (H.B. 6020) (West).

focused on public health goals.²⁶ Testimony included concern over exacerbating racial disparities because of access to medication,²⁷ but no organizations or individuals were on the record as officially opposed to the bill.²⁸

The updated version of MCL § 333.5210 created two levels of penalties (misdemeanor and felony). Like under the previous version of the law, nondisclosure of HIV status is required to sustain either a felony or misdemeanor conviction—in other words, disclosure of one’s HIV status is a complete defense.²⁹ A person must know their HIV-positive status to be held liable under the law. Under the statute, a person can be charged with a felony if they had the specific intent to transmit HIV to another person or actually transmitted HIV.³⁰ A person can be charged with a misdemeanor if they acted with “reckless disregard” in engaging in intercourse, but lacked the specific intent to transmit and did not actually transmit the virus, as required to sustain a felony conviction. The statute states that a person is not acting with reckless disregard if they are in treatment and have a medically suppressed viral load.³¹

Table 1. Key changes in Michigan’s HIV nondisclosure criminal law in 2019

	BEFORE REFORM (UNTIL MARCH 2019)	AFTER REFORM (FROM APRIL 2019)
Behaviors criminalized	Any form of “sexual penetration,” including oral sex	Limited to anal and vaginal intercourse
Punishment	Felony	Misdemeanor or felony, depending on specific circumstances.
Mitigating factors	None; prosecutors were not required to show that the conduct posed any risk.	Requires intent to transmit, actual transmission, or acting with reckless disregard. Having an undetectable viral load serves as a defense against a charge of acting with reckless disregard.

²⁶ Hoppe, T., Hall, E. (2025). How Did They Do It? Analyzing the Landscape of HIV Criminalization Reform in the USA. *Sexuality Research and Social Policy*. <https://doi.org/10.1007/s13178-025-01165-w>; Kucharski, E., (Dec. 19, 2018). *US: A summary of HIV-specific bills aimed at updating Michigan’s existing laws currently moving through Senate*. HIV Justice Network. <https://www.hivjustice.net/news-from-other-sources/us-a-summary-of-hiv-specific-bills-aimed-at-updating-michigans-existing-laws-currently-moving-through-senate/>.

²⁷ Kucharski, E., (Dec. 19, 2018). *US: A summary of HIV-specific bills aimed at updating Michigan’s existing laws currently moving through Senate*. HIV Justice Network. <https://www.hivjustice.net/news-from-other-sources/us-a-summary-of-hiv-specific-bills-aimed-at-updating-michigans-existing-laws-currently-moving-through-senate/>.

²⁸ Mich. House Fiscal Agency, Legislative Analysis: Felony Disclosure Law House Bills 6020 (H-5) and 6021 (H-5) as reported from committee (Dec. 6, 2018), <https://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-6020-42C89C88.pdf>; Mich. House Fiscal Agency, Legislative Analysis: Amending HIV Reporting and Testing Requirements / Felony Disclosure Law, House Bills 6016 & 6017 as enacted (Feb. 12, 2019), <https://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-6016-7A8AE83A.pdf>.

²⁹ Mich. Comp. Laws § 333.5210 (2025).

³⁰ Mich. Comp. Laws § 333.5210 (2025).

³¹ Mich. Comp. Laws § 333.5210 (2025).

Under Michigan’s current HIV-related nondisclosure law, a person can be found guilty of a *felony* if they

1. know of their HIV-positive status,
2. engage in “anal or vaginal intercourse” with another person,
3. do not inform the other party of their HIV-positive status before the intimate contact, and
- 4a. have the “specific intent” to transmit HIV *without* the other person acquiring HIV,³² or
- 4b. “transmit ... HIV to an uninfected person causing that person to become HIV positive,” defined as acting with “reckless disregard.”³³

A person found guilty of felony HIV nondisclosure can be sentenced to up to four years in prison and fined \$5,000.³⁴

The legal reform also created a misdemeanor offense. Under Michigan’s current HIV-related nondisclosure law, a person can be found guilty of a *misdemeanor* if they

1. know of their HIV-positive status,
2. engage in “anal or vaginal intercourse” with another person,
3. do not inform the other party of their HIV-positive status before the intimate contact,
4. “and ... acts with reckless disregard but does not transmit HIV.”³⁵

Unlike the felony version of Michigan’s HIV nondisclosure law, the misdemeanor version has no requirement for actual transmission or specific intent to transmit. A person found guilty of the misdemeanor may be subject to imprisonment for up to one year or a fine of up to \$1,000.00, or both.³⁶

Table 2. Elements of Michigan’s HIV nondisclosure crime from 2019 onward

	INTENT TO TRANSMIT	TRANSMISSION	RECKLESS DISREGARD
Criminal code	333.5210 (1)	333.5210 (2)	333.5210 (3)
Offense level	Felony	Felony	Misdemeanor
Punishment	Up to 4 years incarceration; fine up to \$5,000	Up to 4 years incarceration; fine up to \$5,000	Up to 1 year incarceration; fine up to \$1,000
PLWH knows of their HIV-positive status	Yes	Yes	Yes
Criminalized behavior	Vaginal or anal intercourse	Vaginal or anal intercourse	Vaginal or anal intercourse
Specific intent to transmit HIV	Yes	No	No

³² MICH. COMP. LAWS § 333.5210(1) (2025).

³³ MICH. COMP. LAWS § 333.5210(2) (2025).

³⁴ MICH. COMP. LAWS § 750.503 (2018). *See also* MICH. COMP. LAWS. § 777.13 (requiring application of Michigan’s sentencing guidelines for Section 333.5210(1) & (2); Michigan Judicial Institute. (May 21, 2025). *State of Michigan Sentencing Guidelines Manual*. <https://www.courts.michigan.gov/4a2222/siteassets/offices/mji/felony-sentencing-online-resources/sgm.pdf>.

³⁵ MICH. COMP. LAWS § 333.5210(3) (2025).

³⁶ *Id.*

	INTENT TO TRANSMIT	TRANSMISSION	RECKLESS DISREGARD
Criminal intent	Specific Intent to Transmit HIV	Defined as Acting with Reckless Disregard by the Actual Transmitting of HIV*	Acted with Reckless Disregard*
Transmits HIV	Not Required	Yes	No

Note: *If a person “is adherent with the treatment plan of an attending physician and has been medically suppressed per accepted medical standards,” that is statutorily defined as *not* acting with reckless disregard. Mich. Comp. Laws § 333.5210(4) (2025).

In addition, it is now an affirmative defense to an allegation that an individual acted with reckless disregard if the defendant “is adherent with the treatment plan of an attending physician and has been medically suppressed per accepted medical standards.”³⁷ Such a person “is not acting with reckless disregard.”³⁸

Michigan’s HIV-Related Blood Donation Law

Michigan’s HIV criminal law concerning the donation or sale of blood or blood products was also created in December 1988 through H.B. 4980.³⁹ Under MCL § 333.11101, which is contained in the public health code, PLWH may be subject to criminal penalties if they “donate or sell ... blood or blood products to a blood bank or storage facility” or a similar organization if the person knows their HIV status.⁴⁰ As it is not otherwise stated in the statute, violation of MCL § 333.11101 is a misdemeanor.⁴¹

Michigan’s General Communicable Disease Health Laws

In addition to the specific offenses for nondisclosure and blood donation, PLWH may be guilty of a misdemeanor for violating other aspects of Michigan’s Public Health Code. Under the Public Health Code, people with certain communicable diseases, including HIV, may be subject to mandatory testing, reporting, isolation, confinement, or compliance with warning notices or orders, among other requirements.⁴² Violations of the Public Health Code requirements, such as these, are misdemeanors unless otherwise labelled.⁴³

RELEVANT CASE LAW AND MEDIA REPORTS

Case Law

We conducted searches for case law concerning the criminal enforcement of PLWH because of their HIV status in Michigan using the two major case law databases: Westlaw and Lexis. These databases contain information on certain judicial decisions—usually decisions made by appellate-level courts rather than trial courts. We also conducted searches for relevant cases through the Michigan court system’s public website. In total, we identified 33 relevant judicial opinions.

³⁷ MICH. COMP. LAWS § 333.5210(4) (2025).

³⁸ *Id.*

³⁹ 1988 Mich. Pub. Acts 1950 (No. 487); 1988 Mich. Legis. Serv. 487 (West).

⁴⁰ MICH. COMP. LAWS § 333.11101 (2025).

⁴¹ MICH. COMP. LAWS § 333.1299 (2025).

⁴² See MICH. COMP. LAWS § 333.5101, et seq.

⁴³ MICH. COMP. LAWS § 333.1299 (2025).

