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Published on: Oct 17, 2014 by Michele Palmer 3177 views No Comments Posted in: Learner News When we think about psychology and the criminal justice system, our minds are automatically drawn to the characters in the crime drama who have given magical, if not somewhat mystical, insight into the perpetrator. From Robbie Coltrane's 'Cracker' in the 1990s to Dr. Cal Lightman on Fox Network's newer 'Lie to Me', the promise of psychology in determining whodunits seems limitless. But... Read More about Crime101x Crime Drama describes the realistic use of psychology in Criminal Justice can be blind. Despite more than 30 years of research and evidence about the nature of transmission and HIV risk, we still have laws in some states that define spitting as a criminal act if you have HIV. Others allow prison sentences of up to 20 years if you fail to disclose your HIV status, regardless of the type of sex you have or whether the partner has been infected or not. Chris Ryan/Getty Images While you might assume that this kind of arrest didn't actually happen, in December 2017, an HIV-positive man was arrested in Gibson, Louisiana for spitting in his roommate's face during an argument and now faces up to 10 years in prison and a \$5,000 fine if found guilty of intentionally exposing the woman to HIV. According to the U.S. Centers for Disease Control and Prevention (CDC), 26 states have laws criminalizing HIV In 19 states, people infected with HIV are required to disclose their status to their sexual partners. Twelve states require disclosure of HIV status to needle-sharing partners, and some states still criminalize behaviors that have little or no risk of transmitting HIV. Many of the HIV laws currently enacted by the legislature are simply unrelated to fast-forward science, failing to understand — or by adamantly refusing to accept — the most basic principles of transmission or risk. In other states, the law reflects an active bias against women (criminalizing prostitutes but not clients), against men (defining exposure as the presence of semen), or against the prison population (demanding actions that would never be sanctioned by the general public). The following guidelines are intended to provide a brief overview of HIV-specific laws in each state, and should not be used as legal references. This list does not include laws or laws relating to the transmission of infectious diseases, which in some states can also be punishable by fines and/or prison sentences. A complete and updated Registry of State HIV Laws is available online from the CDC. The State Is Considered a Crime people with HIV infections known to Alabama Minor Crimes Intentionally engage in actions that can expose others to HIV. Class C -- Alaska Exposes a person to the risk or fear of HIV in the course of a felony crime. -- Can allow additional penalties in the event of a criminal offence Potentially exposing others to HIV through the blood or through sex with or without semen present. -- Class A Failed to disclose his HIV status to a doctor or dentist. Class A -- California Intentionally donates bodily fluids, organs, or human tissues. -- Sentenced to two, four, or six years for failing to disclose their HIV status, with the intention of infecting others through unprotected sex. (2015) -- Sentenced to three, five or eight years of engaging in prostitution after a previous sex-related offense. -- Yes Colorado either engages in prostitution or patronizes prostitutes, with full knowledge of their HIV status. -- Florida 5/6 Class Engaged in sexual intercourse without first disclosing their HIV status and receiving information-based consent. 3 degrees Consciously donates human blood, organs, or tissues. -- Georgia Engages level 3 in sex without first obtaining informed consent; sharing needles; engage in prostitution; or donate human bodily fluids, organs, or tissues. (2014) -- Sentenced to no more than 10 years for assaulting a police officer or corrections officer with intent to transmit HIV through blood, saliva, or other bodily fluids. -- Yes Idaho Consciously donates bodily fluids, organs, or human tissues. -- Yes Illinois Potentially exposes others to HIV through intimate contact; donate bodily fluids, organs, or human tissues; or participate in the use of non-sterile intravenous drugs. -- 2nd Grade Indiana Consciously donates infected blood or semen. -- Class C for misconduct and Class A in the event of a battery commit transmission to a police officer, corrections officer, or another person with bodily fluids or bodily waste. -- Class D for misconduct, Class C if the person is unaware that bodily fluids or waste are infected with HIV; and Class A if transmission occurs Iowa Potentially exposes others to HIV through sex; donation of bodily fluids, organs or human tissues; or participate in joint intravenous drug use. -- Class B Kansas Intentionally intends to infect others through sex, sharing needles, or donating bodily fluids, organs, or human tissues. Class A -- Kentucky Engages in prostitution, patronizing a prostitute, or attempting to donate human organs or tissue (but not blood) -- Class D Louisiana Potentially exposes a person to HIV through sex without first obtaining informational consent, or imposing harm by spitting, biting, stabbing with aids-contaminated objects, or throwing blood or other body substances at others. -- Punishable by a fine of no more than \$5,000, or a prison term of up to 10 years. If the victim is an acting law enforcement officer, the punishment can be increased. Maryland Intentionally infects or attempts to infect people Punishable by a penalty of no more than three years or a \$2,500 fine, or both Michigan Engage in penetrative sex (including oral sex) without first obtaining consent based on the information. -- Yes Mississippi Consciously exposes others a corrections officer, a visitor to a correctional facility, or another inmate - a