



# Raising the Bar: Equitable Legal Work For People Living with HIV

Allison Rice, JD

Duke Health Justice Clinic

February 23, 2022



# Duke Health Justice Clinic

---

- Founded by Carolyn McAllaster in 1996 as the *Duke AIDS Legal Project*, to address legal issues related to HIV
- Upper level law students enroll in clinical course (4-6 credit hours)
- Represent clients under the supervision of faculty attorneys





# Promote health by addressing ---

---

- Legal issues resulting from HIV, other serious medical conditions
- HIV Stigma
- Social Determinants of Health

# Social Determinants of Health



# Overview of Clinic

- **Client Population:**
  - Low income people living with HIV, cancer, and other serious illnesses; transgender clients seeking access to gender affirming care
- **Cases address Social Determinants of Health, Legal Consequences of illness**
  - Social Security Disability
  - Medicaid eligibility based on disability
  - Advance Directives, Wills
  - Planning for future care of children
  - Employment issues including disability discrimination, job accommodations, medical leave
  - Disability Discrimination in public accommodations (e.g. businesses that serve the public, such as medical practices, nail salon, etc)
  - Breach of Confidentiality
  - HIV criminalization

# Informal Medical Legal Partnership



# HIV Legal Assistance

- **Volunteer lawyers**
- ABA AIDS Coordinating Committee, now HIV/AIDS Impact Project
- **Law School Clinics**
  - including University of Maryland, Berkley, SUNY Albany, University of Miami,
- **Legal Aid Programs with HIV service units**
  - Brooklyn, NY Legal Assistance Group (LegalHealth) , Charlotte Center for Legal Advocacy, Legal Services of Alabama,
- **HIV/AIDS Specific Legal Programs**
  - Whitman Walker Health (DC), HALSA, Legal Council for Health Justice (Chicago) Legal Action Center (NYC), Gay Men's Health Crisis, AIDS Law Project of Pennsylvania, CrescentCare of Louisiana, AIDS Legal Referral Panel (SFO), Legal Services of Alabama, Birmingham AIDS Outreach (BAO), Atlanta Legal Aid, HIV Law Project (NYC)
- **Specialized National Litigation Work:**  
Lambda Legal HIV Project



Photos, clockwise: Carolyn McAllaster (Duke); Scott Schoettes (Lambda Legal); Amy Nelson (Whitman Walker), Ronda Goldfein (AIDS Law Penn), Steve Rygiel (BAO)



# Legal Services Promote Health & Equity





# Advance Directives & Wills

---

- Promote autonomy of individual
- Support non-traditional family arrangements
- Protect assets of marginalized groups & oppose gentrification through land loss



Social Security  
Disability  
&  
Medicaid  
Eligibility



---

Facilitate steady income for individuals who are unable to work due to health

---

In non-Medicaid expansion states, provide a pathway to insurance coverage for those who do not qualify for standard Medicaid

---

Success depends heavily on collaboration with medical partners



# Employment

---

Help clients obtain job accommodations  
*(Americans With Disabilities Act)*

---

Assist with requests for medical leave  
*(Family & Medical Leave Act)*

---

Challenge terminations, demotions based on HIV  
*(ADA, unemployment compensation)*

# Discrimination

- Discrimination in public accommodations, employment, government services
  - Americans with Disabilities Act, 1990 – civil rights for people with disabilities
  - *Bragdon v Abbott*, US Supreme Court 1998 – HIV is a disability covered by the ADA
- Rights enforced by
  - US Department of Justice
  - Equal Employment Opportunity Commission (EEOC)
  - Private lawsuits