Constitutionality of Michigan’s HIV-Related Nondisclosure Law

At least two cases have considered the constitutionality of Michigan’s HIV-related nondisclosure law. First, a series of judicial opinions arose from the conviction of one woman on three counts of violating Michigan’s HIV nondisclosure law, which resulted in a decision on the constitutionality of the law. Following a jury trial, the defendant was convicted of three counts and sentenced to prison for a period of time between 32 and 48 months.⁴⁴ On appeal, the court affirmed her conviction and refused to consider claims that the nondisclosure law was unconstitutional because the defendant did not raise those claims at trial.⁴⁵ Subsequently, the Michigan Supreme Court issued a brief opinion reversing the decision of the appellate court to not review the law’s constitutionality, but upholding the rest of the decision.⁴⁶ On remand, the appellate court decided that the statute was constitutional.⁴⁷ More specifically, the court found that the statute was not unconstitutionally overbroad, did not violate the defendant’s constitutional right to privacy, did not unconstitutionally compel speech, and was not unconstitutional because of a lack of an explicit *mens rea*.⁴⁸

The same year, in 1998, a second defendant argued that Michigan’s HIV-related nondisclosure law was unconstitutional.⁴⁹ Again, the Court of Appeals in Michigan denied this claim and all others, upholding the defendant’s conviction and sentence of 32 to 48 months in prison.⁵⁰

People v. Clayton

In a 2002 case, a defendant appealed his conviction under Michigan’s HIV nondisclosure law. While the Michigan Court of Appeals denied his procedural arguments challenging his conviction, it did order the trial court to resentence the defendant. Originally, the court sentenced him to a term of 58 months to 15 years in prison as a fourth habitual offender, applying several other sentencing enhancements under the sentencing guidelines.⁵¹ The court ultimately ruled that an enhancement for “life-threatening or permanent incapacitating injury occurred to a victim” was improperly imposed because it was not established that the defendant actually transmitted HIV.⁵² The defendant was resentenced to 4 to 15 years in prison.⁵³

⁴⁴ *People v. Jensen*, 564 N.W.2d 192 (Mich. Ct. App. 1997).

⁴⁵ *Id.*

⁴⁶ *People v. Jensen*, 575 N.W. 2d 552 (Mich. 1998).

⁴⁷ *People v. Jensen*, 586 N.W. 2d 748, 751 (Mich. App. 1998).

⁴⁸ *Id.*

⁴⁹ *People v. Flynn*, 1998 WL 1989782, No. 199753 (Mich. Ct. App., Sept. 25, 1998).

⁵⁰ *Id.* at *6.

⁵¹ *People v. Clayton*, 2002 WL 31058331 (Mich. Ct. App., Sept. 13, 2002), [https://www.courts.michigan.gov/49d9f4/siteassets/case-documents/uploads/opinions/final/coa/20020913_c230328\(46\)_230328.opn.pdf](https://www.courts.michigan.gov/49d9f4/siteassets/case-documents/uploads/opinions/final/coa/20020913_c230328(46)_230328.opn.pdf).

⁵² *People v. Clayton*, 2002 WL 31058331 (Mich. Ct. App., Sept. 13, 2002), [https://www.courts.michigan.gov/49d9f4/siteassets/case-documents/uploads/opinions/final/coa/20020913_c230328\(46\)_230328.opn.pdf](https://www.courts.michigan.gov/49d9f4/siteassets/case-documents/uploads/opinions/final/coa/20020913_c230328(46)_230328.opn.pdf).

⁵³ *Clayton v. Curtin*, 2010 WL 5439729 (E.D. Mich., Dec. 28, 2010). A person with the same name and procedural record as the defendant appears in four further decisions over the following 16 years. In 2007, a person with the same name and conviction filed a writ of habeas corpus arguing that, among other issues, his physical and mental health has deteriorated for a lack of medical attention and confinement to an isolation unit. *Clayton v. McKee*, 2007 WL 170318 (E.D. Mich., Jan. 18, 2007). In 2010, the habeas petition was formally denied by the court. *Clayton v. Curtin*, 2010 WL 5439729 (E.D. Mich., Dec. 28, 2010). A petitioner with the same name and record next appeared in a federal district court decision in 2016 challenging their confinement in administrative segregation. *Clayton*

People v. Holder

In a case arising from a 2001 conviction under the state's nondisclosure law, a defendant was originally sentenced to 10 to 15 years in prison, which was later reduced to 90 months to 15 years.⁵⁴ The conviction arose from an incident in which the victim alleged the defendant had not disclosed his HIV status, while the defendant maintained that he had informed her. The victim recanted her testimony after the conviction and having reconciled with the defendant through prison visits.⁵⁵ The defendant brought multiple appeals that eventually reached the Michigan Supreme Court and the federal 6th Circuit Court of Appeals.

Among other claims, the defendant argued that his appointed counsel was ineffective because it did not challenge five jurors who admitted "personal disapproval of, or concern with, interracial relationships"⁵⁶ and that his sentence was too high because it was greater than the recommended sentence in the sentencing guidelines. The Court of Appeals for Michigan found both arguments unpersuasive. It pointed to the victim contracting HIV and potentially infecting others, including her baby, with the virus, saying: "Bottom line is the guidelines are too low and inadequate for the dangerous nature of defendant's conduct and the potential life-threatening disease which exposes numerous persons."⁵⁷

This decision was appealed to the Michigan Supreme Court, which denied the motion to consider.⁵⁸ However, one justice would have heard the appeal and issued a dissenting opinion highlighting the biased statement made by the potential jurors, including that Black men "express hatred or revenge with violent acts more than do men of other races."⁵⁹ Two jurors said that they already thought the defendant was guilty, with one calling him a "horny coward."⁶⁰

Additional Case Law

In addition to the above-mentioned cases with lengthier records, there are many other judicial opinions that cite MCL § 333.5210, the state's HIV nondisclosure law.⁶¹

v. Michigan Dep't of Corrections, 2016 WL 7173356, Case No. 1:16-cv-830 (W.D. Mich., Dec. 9, 2016). In January 2018, nearly 19 years after the incident, a district court issued the final judicial action concerning a defendant with the same name and record dismissing all of petitioner's claims. Clayton v. Michigan Dep't of Corrections, 2018 WL 1515708, Case No. 1:16-CV-830 (W.D. Mich. 2018).

⁵⁴ Holder v. Palmer, 2007 WL 713149 at *8, No. 2:04-CV-73245-DT (E.D. Mich., Mar. 7, 2007).

⁵⁵ Holder v. Palmer, 2007 WL 713149 at *1, No. 2:04-CV-73245-DT (E.D. Mich., Mar. 7, 2007).

⁵⁶ People v. Holder, 2003 WL 22138282, No. 238501 (Mich. Ct. App., Sept. 16, 2003).

⁵⁷ *Id.* at *3-4.

⁵⁸ People v. Holder, 469 Mich. 1036 (Mich. 2004). The matter was also raised in federal district court, eventually reaching the 6th Circuit, which affirmed the conviction. Holder v. Palmer, 588 F.3d 328, 337 (6th Cir. 2009); Holder v. Palmer, 2007 WL 713149, No. 2:04-CV-73245-DT (E.D. Mich., Mar. 7, 2007); Holder v. Palmer, 2007 WL 2050348, No. 2:04-CV-73245-DT (E.D. Mich., July 16, 2007).

⁵⁹ *Id.* at *329 (Kelly, J., dissenting)

⁶⁰ *Id.*

⁶¹ See also People v. Kuzma, 2014 WL 783578, No. 311204 (Mich. Ct. App., Feb. 25, 2014); Kuzma v. Campbell, 2020 WL 8996797, No. 1:15-cv-1130 (W.D. Mich., Dec. 7, 2020); Kuzma v. Miniard, 2022 U.S. App. LEXIS 15653, No. 21-2798 (6th Cir. 2022); People v. Selemogo, 2008 WL 902287, No. 273410 (Mich. Ct. App., April 3, 2008); People v. Bailey, 2009 WL 1439112 at *4, Nos. 276424, 276593 (Mich. Ct. App., May 21, 2009); People v. Dorn, 2011 WL 4862440, No. 297784 (Mich. Ct. App. Oct. 12, 2011); Dorn v. Curtin, 2015 WL 4744922 at *22 (W.D. Mich., Aug. 11, 2015).

Some arise from appeals of convictions under the statute.⁶² For example, one defendant convicted under the nondisclosure law asked both state and federal courts for relief and pointed them both to evidence about contemporary HIV medications that make it impossible to transmit HIV to another person if one's viral load is undetectable.⁶³ However, both courts were unpersuaded.

Other decisions refer to MCL § 333.5210 when discussing the privacy of an individual's medical information. One case concerned the disclosure of an incarcerated person's HIV status. The court held that, while HIV status is sensitive information even when the person was in prison for committing an HIV-related offense, the right was not clearly established, and the prison official defendants had qualified immunity for their release of this information.⁶⁴

In another case in which a PLWH appealed his conviction under charges not arising from MCL § 333.5210, a court rejected the defendant's argument that his counsel was ineffective. Rather, the court found that if the counsel introduced evidence of the defendant's HIV status, the defendant would have been exposed to liability, as he may have been convicted under MCL § 333.5210.⁶⁵ The same defendant later sued the Michigan Department of Corrections for moving him from a facility with the lowest level of security to a higher-security prison and placing him in solitary confinement for 21 months after engaging in consensual sex. The non-HIV-positive person was only punished by losing certain privileges for 30 days. Eventually, the prison entered into a settlement agreement awarding the complainant \$150,000, and the Department of Corrections amended its policies "so that incarcerated people living with HIV are not disproportionately punished without a proper reason."⁶⁶

We could not identify any relevant case law concerning Michigan's HIV-related blood donation/sale law.

⁶² *People v. Rodriguez*, 2017 WL 1367110, No. 330892 (Mich. Ct. App., April 13, 2017) (upholding the lower court's denial of a mistrial motion from a defendant convicted under Section 333.5210).

⁶³ *Merithew v. Whitmer*, 2019 WL 2209128, 1:19-cv-10140 (E.D. Mich., Feb. 22, 2019); *Merithew v. Klee*, 2016 WL 6927451, No. 1:16-cv-909 (W.D. Mich., Nov. 28, 2016); *Merithew v. Klee*, 2016 WL 6998782, No. 1:16-cv-909 (W.D. Mich. Sept. 21, 2016).

⁶⁴ *Moore v. Prevo*, 2013 WL 5176759, No. 1:08-cv-731 (W.D. Mich., Sept. 13, 2013); see also *Moore v. Unknown Prevo*, 2013 U.S. Dist. LEXIS 132063, No. 1:08-CV-731 (W.D. Mich., Feb. 5, 2013).

