

# LAW & SEXUALITY

A Review of Lesbian, Gay, Bisexual, and Transgender Legal Issues

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VOLUME 13

2004

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## State Statutes Dealing with HIV and AIDS: A Comprehensive State-by-State Summary (2004 Edition)\*

Staff of Volume 13†

### INTRODUCTION

Nine years ago, when Sara Goldstein<sup>1</sup> and Karen Wishnev<sup>2</sup> first prepared these state-by-state summaries of statutes dealing with HIV and AIDS, the statistics regarding the pandemic were already grim. By 1993, more than 360,000 people in the United States were reported diagnosed with AIDS.<sup>3</sup> At the end of 2002, the Centers For Disease Control estimated that 886,575 people were living with HIV/AIDS in the United States and through the same period, estimated that 501,669 people had died from AIDS.<sup>4</sup>

While these numbers continue to be staggering, the good news is that in the United States, with the advent of new treatment protocols, HIV/AIDS has moved from an absolute death sentence to often a chronic disease.<sup>5</sup> Nevertheless, a vaccine has remained elusive and even in light

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\* This is the title of the original statutory summary published in 1995. The *Journal* staff of Volume 13 gathered all of the new HIV and AIDS related laws that have been enacted, amended, or repealed since the 1999 edition. This compilation encompasses all of the changes that have occurred in HIV and AIDS legislation through February 1, 2004.

† *Law & Sexuality* would like to thank Professor Paul Barron for his continued support and guidance throughout the process of preparing this summary.

1. J.D. 1997, Tulane University School of Law.

2. J.D. 1997, Tulane University School of Law.

3. David R. Holtgrave et al., *An Overview of the Effectiveness and Efficiency of HIV Prevention Programs*, 110 PUB. HEALTH REP. 134, 134 (1995).

4. Centers for Disease Control, *HIV/AIDS Surveillance Report*, available at <http://www.edc.gov/hiv/stts.htm#cumaids> (last visited Apr. 25, 2004).

5. "A decade ago, an HIV diagnosis was just about synonymous with a death sentence. Today, treatment of HIV has become similar to that for many other chronic illnesses: combination

of substantial education efforts, the number of persons infected continues to increase.

As a result, these comprehensive state-by-state summaries<sup>6</sup> of HIV and AIDS related legislation remain as useful as they were when the *Law & Sexuality* first published them in 1995.<sup>7</sup> Since the summaries were last updated in 1998,<sup>8</sup> of the 53 jurisdictions surveyed,<sup>9</sup> 40 had significant changes in their laws regarding HIV/AIDS.

As in the original version and the 1998 revised version, 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<sup>10</sup> 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. Cross-referencing is also provided between summaries in a given category. Important definitions are listed at the beginning of each state summary and reference back to

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drug therapy coupled with periodic laboratory monitoring.” Kelly Dowhower Karpa, *HIV: From Death Sentence to Chronic Disease*, DRUG TOPICS, Oct. 6, 2003, at [http://www.drugtopics.com/be\\_core/MVC?mag=d&action=viewArticle&y=2003&m=10&d=06&article=dx\\_aids10a.html&path=/be\\_core/content/journals/d/data/2003/1006&title=Cover+Story%3A+HIV-FROM+DEATH+SENTENCE+TO+CHRONIC+DISEASE&template=past\\_issues\\_show\\_article.jsp&navtype=d](http://www.drugtopics.com/be_core/MVC?mag=d&action=viewArticle&y=2003&m=10&d=06&article=dx_aids10a.html&path=/be_core/content/journals/d/data/2003/1006&title=Cover+Story%3A+HIV-FROM+DEATH+SENTENCE+TO+CHRONIC+DISEASE&template=past_issues_show_article.jsp&navtype=d) (last visited Apr. 25, 2004). Unfortunately this is not true for the rest of the world. In 2003 the number of estimated deaths from AIDS in the United States was less than 18,000, while the it is estimated that 3 million people died from AIDS worldwide in 2003, 2.2 to 2.4 million in Sub-Saharan Africa alone. UNAIDS/WHO, *AIDS Epidemic Update 2003*, available at [http://www.unaids.org/Wad/2003/Epiupdate2003\\_en/Epi03\\_11-en.htm](http://www.unaids.org/Wad/2003/Epiupdate2003_en/Epi03_11-en.htm) (last visited Apr. 26, 2004).

6. The text contains a summary of every provision that contains a reference to “HIV,” “AIDS,” or “sexually transmitted disease.” 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.

7. 5 TUL. J.L. & SEXUALITY 1 (1995).

8. See 8 TUL. J.L. & SEXUALITY 1 (1998). That update, while dated 1988 actually updated the summaries through February 1, 1999.

9. Included are all fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands.

10. The statutes were found using four different LEXIS-NEXIS searches. The language of the first search was: (plural (aids) and (virus) or acquired immune deficiency). The language of the second search was: human immuno deficiency or human immunodeficiency or hiv. The language of the third search was: sexually transmitted diseases. And, the language of the fourth search was: UNANNO(AcQUIRED IMMUN! OR HUMAN IMMUN! OR HIV OR HTLV OR SEXUALLY TRANSMITTED DISEASE! OR PLURAL(ALLCAPS(AIDS)) AND NOT AIDS W/2 HEARING).

these definitions is made within the summaries.<sup>11</sup> Finally, case law that interprets a statute as it relates to HIV or AIDS is noted.

It is the hope of the original authors and the staff and editors of *Law & Sexuality* who prepared this updated version that it will again be helpful to everyone who does research in the area of HIV/AIDS. It is also our fervent hope that when this material is next updated, we can report that medical science has found a way to halt this scourge that so afflicts our world.

Paul Barron\*

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11. 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.

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