Missouri Felony Intentionally donates human blood, organs, or tissues; or expose others to HIV through sex without first obtaining informed consent. -- Class B and Class A crimes if transmission has occurred Montana Consciously exposes others to HIV through sex. Yes -- Nevada Intentionally engages in behaviors that are intended or likely to transmit HIV, or engage in prostitution after being tested HIV positive. NEW JERSEY -- Class B New Jersey Sexual penetration without prior consent. -- Three levels of New York City engaged in sexual intercourse with someone else. Yes -- North Carolina intentionally transfers bodily fluids to someone else. -- Class A sex crime Ohio Consciously transfers blood to others for transfusion purposes. -- Oklahoma Level 4 Engaged in prostitution or intentionally engaged in behavior in which bodily fluids could be transferred to others. -- Punishable by a sentence of no more than five years Exposing others (including married couples) to HIV. -- Yes, Pennsylvania Causes other inmates in correctional institutions to come into contact with your bodily fluids -- level 2 (or second-degree murder of an offending inmate is

on death row or has been sentenced to life imprisonment) Engaging in prostitution, obtaining prostitutes, or promoting HIV-positive prostitutes. -- South Carolina level 3 Knowingly engages in sex with others without first obtaining informed consent; engage in prostitution; forcing legal partners to have sex; sharing needles; or donate human bodily fluids, organs, or tissues. -- Punishable by a penalty of no more than 10 years or a fine of no more than \$5,000 (although informed consent may be considered an exception) South Dakota Engages in sexual intercourse; donate bodily fluids, organs, or human tissues; participate in the use of non-sterile intravenous drugs; or intentionally cause others to come into contact with blood or semen. -- 3rd Grade Tennessee Intentionally engaged in intimate contact with others; participate in the use of non-sterile intravenous drugs; or donate human bodily fluids, organs, or tissues. -- Class C Utah Involved prostitution or prostitution procurement. -- Virginia Level 3 By intentionally engaging in sex (including oral sex) with the intent of infecting others or donating bodily fluids, organs, or human tissues -- Class 6 Engage in sex (including oral sex) without first disclosing their HIV status. Class 1-3 level Washington Intends to inflict bodily harm by exposing or transmitting HIV to others -- Class A attack Thanks for your feedback! What are your worries? With so many crimes, the defendant must act intentionally—or reckless—to be guilty. Laws requiring deliberate action fall into the category of general intent or special intent. (For more on mental health, or mens rea, see How a Defendant's Mental State Affects Their Responsibility for a Crime. See also Can I be convicted of a crime if I don't realize what I'm doing is illegal?) General Intent Most crimes require general intent, which means that the prosecution must prove only that the defendant intended to commit an act prohibited by law. Whether the defendant intended the outcome of the act is irrelevant. Example: State law defines batteries as intentional and dangerous physical contact with others. This terminology makes battery a crime of general intent. The element of his intention is satisfied if the defendant intends to cause dangerous physical contact and actually cause it—it does not matter whether the defendant actually intends to seriously harm or injure the victim. So, if Jill punched Jack in the eye after Jack called him an idiot, he might have done the battery. All prosecutors must show that Jill intentionally punched Jack. Prosecutors don't need to show that Jill intended to hurt Jack—the law assumes as much. Specific Specific intent crimes typically require the defendant to intentionally commit an act and intend to cause certain outcomes when committing such actions. In that case, just knowing that the result is likely not the same as the one specifically intending to take it. (Thornton v. State, 397 Md. 704 (2007.)) Example: State law defines aggravated battery as intentional and dangerous physical contact with another with intent to injure or harm. This is a criminal offence of special intent as it requires the defendant to not only cause dangerous contact, but also with the purpose of injuring or vilifying the victim. So, let's say Denise said to Vance, No one's going to love you as soon as I mess up that pretty face. He then sliced his nose with a large, sharp razor. Since evidence will likely establish that he specifically intended to discredit Vance, he may be guilty of aggravated battery. Example: State law states that a person who takes someone else's property with the intent to remove the owner is guilty of theft. By describing the defendant's purpose in taking property, it is a crime of special intent. (Wetherelt v. State, 864 P.2d 449 (Wyo. 1993.)) How do I say it? Often, the law does not clearly state whether the violations they describe require special or general intent. Instead, the court determines the element of criminal intent by following general rules that such terms intentionally and voluntarily indicate general intent (as in knowingly and voluntarily using force against others). Terms that describe something more than knowledge and volunteering, such as purpose, tend to indicate intent (as in knowingly and voluntarily using force against a person with the intent to disable it.) (U.S. v. Peralta, 930 F. Supp. 1523 (S.D. Fla. 1996.)) Talk to a Lawyer Like so many areas of law, determining whether a crime requires general or specific intent be complicated. If you have been charged with a crime, consult an experienced criminal defense lawyer immediately. Experienced lawyers can fully explain applicable laws, inform you of available defenses, and protect your rights. Rights.

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