⁶⁵ *People v. Dorn*, 2011 WL 4862440, No. 297784 (Mich. Ct. App. Oct. 12, 2011). See also *Dorn v. Curtin*, 2015 WL 4744922 at *22 (W.D. Mich, Aug. 11, 2015).

⁶⁶ Lambda Legal. (n.d.). *Dorn v. Michigan Dep't of Corrections*. <https://legacy.lambdalegal.org/in-court/cases/dorn-v-michigan-department-of-corrections>; Straube, T. (Nov. 19, 2018). *Ex-Inmate Settles Lawsuit Alleging Harsher Punishment Based on His HIV*. POZ. <https://www.poz.com/article/exinmate-settles-lawsuit-alleging-harsher-punishment-based-hiv>; Salzman, S. (Nov. 26, 2018). *The HIV-Positive Inmate Who Spent a Year in Solitary for Having Consensual Sex*. Vice News. <https://www.vice.com/en/article/hiv-criminalization-prison/>.

Finally, civil cases in Michigan show how the impact of HIV criminal laws extends beyond their specific enforcement, including shaping legal claims related to civil liability for exposure to HIV,⁶⁷ police misconduct, including invasion of privacy,⁶⁸ and HIV-related employment discrimination.⁶⁹

Media Reports

Media reports shed light on high-profile instances where the HIV nondisclosure law was used to criminalize PLWH. For example, as noted by the Center for HIV Law and Policy, news reports around a 2011 conviction characterized the accused person as intentionally trying to transmit HIV to others.⁷⁰ In 2012, there was a report of a man charged for failing to disclose his status.⁷¹ The accused person argued that he did disclose his status and began advocating for reforms to the law.⁷² Another article discusses a case against a sex worker in Kent County who was prosecuted in 2019 for conduct occurring in 2015. The article notes six cases involving four defendants charged in Kent County under Michigan’s former HIV criminalization law in the prior decade.⁷³ Similarly, other media accounts discuss a man who was charged in 2020 under the former law for allegedly failing to disclose his HIV status to his girlfriend in 2018 and 2019.⁷⁴

Media reports also indicate that Michigan’s HIV criminalization law continued to be enforced for conduct that occurred after the 2019 reform. In 2023, a man was arrested and charged with sexual assault and HIV exposure with intent to transmit.⁷⁵ The man was also previously charged under the

⁶⁷ Doe v. Johnson, 817 F. Supp. 1382, 1384-85 (W.D. Mich. 1993) (citing Michigan’s HIV criminal law in holding that “high risk” activities or membership in a “high risk” group alone are not solely sufficient to establish civil legal claims for the wrongful transmission of the HIV virus on negligence or fraud theories),

⁶⁸ Andreini v. Dufek, 1995 U.S. Dist. LEXIS 11296 (W.D. Mich., July 22, 1995).

⁶⁹ E.E.O.C. v. Prevo’s Family Market, Inc., 5 A.D. Cases 1526, 8 NDLR P 349, 1996 WL 604984 (W.D. Mich., Aug. 27, 1996) (holding in a workplace HIV discrimination case that evidence of whether an employee had sexual intercourse without disclosing his HIV status could be excluded because violation of Michigan’s HIV crime did not have much bearing on the employee’s “credibility, his likelihood of infecting others in the workplace, and because “the jury would be greatly prejudiced by such information.”), *vacated* E.E.O.C. v. Prevo’s Family Market, Inc. 135 F. 3d 1089 (6th Cir. 1998).

⁷⁰ Center for HIV Law & Policy. (n.d.). *Michigan*. <https://www.hivlawandpolicy.org/sites/default/files/Michigan%20-%20Excerpt%20from%20CHLP%27s%20Sourcebook%20on%20HIV%20Criminalization%20in%20the%20U.S..pdf>.

⁷¹ WOOD TV8. (Aug. 17, 2012). *Man with HIV charged with spreading virus* [Video]. YouTube. <https://www.youtube.com/watch?v=FMcXoaCRqTw>.

⁷² Heywood, T.A. (June 4, 2021). *HIV law has changed, but those prosecuted under former measure struggle to overcome convictions*. Michigan Advance. <https://michiganadvance.com/2021/06/04/hiv-law-has-changed-but-those-prosecuted-under-former-measure-struggle-to-overcome-convictions/>.

⁷³ Hogan, J. (Sept. 27, 2019). *Prostitute didn’t disclose HIV/AIDS status before motel sex, police say*. WZZM ABC 13. <https://www.wzzm13.com/article/news/crime/aids-sexual-penetration-uninformed-partner/69-66332029-7707-4c75-b59d-9d7cd756a2b8>.

⁷⁴ Heywood, T. (June 16, 2021). *Is a man being unfairly prosecuted over his HIV status?* Lansing City Pulse. <https://www.lansingcitypulse.com/stories/is-a-man-being-unfairly-prosecuted-over-his-hiv-status,17365>; Murphy, T. (Jul. 20, 2021). *Michigan Softened Its HIV Criminalization Laws—So Why Is a Man Still Doing Time for Allegedly Transmitting HIV?* The Body. <https://www.thebody.com/article/michigan-hiv-criminalization-laws>.

⁷⁵ Glaser, S. (May 12, 2023). *Man groomed, raped minor, sheriff says*. WNEM 5. <https://www.wnem.com/2023/05/12/man-groomed-rape-minor-sheriff-says/>; Glaser, S. (Sept. 22, 2025). *HIV-positive Flint man sentenced to decades in prison*. WNEM 5. <https://www.wnem.com/2025/09/22/hiv-positive-flint-man-sentenced-decades-prison/>; See also Oliver, J. (Apr. 3, 2024). *Accused child rapist in Flint was given a chance for release. Then new allegations arose*. M Live. <https://www.mlive.com/news/flint/2024/04/accused-child-rape-in-flint-was-given-a-chance-for-release-then-new-allegations-arose.html>.

pre-reform law but convicted of other offenses.⁷⁶ According to another media report, in 2024, another man was charged with and ultimately convicted of a misdemeanor offense under the state's HIV nondisclosure law.⁷⁷

In addition to reports above involving the state's nondisclosure law, the media also reported on an attempted prosecution of a PLWH under a bio-terrorism statute for biting his neighbor during an altercation. The ACLU of Michigan and Lambda Legal, among other organizations, submitted *amicus* briefs to the court arguing against applying the bio-terrorism charge to PLWH.⁷⁸ The court acknowledged that there was a contravening legal precedent. However, a Michigan court had previously held that a PLWH was subject to a greater sentence for assaulting a corrections officer because he spat on an officer while his mouth was bleeding, and his spit was deemed to be a "harmful biological substance."⁷⁹

PREVIOUS STUDIES OF HIV CRIMINAL ENFORCEMENT

This report builds on a series of studies analyzing the enforcement of HIV criminal laws with state-level data. Since 2015, the Williams Institute has published similar studies for Arkansas, California, Florida, Georgia, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nevada, Ohio, Pennsylvania, Tennessee, and Virginia.⁸⁰

These studies show that

- Thousands of people have been prosecuted for HIV crimes.
- The number of HIV-related arrests and prosecutions has not decreased in recent years.
- The vast majority of arrests, prosecutions, and convictions are pursuant to state laws that do not require actual transmission of HIV, the intent to transmit, or even conduct that can transmit HIV.
- Black people and women are disproportionately affected by HIV criminal laws.
- Sex workers are often disproportionately affected by HIV criminal enforcement.
- In most states, arrests are concentrated in just a few counties and appear to be driven by local law enforcement practices.
- These enforcement trends described above occur across regions of the United States—from Georgia to California.

⁷⁶ Jeltema, R. (July 1, 2025). *Flint man accused of spreading HIV/AIDS accepts plea agreement*. ABC 12 News. https://www.abc12.com/news/crime/flint-man-accused-of-spreading-hiv-aids-accepts-plea-agreement/article_baa91db7-faba-4e50-b11b-262937e0167a.html.

⁷⁷ Massman, B. (Feb. 7, 2024). *HIV-positive man threatened girl to stay quiet about alleged abuse, victim says*. M Live. <https://www.mlive.com/news/grand-rapids/2024/02/hiv-positive-man-threatened-girl-to-stay-quiet-about-alleged-abuse-victim-says.html>; Massman, B. (Nov. 25, 2024). *HIV-positive man convicted of sexually abusing young girl for years*. M Live. <https://www.mlive.com/news/grand-rapids/2024/11/hiv-positive-man-convicted-of-sexually-abusing-young-girl-for-years.html>.

⁷⁸ ACLU Michigan. (June 3, 2010). *Judge Dismisses Bioterrorism Charge Against HIV-Positive Man*. <https://www.aclumich.org/en/press-releases/judge-dismisses-bioterrorism-charge-against-hiv-positive-man>; Lambda Legal. (June 3, 2010). *Lambda Legal Applauds Michigan Court Ruling to Drop Bioterrorism Charge Based on Alleged HIV Status of Defendant*. https://legacy.lambdalegal.org/news/mi_20100603_lambda-legal-applauds

⁷⁹ *People v. Odom*, 740 N.W.2d 557, 561-62 (Mich Ct. App. 2007).

⁸⁰ The Williams Institute. (2025). *HIV criminalization in the U.S.* <https://williamsinstitute.law.ucla.edu/visualization/hiv-criminalization/>

- Convictions for HIV crimes can carry long sentences and create lifelong collateral consequences from a felony conviction, creating barriers to voting, housing, and employment. Some states also require registration on the state’s sex offender registry.
- Enforcement of HIV criminal laws has cost states tens of millions of dollars in incarceration costs alone.

