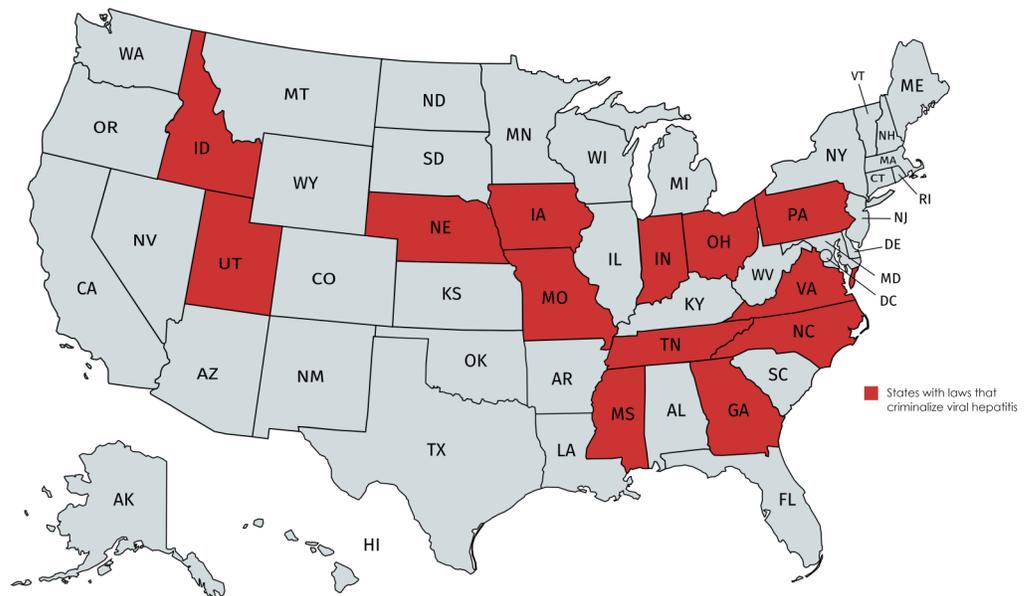


# THE CRIMINALIZATION OF VIRAL HEPATITIS

More than a dozen states have laws criminalizing knowingly exposing another to viral hepatitis. Unlike most other crimes against the person, the prosecution typically does not have to prove intent to harm (the intent to transmit) or actual harm (actual transmission).

The laws also frequently criminalize conduct posing no or negligible risk and are excessively punitive relative to comparable types of harm.



## STATE LAWS CRIMINALIZING HEPATITIS

### Iowa

It is a serious misdemeanor, punishable by up to one year imprisonment and an \$875 fine, for a person who knows that they have a contagious or infectious disease to expose an uninfected person to the disease with reckless disregard as to whether the other contracts the disease. However, if the other becomes infected, it becomes a Class D felony, punishable by up to five years imprisonment and a \$7,500 fine.<sup>1</sup>

### Mississippi

Persons who knowingly exposing another to hepatitis B or hepatitis C face felony charges punishable by up to 10 years imprisonment and/or a \$10,000 fine. Neither the intent to transmit nor actual transmission is required for conviction.<sup>2</sup>

### Ohio

Persons with viral hepatitis face felony charges, punishable by 9 to 36 months' imprisonment, for exposing another to bodily substances with the intent to "harass, annoy, threaten, or alarm" the other person.<sup>3</sup>

## PENALTY ENHANCEMENTS

### Missouri

It is a Class E felony, punishable by up to four years imprisonment, for a person in confinement to attempt to cause or knowingly cause another to come into contact with their bodily substances. However, if the person has hepatitis B or C, it becomes a Class D felony, punishable by up to seven years imprisonment.<sup>4</sup>

### Utah

Persons who know that they have hepatitis B or hepatitis C and commit a sexual offense are subject to a penalty enhancement of one classification higher than the root offense for which they were convicted. Neither the intent to transmit nor actual transmission is required for the sentence enhancement.<sup>5</sup>

### Wisconsin

Infection with an STI serves as an "aggravating factor" for serious sex offenses, which may lead to additional prison time. Neither the intent to transmit disease nor actual transmission is required for a defendant's STI infection to serve as an aggravating factor in sentencing.<sup>6</sup>

## PROSECUTIONS

In Ohio in January 2018 a man with hepatitis C was charged with four felony counts of harassment with bodily substance for spitting at first responders during the course of an arrest. He faced a maximum penalty of 12 years imprisonment, pleaded guilty to one count, and was sentenced to 18 months.

<sup>1</sup> IOWA CODE §§ 709D.3(3)-(4), 903.1(1)(b), 902.9(1)(e); <sup>2</sup> MISS. CODE ANN. § 97-27-14(1), (3); <sup>3</sup> OHIO REV. CODE §§ 2921.38(C), 2929.14(A)(3)(b); <sup>4</sup> MO. REV. STAT. §§ 558.011.1(5), 575.155.1(3);

<sup>5</sup> UTAH CODE ANN. § 76-3-203.12(1)-(2)(a); <sup>6</sup> WIS. STAT. § 973.017(4).