# Criminalization of HIV

---





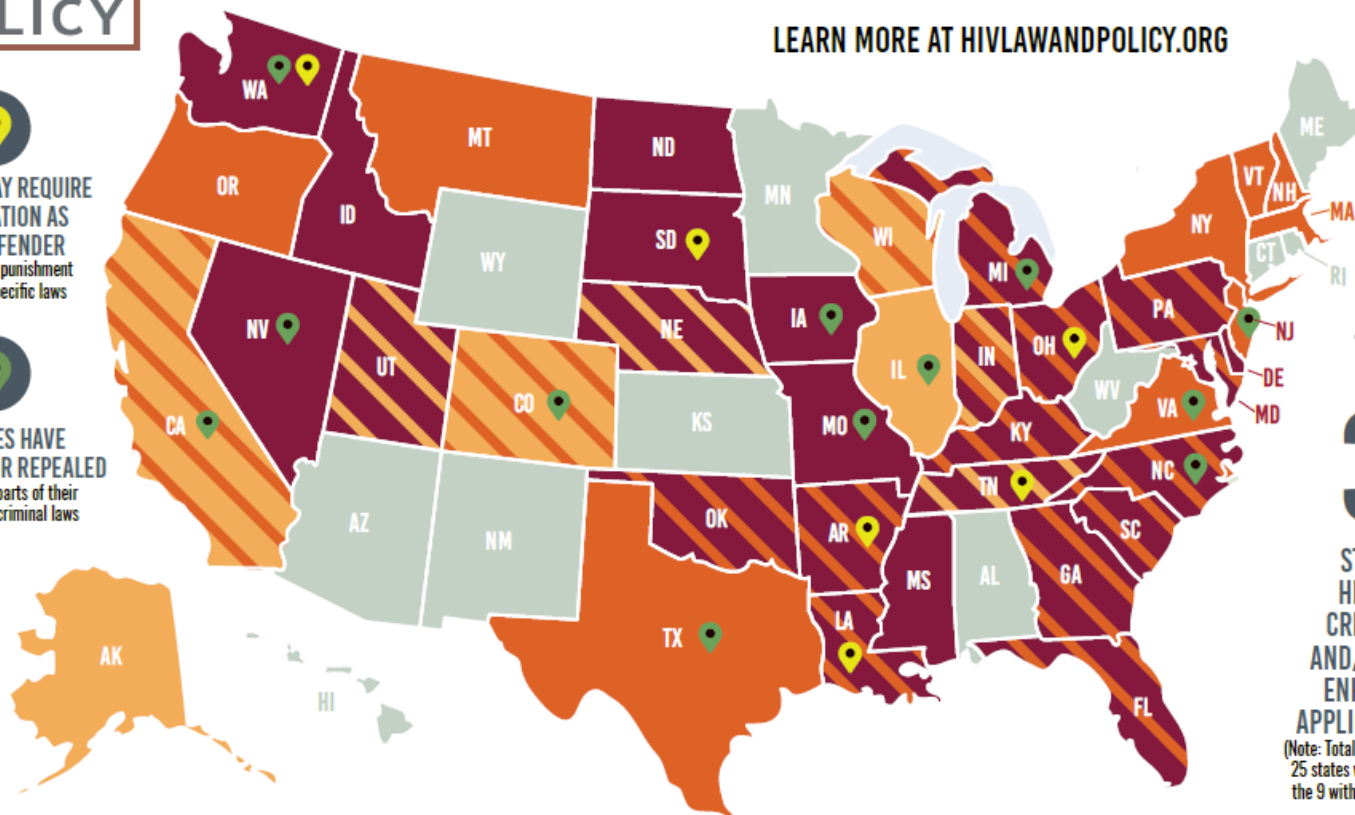
# HIV CRIMINALIZATION IN THE UNITED STATES

AN OVERVIEW OF THE VARIETY AND PREVALENCE OF LAWS USED TO PROSECUTE AND PUNISH PEOPLE LIVING WITH HIV (PLHIV) IN THE US.

LEARN MORE AT [HIVLAWANDPOLICY.ORG](http://HIVLAWANDPOLICY.ORG)

  
6 STATES MAY REQUIRE REGISTRATION AS A SEX OFFENDER as part of the punishment under HIV-specific laws

  
12 STATES HAVE REFORMED OR REPEALED one or more parts of their HIV-specific criminal laws



30

STATES HAVE HIV-SPECIFIC CRIMINAL LAWS AND/OR SENTENCE ENHANCEMENTS APPLICABLE TO PLHIV  
(Note: Total reflects overlap among the 25 states with HIV-specific laws and the 9 with sentence enhancements.)



STATES WITH HIV-SPECIFIC CRIMINAL LAWS including laws targeting sex/non-disclosure, exposure to bodily fluids, needle-sharing, sex work, and blood/organ/semen donation



STATES WITH SENTENCING ENHANCEMENTS applicable to PLHIV who commit an underlying sexual assault crime.



STATES THAT HAVE PROSECUTED PLHIV UNDER NON-HIV-SPECIFIC, GENERAL CRIMINAL LAWS  
This number represents states with reported charges and/or convictions for non-HIV-specific offenses, where positive HIV status was relevant in establishing a (non-HIV-specific) element of the offense.

# Fighting for Legal Rights

---



PROMOTES HEALTH



REDUCES STIGMA

Thank you!

Allison Rice

Director

Duke Health Justice Clinic

[rice@law.duke.edu](mailto:rice@law.duke.edu)