Other scholars and organizations have also looked at HIV criminalization in Michigan. The Center for HIV Law & Policy, for example, has a chapter on Michigan’s HIV criminalization laws and their enforcement in its sourcebook on HIV criminalization in the United States.⁸¹

Sociologist Trevor Hoppe conducted a detailed analysis of 58 Michigan trial court cases between 1992 and 2010 in which PLWH were convicted under the state’s nondisclosure law.⁸² His article, published in 2014, documented numerous instances of judicial officials expressing “moralizing narratives that frame HIV as a moral infection requiring interdiction and punishment.”⁸³

In another article, Hoppe revealed that Michigan’s nondisclosure law was enforced unevenly. Analyzing court and media documents, Hoppe found that between 1992 and 2010, Black men who had sex with women partners, especially white women, faced the highest risk of conviction, while men who had sex with men faced a lower risk.⁸⁴ Hoppe concluded that Michigan’s enforcement of nondisclosure laws undermines public health efforts and reinforces stigma against PLWH by framing HIV as a moral, rather than medical, issue.⁸⁵ Rather than reducing transmission, HIV criminalization is “first and foremost understood in terms of badness,” resulting in harsher punishments regardless of medical evidence.⁸⁶ Additionally, men accused of failing to disclose their HIV status to women faced more severe punishment than those accused by men. Hoppe also noted that Michigan is the state with the first known conviction under an HIV criminalization law.⁸⁷

In a book published in 2018, Hoppe expanded on the initial analysis in Michigan to analyze 431 HIV-related criminal convictions across six states—Arkansas, Florida, Louisiana, Michigan, Missouri, and Tennessee. He concluded that victim characteristics drive uneven patterns of enforcement and sentencing.⁸⁸ Hoppe found that overall, convictions were disproportionately high among heterosexual white male defendants, yet Black defendants received harsher sentences, and women were treated more leniently.

We build on these findings with an updated analysis of HIV criminal enforcement in Michigan with a specific focus on criminal cases related to the state’s HIV-related nondisclosure law.

⁸¹ Center for HIV Law and Policy. 2019. *HIV Criminalization in the United States: Michigan – Excerpt from CHLP’s Sourcebook on State and Federal HIV Criminal Law and Practice*. Available at <https://www.hivlawandpolicy.org/sites/default/files/Michigan%20-%20Excerpt%20from%20CHLP%27s%20Sourcebook%20on%20HIV%20Criminalization%20in%20the%20U.S..pdf>

⁸² Hoppe, T. (2014). From sickness to badness: The criminalization of HIV in Michigan. *Social Science & Medicine*, 101, 139–147.

⁸³ Hoppe, T. (2014). From sickness to badness: The criminalization of HIV in Michigan. *Social Science & Medicine*, 101, 139–147.

⁸⁴ Hoppe, T. A. (2015). Disparate risks of conviction under Michigan’s felony HIV disclosure law: An observational analysis of convictions and HIV diagnoses, 1992–2010. *Punishment & Society*, 17(1), 73–93.

⁸⁵ Hoppe, T. (2014). From sickness to badness: The criminalization of HIV in Michigan. *Social Science & Medicine*, 101, 139–147.

⁸⁶ Hoppe, T. (2014). From sickness to badness: The criminalization of HIV in Michigan. *Social Science & Medicine*, 101, 139–147, p. 142.

⁸⁷ Hoppe, T. (2014). From sickness to badness: The criminalization of HIV in Michigan. *Social Science & Medicine*, 101, 139–147.

⁸⁸ Hoppe, T. (2018). *Punishing Disease: HIV and the Criminalization of Sickness*. University of California Press.

ANALYSIS OF HIV CRIMINAL ENFORCEMENT DATA

DATA SOURCE

The Williams Institute requested de-identified HIV-related criminal enforcement data from the Michigan State Police Records Resource Section pursuant to the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq.* The data request sought records on all arrests and criminal charges related to HIV-specific offenses in the state. The Records Resource Section of the Michigan State Police searched the Criminal History Record database for cases resulting in convictions under all of Michigan’s current and historic statutes referencing HIV or AIDS.⁸⁹ Between 1991 and 2024, only one statute yielded convictions in the data we received: for HIV-related nondisclosure.⁹⁰

In May 2025, we received data from the Michigan State Police Criminal Justice Information Center, which maintains the state’s Criminal History Record database. The data related to cases in which a person was prosecuted or convicted for an HIV-related offense, as well as cases in which a person was prosecuted for an HIV-specific offense, but where a final disposition (outcome) was pending at the time of the request.

Because of the way arrest information is recorded in Michigan’s databases, only court-level data were available. We do not have information on people who may have had other contact with the criminal legal system for an HIV-related allegation—for example, were arrested on suspicion of an HIV-related offense—but who did not advance to a prosecution for an HIV-related offense.

Michigan’s clean slate law further prevents the release of case information for cases that resulted in acquittals, dismissals, or other non-conviction outcomes.⁹¹ As a result, we only received case information for cases in which a person was found guilty or convicted of an HIV-related criminal offense, or was found guilty of a non-HIV-related criminal offense, but the charge originated as an HIV-related offense. In other words, the charge must have resulted in a conviction, and it must have either started as an HIV-related charge or ended as an HIV-related charge. Any prosecutions for HIV-related criminal offenses that ended without a conviction are not included in the case information and, as a consequence, are not included in this analysis. We also received case information for

⁸⁹ Although we requested data for three specific statutes (two that explicitly reference HIV and one identified by CHLP as occasionally used to criminalize PLHIV), the Michigan State Police Records Resource Section conducted their search across ten statutes that have explicitly referenced HIV or AIDS, most of which are no longer on the books; Center for HIV Law and Policy. 2019. *HIV Criminalization in the United States: Michigan – Excerpt from CHLP’s Sourcebook on State and Federal HIV Criminal Law and Practice*. Available at <https://www.hivlawandpolicy.org/sites/default/files/Michigan%20-%20Excerpt%20from%20CHLP%27s%20Sourcebook%20on%20HIV%20Criminalization%20in%20the%20U.S..pdf>

⁹⁰ MICH. COMP. LAWS § 333.5210. We also received data showing a handful of cases that originated with a mandatory HIV testing charge that did not result in an HIV-related conviction for mandatory testing or another HIV-related law.

⁹¹ In 2020, Michigan passed a Clean Slate law that went into effect in early 2021, which established procedures for automatically or petition-based expungement of certain criminal records after specified time periods. There are automatic expungement procedures as well as processes for petitions for convictions that do not meet the parameters for automatic removal from records. The implementation of the Clean Slate law also affects the comprehensiveness of available data, as expunged or sealed records are no longer accessible in criminal history databases. Consequently, analyses based on this dataset may underestimate the total number of historical HIV-related prosecutions or convictions in the state; Michigan Legislature. (2020). *Michigan Compiled Laws § 780.621: Application for order setting aside convictions*.

cases in which a final disposition for a felony-level HIV charge is still pending.⁹² We did not receive information on concurrent charges that were not HIV-related at any stage.

For the analysis that follows, we focus specifically on cases related to HIV nondisclosure in Michigan. Of the original 196 HIV-related charges recorded in the dataset, none involved the crime of donating blood, and 28 involved mandatory testing. All of the mandatory testing charges resulted in convictions for non-HIV-related offenses and are not included in the analysis presented here.

NUMBER OF CASES AND CHARGES

Between 1991 and 2024, prosecutors in Michigan pursued at least 116 HIV-related nondisclosure charges across 90 cases⁹³ involving 79 people.⁹⁴ Of those cases, 74 resulted in at least one conviction for an HIV nondisclosure offense, involving 68 people and a total of 109 HIV-related charges that resulted in a conviction.

In addition, four people had a case that began with an HIV nondisclosure charge, but the individuals were ultimately convicted of only non-HIV-related charges.

In total, we identified 80 cases in which there was an HIV-related charge either at the prosecution phase or conviction phase, and the case resulted in a conviction for either an HIV-related charge or a non-HIV-related charge. These cases involved 72 people. Across the 80 cases, we counted a total of 145 charges of any kind that resulted in a conviction (109 of which were convictions for an HIV-related charge).

Table 3. Number of HIV-related nondisclosure cases and charges in Michigan

NUMBER OF HIV NONDISCLOSURE CASES RESULTING IN CONVICTIONS OR AWAITING FINAL CASE OUTCOME	90
Number of people with HIV-related charges	79
Number of HIV-related charges	116
NUMBER OF HIV NONDISCLOSURE CASES WITH AN HIV NONDISCLOSURE CONVICTION	74
Number of people with HIV-related convictions	68
Number of HIV-related charges that resulted in conviction	109
NUMBER OF HIV NONDISCLOSURE CASES WITH ANY CONVICTION	80
Number of people with any conviction	72
Number of charges of any kind that resulted in conviction	145

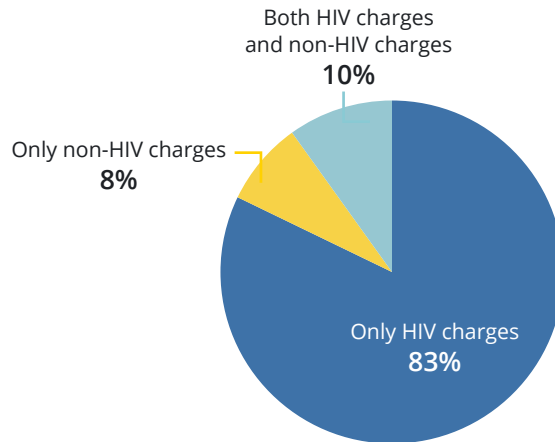
⁹² Landry, W. (2025, November 3). *Email communication regarding criminal justice data*. Criminal Processing and Modification Unit, Criminal Justice Information Center.

