

State Statutes Dealing with HIV and AIDS: A Comprehensive State-by-State Summary (1999 Edition)*

Staff of Volume 8†

INTRODUCTION

In 1995, the Journal of Law and Sexuality published a comprehensive HIV and AIDS law statutory summary.¹ Recognizing the importance of the subject matter, it was the hope of the authors that this summary would be continually updated and republished by the journal.² In updating and editing this most recent version of the summary, the editors followed the same format that the authors used in the original version. This compilation encompasses all of the changes that have occurred in HIV and AIDS legislation through February 1, 1999. It is the intent of the journal to keep the same format and style initially used by the authors in the original 1995 summary.

The following is an excerpt from Barron, Goldstein and Wishnev's Introduction from *State Statutes Dealing with HIV and AIDS: A Comprehensive State-By-State Summary*, reprinted here to show the methodology and mindset of the original drafters, along with its accompanying footnotes:³

The following text contains a comprehensive summary⁴ of every⁵ provision in each state, the District of Columbia, Puerto Rico and the Virgin Islands that contains a reference to "HIV," "AIDS," or "sexually

* This is the title of the original statutory summary published in 1995. The journal staff of volume 8 gathered all of the new HIV & AIDS related laws that have been enacted, amended, or repealed since the 1995 article.

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1. Paul Barron, et al., *State Statutes Dealing With HIV and AIDS: A Comprehensive State-By-State Summary*, 5 LAW & SEXUALITY: REV. LESBIAN & GAY LEGAL ISSUES 1 (1995).

2. *See id.* at 3 n.14.

3. *Id.* at 3-4.

4. In preparing the individual summaries, we have attempted to use as much of the actual statutory language as we could. Obviously, however, these are summaries and the reader should consult the original statute for its precise wording and application.

5. The use of the word "every" is a slight overstatement. Statutes that dealt with a particular year's allocation of funds for an HIV or AIDS related purpose were omitted.

transmitted disease.”⁶ The summaries are divided into nine broad categories: Criminal Law; Education; Employment; Housing; Insurance; Research; Social & Medical Services; Testing & Reporting; and Miscellaneous. Because a number of statutes have application to more than one category, the statute is included in the most relevant category and then cross-referenced at the end of the other applicable categories.⁷ Important definitions are listed at the beginning of each state summary and reference back to these definitions is made within the summaries.⁸ Finally, case law that interprets a statute as it relates to HIV or AIDS is noted.

These summaries should be useful for anyone doing legal research on HIV or AIDS related problems. In addition, these summaries show trends in state legislation in this area.⁹ Perhaps most importantly, for those persons involved in advocacy on behalf of persons who are HIV positive or have AIDS, this material should be a source for finding examples of appropriate and well drafted statutes that could be usefully adopted in their jurisdiction.

6. Sexually transmitted disease was included because in most jurisdictions, HIV and AIDS are either specifically included in the definition of a sexually transmitted disease or are not specifically excluded in the general definition of a sexually transmitted disease. Those statutes that exclude HIV and AIDS from a specific list of diseases are not included in the summary.

7. Cross-referencing is also provided between summaries.

8. The first time a defined word is used in a category, a reference to the definition is made. In a similar fashion, a phrase used frequently in a category may be given a shortened form that is used thereafter.

9. Two examples make this point. Eighteen jurisdictions have statutes relating to knowingly transferring HIV, criminal exposure of another to HIV, criminal transmission of HIV, criminal transmission of or exposure of another to HIV through sexual contact, criminal penalties for donating blood, semen, or other body fluid or part with knowledge of being HIV positive, or a criminal penalty, separate from underlying offense, for engaging in or soliciting prostitution knowingly infected with HIV. These states are: Alabama, Arkansas, Florida, Georgia, Idaho, Illinois, Kentucky, Louisiana, Maryland, Michigan, Missouri, Montana, Nevada, North Dakota, Oklahoma, South Carolina, Tennessee, and Washington. Twenty-three jurisdictions have statutes providing immunity from liability for sellers or transferors of real property who do not disclose that a previous owner or occupant had or was suspected of having HIV or AIDS. They are: Arizona, California, Colorado, Connecticut, Delaware, D.C., Florida, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maryland, Missouri, Nevada, New Mexico, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.