⁹³ Unique case numbers were not available in the data we received. We created unique case IDs by combining each person's unique person ID with their arrest date. If arrest date was not available we used reported incident date.

⁹⁴ All of these charges resulted in convictions for a felony or misdemeanor charge, or were pending a final disposition in circuit court for a felony charge. Some convictions were for the original HIV-related charges, while others stemmed from different, non-HIV-related offenses. These findings do not include cases in which charges were dropped, are pending as non-felony prosecutions, or have been expunged from criminal histories. It is unclear why our total number of cases for the same period analyzed by Trevor Hoppe differs from his findings. However, given the legal reforms that occurred after Hoppe's initial data request, it is likely that Michigan's Clean Slate law or other expungement processes led to the removal of some cases from the Case History database, resulting in a slightly lower case count for the same timeframe of Hoppe's analysis.

Looking across all 80 nondisclosure cases that resulted in a conviction of some kind, nearly all (93%) resulted in at least one HIV-related conviction; 83% involved convictions solely for HIV nondisclosure offenses, 8% for non-HIV-related offenses,⁹⁵ and 10% for a combination of both.

Figure 1. Types of charges resulting in a conviction among HIV-related cases in Michigan (n=80)



Note. Percentages do not total 100% due to rounding.

We have limited information about the actual facts or types of conduct involved in the cases that led to HIV charges at the arrest phase.⁹⁶ Most nondisclosure charges stemmed from arrests that also included charges for either sexual assault and other sex offenses (43%) or health and safety offenses (43%)—a broad category that includes everything from food safety to providing tobacco to minors. The remaining nondisclosure charges were linked to a variety of offense classes at the arrest phase, including drug offenses (4%), assault (3%), larceny (3%), and other miscellaneous offenses (3%).

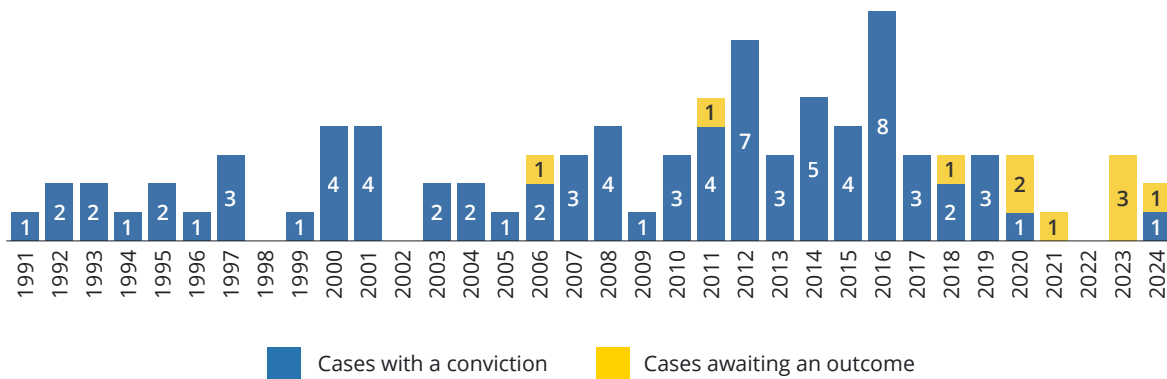
Cases and Charges Over Time

Between 1991 and 2024, the annual number of arrests resulting in an HIV nondisclosure charge in Michigan fluctuated between zero and eight, averaging about 2.65 cases per year. Several more recent cases for which we received data are pending a final disposition for a felony HIV nondisclosure charge.

⁹⁵ We include these convictions in the totals because these cases originally involved charges for HIV nondisclosure, indicating that enforcement of such statutes can still lead to convictions even when the charges are later modified.

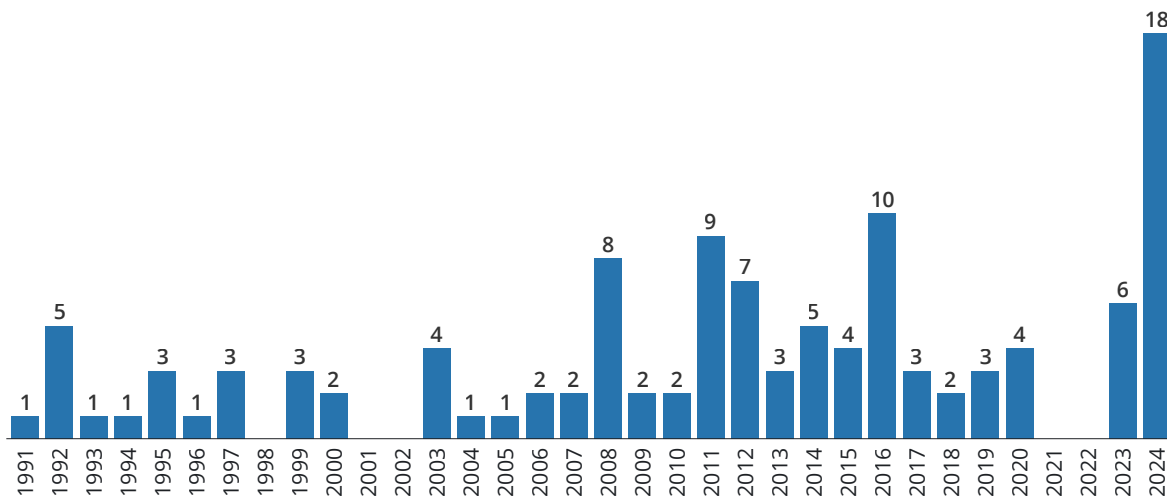
⁹⁶ We received broad arrest charge code categories but not the specific offense codes. We present those broad charge categories here.

Figure 2. HIV-related cases with a conviction (n=80) and those pending outcomes (n=10) by year of arrest in Michigan



Nearly every year in this period included at least one HIV-related nondisclosure case. Initial HIV-related charges at the prosecution stage ranged from zero to 18 charges per year, with an average of 3.41 nondisclosure charges annually.

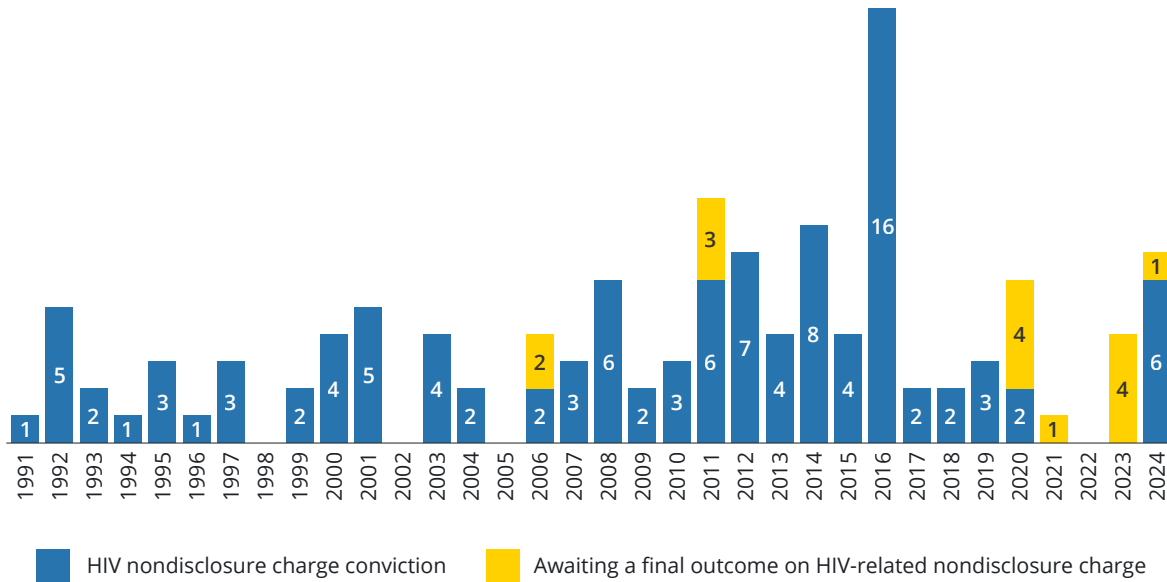
Figure 3. Number of HIV-related nondisclosure charges at prosecution stage (n=116) in Michigan



Convictions for HIV-related offenses in Michigan were limited to nondisclosure cases.⁹⁷ On average, we observed about 3.21 HIV-related nondisclosure charges resulting in convictions each year, with a range from zero to 16 per year between 1991 and 2024.

⁹⁷ In contrast, none of the mandatory testing charges resulted in conviction. Charges related to mandatory testing offenses that ultimately led to a conviction, though for other non-HIV related offenses, occurred in just three years: 2005 (n = 4), 2007 (n = 12), and 2008 (n = 12), with no other charges resulting in convicted cases since 2008.

Figure 4. Number of HIV-related nondisclosure charges at disposition stage (n=124)



The most consistent time theme across cases and charges is continual enforcement—people continue to be prosecuted for HIV-related offenses in Michigan through 2024. However, there does appear to be a change in enforcement in the five years after 2019 compared to the five years before 2019. In the five years from 2020 to 2024, there were nine cases with an HIV charge at prosecution or conviction compared to 23 cases in the years between 2014 and 2018. This apparent difference may be an emerging pattern or an artifact of delays in entering criminal prosecutions into the state’s criminal history system.⁹⁸

Evolution in HIV Charges Between Prosecution and Conviction

Many cases began with non-HIV-related charges that were later changed to an HIV nondisclosure charge at conviction or began as an HIV nondisclosure charge but resulted in a conviction for another offense. Indeed, only 60% of HIV-related nondisclosure charges in the cases we received data for resulted in a conviction for the HIV-related nondisclosure charge. Another third (31%) resulted in convictions for non-HIV-related charges, and the remainder had unknown outcomes (2%) or are pending a final disposition (7%).

Among charges that began as HIV nondisclosure and ended in a conviction for another offense, the most frequent convictions were for criminal sexual conduct (66%).⁹⁹

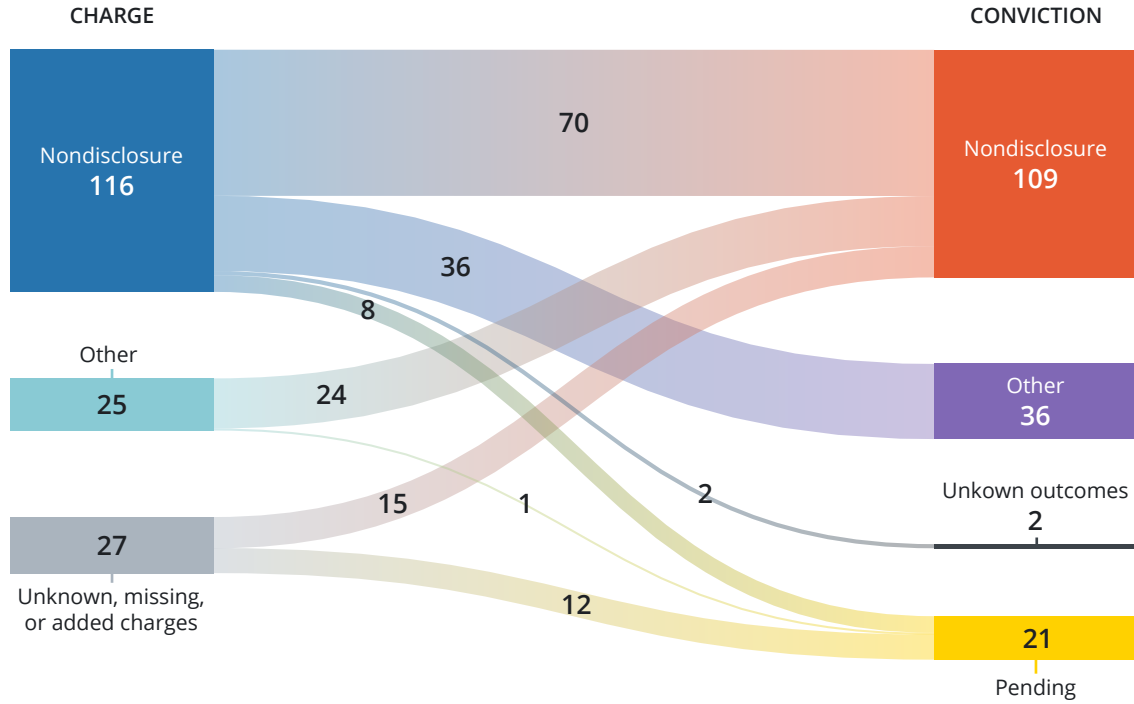
An additional 39 charges that began as non-HIV-related charges at the prosecution phase resulted in convictions for HIV-related nondisclosure charges. Of the non-HIV-related originating charges that ultimately led to convictions for nondisclosure, 46% involved criminal sexual assault or another

⁹⁸ As discussed in more detail below there is substantial fluidity in how offenses shift over time. In some cases, non-HIV-related charges result in convictions for HIV-related offenses, and vice versa.

⁹⁹ Michigan Compiled Laws § 750.520. Two charges that originated as HIV-related charges resulted in unknown final dispositions.

sex offense, while another 13% involved health and safety offenses. Almost one-in-four (23%) were missing information about the originating offense, and the rest involved a range of offenses, including larceny, extortion, or other offenses.

Figure 5. Changes from offenses charged to offenses convicted in HIV-related cases with convictions/pending outcomes in Michigan



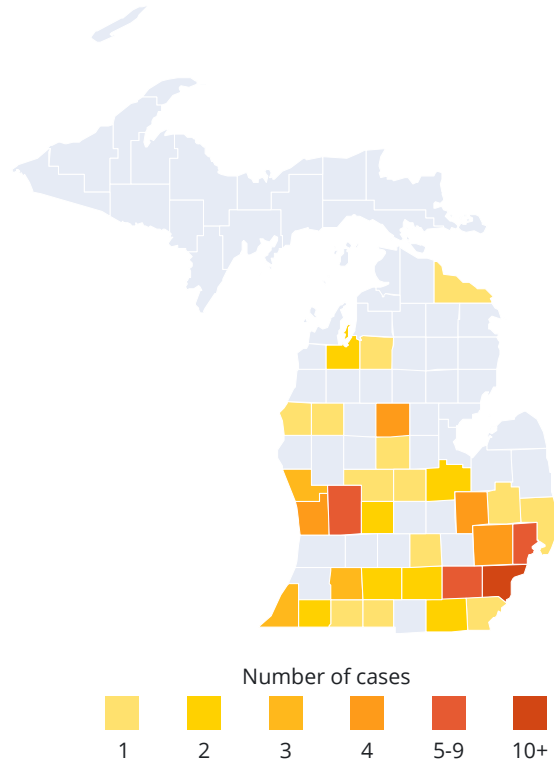
LOCATION OF CASES

Counties

Between 1991 and 2024, at least 31 of Michigan’s 83 counties reported one or more HIV-related cases that resulted in convictions or are awaiting a final disposition.¹⁰⁰ One-third (33%) of all cases were prosecuted in just four counties in the Metro Detroit area of the Southeast Lower Peninsula: Wayne County (16%), Macomb County (7%), Washtenaw County (7%), and Oakland County (4%). Kent County also had a relatively larger share of cases resulting in convictions or pending charges, with 6% of all cases.

¹⁰⁰ Seven cases (8%) were missing county location information.

Figure 6. Location of HIV-related cases with convictions/pending outcomes by county in Michigan



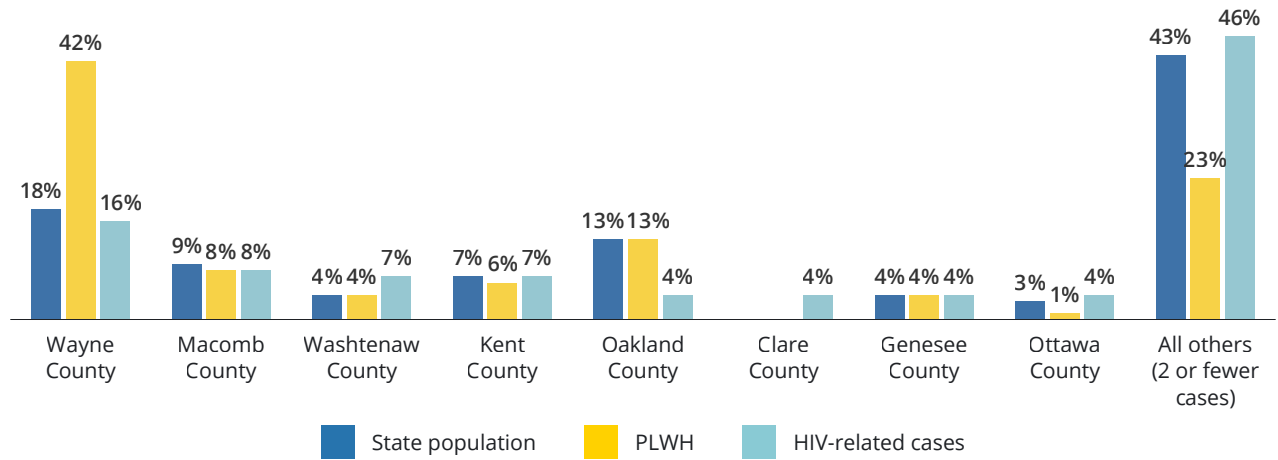
Wayne County, Michigan's most populous (18% of the state's population),¹⁰¹ was also home to over two in five (42%) of the state's PLWH.¹⁰² It recorded the largest share of HIV nondisclosure cases in the state, 16%—in line with the state share of population, but much lower when compared to the share of PLWH in the county. Oakland County, the state's second most populous county, also had a lower share of HIV-related nondisclosure cases (4%) than its share of the state population or share of PLWH (both 13%). In contrast, the shares of state population, PLWH, and HIV-related nondisclosure cases in our data were roughly equal in Macomb, Kent, and Genesee Counties.¹⁰³

¹⁰¹ U.S. Census Bureau. (2022). *DECENNIALDHC2020.P1: Total population — Michigan, (FIPS 26081)* [Data table]. Retrieved October 24, 2025, from https://data.census.gov/table/DECENNIALDHC2020.P1?q=P1&g=040XX00US26%240500000_050XX00US26163&d=DEC+Demographic+and+Housing+Characteristics

¹⁰² *AIDSVu county - level HIV prevalence data, 2020 [Data set]*. AIDSVu. https://aidsvu.org/wp-content/uploads/2022/11/AIDSVu_County_Prev_2020.xlsx

¹⁰³ U.S. Census Bureau. (2022). *DECENNIALDHC2020.P1: Total population — Michigan, (FIPS 26081)* [Data table]. Retrieved October 24, 2025, from https://data.census.gov/table/DECENNIALDHC2020.P1?q=P1&g=040XX00US26%240500000_050XX00US26163&d=DEC+Demographic+and+Housing+Characteristics

Figure 7. Share of state population, and people living with HIV, and HIV-related cases with convictions/pending outcomes by county in Michigan



Law Enforcement Agencies

At least 53 law enforcement agencies across Michigan originated one or more HIV-related nondisclosure cases resulting in a conviction for either an HIV-related charge or another charge. Among these, only 13 agencies reported more than one case; 40 agencies reported a single case resulting in conviction. (Six charges lack associated law enforcement agency data.)

Table 4. Law enforcement agencies with two or more HIV-related cases resulting in a conviction in Michigan

DEPARTMENT	TOTAL CASES
Detroit Police Department	5
Holland Police Department	4
Warren Police Department	4
Benton Harbor Department of Public Safety	3
Clare County Sheriff Department	3
Genesee County Sheriff	3
Ypsilanti Police Department	3
Adrian Police Department	2
Canton Township Department of Public Safety	2
Grand Rapids Police Department	2
Kalamazoo Department of Public Safety	2
Kent County Sheriff Department	2
Livonia Police Department	2
Mount Pleasant Police Department	2
Muskegon Police Department	2
Redford Township Police Department	2
Waterford Township Police Department	2

In Wayne County, which had the greatest share of cases in the state (16%), the Detroit Police Department was responsible for 36% of cases. Six other agencies also reported cases in the county: Canton Township Police Department (n=2), Livonia Police Department (n=2), Redford Township Police Department (n=1), Wayne County Sheriff's Department (n=1), Allen Park Police Department (n=1), and the Dearborn Heights Police Department (n=1).

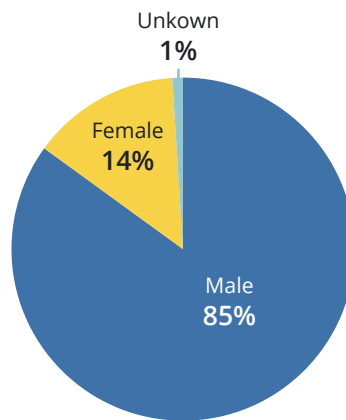
DEMOGRAPHICS OF PEOPLE WITH HIV NONDISCLOSURE CASES

A total of 79 people were prosecuted or convicted of nondisclosure offenses across Michigan. We received information on each person's race and gender. We do not know whether Hispanic/Latino ethnicity is collected separately by Michigan courts. No one was identified as Hispanic/Latino in the data we received, and there was not a separate entry for ethnicity. We also did not receive date of birth information.

Gender

Men were substantially more likely than women to be convicted or to have charges currently pending in cases involving HIV-related offenses. Men accounted for 50% of the state's population¹⁰⁴ but were 77% of PLWH¹⁰⁵ and 85% of the people in the HIV-related cases for which we received data.¹⁰⁶

Figure 8. People with HIV-related convictions or pending HIV-related cases in Michigan by sex



¹⁰⁴ U.S. Census Bureau. (2024). *State population estimates by age and sex, 2020–2024: Michigan* [Excel file]. <https://www2.census.gov/programs-surveys/popest/tables/2020-2024/state/detail/sc-est2024-agesex-26.xlsx>

¹⁰⁵ AIDSvu. (2022, November). *State prevalence data, 2023* [Excel file]. https://aidsvu.org/wp-content/uploads/2022/11/AIDSvu_State_Prev_2023-20250726.xlsx

¹⁰⁶ We do not have information on gender identity and expression for people arrested in Michigan. We received data on arrestees' "sex," but we do not know if this refers to a person's biological sex assigned at birth or to gender, or how the "sex" field was filled in—whether or not the arrestee was able to self-select. It is possible that people identified as male or female here would themselves identify differently.

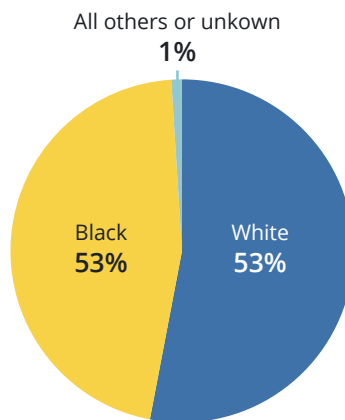
Race

Racial disparities in HIV-related cases for which we have data in Michigan were more complex. Black Michiganders comprised 14% of the state’s population, accounted for 53% of PLWH,¹⁰⁷ and represented 46% of individuals in our data. In contrast, white Michiganders make up 78% of the population,¹⁰⁸ 34% of PLWH,¹⁰⁹ and 53% of the individuals in the data we received.¹¹⁰

The findings indicate that Black Michiganders are overrepresented among those convicted relative to their share of the state population but underrepresented relative to HIV prevalence. In contrast, white Michiganders are underrepresented relative to the state population yet overrepresented compared to their share of PLWH.¹¹¹

One individual was missing racial information, and no other racial or ethnic groups were reported in the data. However, all other racial groups comprised up 7% of the state’s population¹¹² and 14% of PLWH.¹¹³

Figure 9. Share of convicted HIV-related cases with convictions/pending outcomes in Michigan by race



¹⁰⁷ AIDSvu. (2022, November). *State prevalence data, 2023* [Excel file]. https://aidsvu.org/wp-content/uploads/2022/11/AIDSvu_State_Prev_2023-20250726.xlsx

¹⁰⁸ *Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for Michigan: April 1, 2020 to July 1, 2024* [Excel file]. <https://www2.census.gov/programs-surveys/popest/tables/2020-2024/state/asrh/sc-est2024-sr11h-26.xlsx>

¹⁰⁹ AIDSvu. (2022, November). *State prevalence data, 2023* [Excel file]. https://aidsvu.org/wp-content/uploads/2022/11/AIDSvu_State_Prev_2023-20250726.xlsx

¹¹⁰ Because we were unable to determine whether Hispanic/Latino ethnicity is counted separately we use single race Census counts here without subtracting out Hispanic/Latino ethnicity.

¹¹¹ The race breakdown differs to that presented by Trevor Hoppe, who found in his analysis of 51 HIV-related convictions in Michigan that 53% were white, 37% were black, and 10% were “Other.” Hoppe, T. A. (2015). Disparate risks of conviction under Michigan’s felony HIV disclosure law: An observational analysis of convictions and HIV diagnoses, 1992–2010. *Punishment & Society*, 17(1), 73–93. <https://doi.org/10.1177/1462474514561711>

¹¹² *Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for Michigan: April 1, 2020 to July 1, 2024* [Excel file]. <https://www2.census.gov/programs-surveys/popest/tables/2020-2024/state/asrh/sc-est2024-sr11h-26.xlsx>

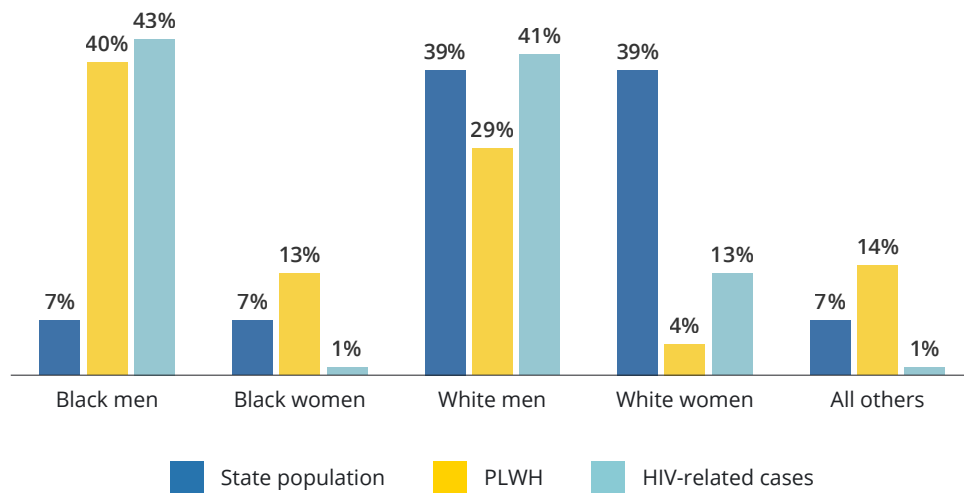
¹¹³ AIDSvu. (2022, November). *State prevalence data, 2023* [Excel file]. https://aidsvu.org/wp-content/uploads/2022/11/AIDSvu_State_Prev_2023-20250726.xlsx

Race and Gender

When disaggregated by race and gender, Black men are overrepresented among those convicted in HIV-related cases compared to the overall state population in Michigan, but in line with their share of PLWH in the state. Although Black men make up only 7% of the state's population¹¹⁴ and 40% of PLWH,¹¹⁵ they account for 43% of HIV-related cases in our data. White men and women were also disproportionately represented: white men comprised 41% and white women 13% of those convicted or with pending cases, despite representing only 29% and 4% of PLWH, respectively.¹¹⁶

Conversely, Black women are underrepresented among those convicted in HIV-related cases relative to their share of both the state population and PLWH. Although Black women make up 8% of Michigan's population and 13% of PLWH,¹¹⁷ they account for only 1% of convictions or pending cases. We are unable to say whether Hispanic/Latino ethnicity is collected and recorded separately from race, or if individuals who might identify as Hispanic/Latino are included in the race categories analyzed here.

Figure 10. State population, population of people living with HIV, and HIV-related cases with convictions/pending outcomes in Michigan by race and sex



Note: Percentages might not total to 100% due to rounding.

¹¹⁴ Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for Michigan: April 1, 2020 to July 1, 2024 [Excel file]. <https://www2.census.gov/programs-surveys/popest/tables/2020-2024/state/asrh/sc-est2024-sr11h-26.xlsx>

¹¹⁵ AIDSvu. (2022, November). State prevalence data, 2023 [Excel file]. https://aidsvu.org/wp-content/uploads/2022/11/AIDSvu_State_Prev_2023-20250726.xlsx

¹¹⁶ AIDSvu. (2022, November). State prevalence data, 2023 [Excel file]. https://aidsvu.org/wp-content/uploads/2022/11/AIDSvu_State_Prev_2023-20250726.xlsx

¹¹⁷ AIDSvu. (2022, November). State prevalence data, 2023 [Excel file]. https://aidsvu.org/wp-content/uploads/2022/11/AIDSvu_State_Prev_2023-20250726.xlsx

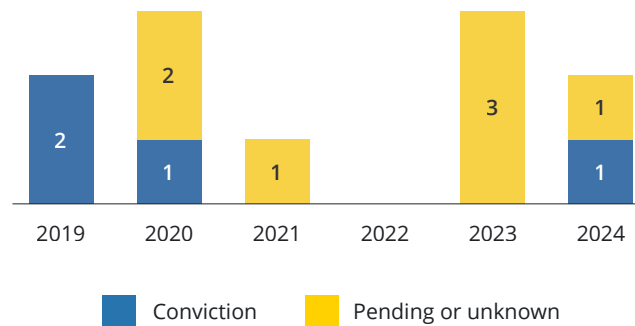
POST-REFORM ENFORCEMENT PATTERNS

Michigan’s legislature passed an HIV criminalization modernization bill that was signed by the governor on December 27, 2018. The revised statute took effect on March 28, 2019. (See the section *Michigan’s HIV Criminalization Statutes* above.) The reform both limited the range of behaviors subject to criminalization and incorporated more modern HIV transmission science. (See also the section “Michigan’s HIV-Related Nondisclosure Law” above for more detail on the legal changes.) There are now three distinct HIV-related nondisclosure crimes in Michigan:

1. “Intent to transmit”—A felony nondisclosure offense in which there is an allegation of a specific intent to transmit HIV
2. “Transmission”—A felony offense in which there is an allegation of actual HIV transmission
3. “Reckless disregard”—A misdemeanor nondisclosure offense in which there is no allegation of specific intent to transmit HIV or actual transmission

Under this new scheme, there have been at least 11 new HIV-related nondisclosure cases involving 10 people. In each case, the person was either charged with or convicted of an HIV-related nondisclosure offense. To date, only four cases have resulted in convictions; the remaining cases are still pending or have dispositions that are not yet known.

Figure 11. Total number of HIV nondisclosure cases in Michigan since legal reform in 2019

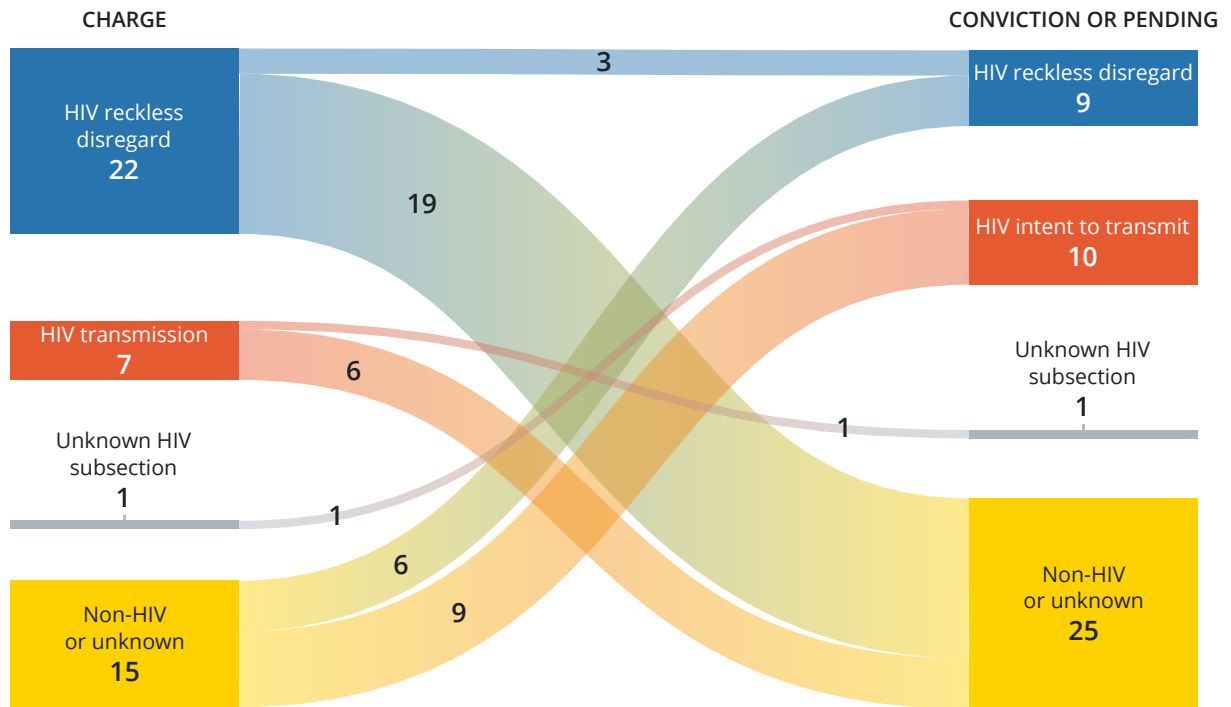


In total, there have been 45 HIV-related nondisclosure charges under the new system.¹¹⁸ Of the 45 total charges, 30 began as an HIV-specific nondisclosure charge. Nearly three-quarters (73%) of those charges were under the misdemeanor “reckless disregard” subsection of the law. However, a total of seven charges—all stemming from a single case—alleged actual transmission at the prosecution stage. None of the charges originated with an “intent to transmit” allegation.¹¹⁹

¹¹⁸ Some of these cases originated from arrests made before the reform but were resolved after the reform went into effect. They are included in this analysis because the reform took place prior to final disposition.

¹¹⁹ One additional charge originated under the old version of the statute but was disposed under the updated version of the law.

Figure 12. Changes from charged to final disposition and pending offenses in HIV-related convicted criminal cases in Michigan after HIV criminalization reform in 2019



LIMITATIONS

Although the data reveal widespread and ongoing enforcement of HIV disclosure laws, this analysis is limited to criminal cases that resulted in misdemeanor or felony convictions or are currently pending and have felony charges. As a result, these findings likely capture only a portion of HIV-related criminal enforcement in Michigan. Information on arrests, dismissed charges, and cases that did not result in conviction, or are not currently pending with a felony charge, is not available for researchers—although such data may remain accessible to law enforcement agencies and the courts. Additionally, pending nondisclosure misdemeanor charges are not captured in the data if the case also does not have an additional pending felony charge. While the findings suggest continued enforcement following the 2019 reform, the full extent of enforcement, particularly regarding the misdemeanor reckless disregard charge, remains unclear.

Importantly, each contact with the criminal legal system resulting from an HIV-related criminal allegation—including arrest, charging, prosecution, conviction, and incarceration—can have substantial collateral consequences for the person accused and their communities.¹²⁰ The analysis presented here is only able to count cases that eventually ended in conviction (or are awaiting a final disposition), and it is not able to measure costs to individuals and society that result from HIV criminalization.

¹²⁰ Kirk, D. S., & Wakefield, S. (2018). *Collateral consequences of punishment: A critical review and path forward*. *Annual Review of Criminology*, 1, 171–194. <https://doi.org/10.1146/annurev-criminol-032317-092045>; Kohler-Hausmann, I. (2019). *Misdemeanorland: Criminal courts and social control in an age of broken windows policing*. Princeton University Press.

CONCLUSION

This report documented the legal and legislative history of HIV criminalization in Michigan and analyzed key trends in the enforcement of the state’s HIV-related criminal laws. Between 1991 and 2024, there were at least 74 cases that resulted in an HIV-related criminal conviction affecting at least 68 people. Despite recent reforms that narrow the range of behaviors that can be criminalized under Michigan’s nondisclosure law, enforcement continues. Our data included evidence of HIV-related charges as recent as 2024.

Michigan’s HIV criminal laws have been shown to be ineffective at increasing HIV status disclosure to intimate partners or at reducing HIV transmission risk behavior.¹²¹ In recent years, both the Centers for Disease Control and Prevention (CDC) and the White House’s Office of National AIDS Policy (ONAP) have called on states to modernize their HIV criminal laws to reflect advances in treatment and what we know today about how HIV is—and is not—transmitted.¹²² In 2024, three Michigan state senators, representing Michigan counties with some of the highest HIV nondisclosure cases in our analysis, sponsored a bill that would completely repeal the state’s HIV nondisclosure law.¹²³

¹²¹ Galletly, C. L., Pinkerton, S. D., & DiFranceisco, W. (2012). *A quantitative study of Michigan’s criminal HIV exposure law*. *AIDS Care*, 24(2), 174–179. <https://doi.org/10.1080/09540121.2011.603493>.

¹²² Mermin, J., Valentine, S. S., & McCray, E. (2021). HIV criminalisation laws and ending the US HIV epidemic. *Lancet HIV*, 8(1), e4–e6. [https://doi.org/10.1016/S2352-3018\(20\)30333-7](https://doi.org/10.1016/S2352-3018(20)30333-7); The White House. (2021) *National HIV/AIDS Strategy for the United States 2022–2025*. Washington, DC. <https://files.hiv.gov/s3fs-public/NHAS-2022-2025.pdf>

¹²³ <https://www.legislature.mi.gov/Bills/Bill?ObjectName=2024-SB-1160>.

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