

Tennessee Agrees To Remove Sex Workers With HIV From Sex Offender Registry

Tennessee's "aggravated prostitution" law makes it a misdemeanor for most sex workers but a felony for those who are HIV positive.

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The Tennessee government has agreed to begin scrubbing its sex offender registry of dozens of people who were convicted of prostitution while having HIV, reversing a practice that federal lawsuits have challenged as draconian and discriminatory.

For more than three decades, Tennessee's "aggravated prostitution" laws have made prostitution a misdemeanor for most sex workers but a felony for those who are HIV-positive. Tennessee toughened penalties in 2010 by reclassifying prostitution with HIV as a "violent sexual offense" with a lifetime registration as a sex offender — even if protection is used.

At least 83 people are believed to be on Tennessee's sex offender registry solely because of these laws, with most living in the Memphis area, where undercover police officers and prosecutors most often invoked the statute, commonly against Black and transgender women, according to a lawsuit filed last year by the American Civil Liberties Union and four women who were convicted of aggravated prostitution. The Department of Justice [challenged the law](#) in a separate suit earlier this year.

Both lawsuits argue that Tennessee law does not account for evolving science on the transmission of HIV or precautions that prevent its spread, like use of condoms. Both lawsuits also argue that labeling a person as a sex offender because of HIV unfairly limits where they can live and work and stops them from being alone with grandchildren or minor relatives.

"Tennessee's Aggravated Prostitution statute is the only law in the nation that treats people living with HIV who engage in any sex work, even risk-free encounters, as 'violent sex offenders' subjected to lifetime registration," the ACLU lawsuit states.

"That individuals living with HIV are treated so differently can only be understood as a remnant of the profoundly prejudiced early response to the AIDS epidemic."

In a [settlement agreement](#) signed by Tennessee Gov. Bill Lee on July 15 and filed in both lawsuits on July 17, the Tennessee Bureau of Investigation said it would comb through the state's sex offender registry to find those added solely because of aggravated prostitution convictions, then send letters alerting those people that they can make a written request to be removed. The language of the settlement suggests that people will need to request their removal from the registry, but the agency said in the agreement it will make "its best effort" to act on the requests "promptly in the order in which they are received."

The Tennessee attorney general's office, which represents the state in both the ACLU and DOJ lawsuits and approved the settlement agreement, said in an email statement it would "continue to defend Tennessee's prohibition on aggravated prostitution."

In an email statement, the ACLU celebrated the settlement as "one step toward remedying the harms by addressing the sex offender registration," but said its work in Tennessee was not done because aggravated prostitution remained a felony charge that it would "fight to overturn."

Molly Quinn, executive director of LGBTQ+ support organization [OUTMemphis](#), another plaintiff in the ACLU lawsuit, said both organizations would help eligible people with the paperwork to get removed from the registry.

"We would not have agreed to settle if we did not feel like this was a process that would be extremely beneficial," Quinn said. "But, we're sad that the statute existed as long as it did and sad that there is any process at all that folks have to go through after living with this extraordinary burden of being on the sex offender registry for really an irrelevant reason."

Michelle Anderson, a Memphis resident who is one of the plaintiffs in the ACLU lawsuit, said in court records that since being convicted of aggravated prostitution, the sex offender label has made it so difficult to find a home and a job that she was "unhoused for about a year" and has at times "felt she had no option but to continue to engage in sex work to survive."

Like the other plaintiffs, Anderson said her conviction kept her minor relatives at a distance.

"Ms. Anderson has a nephew she loves, but she cannot have a close relationship with him," the lawsuit states. "Even though Ms. Anderson's convictions had nothing to do with children, she cannot legally be alone with her nephew."

The Tennessee settlement comes months after state lawmakers softened the law so no one else should be added to the sex offender registry for aggravated prostitution. Lawmakers removed the registration requirement and made convictions eligible for expungement if the defendant testifies they were a victim of human trafficking.

State Sen. Page Walley (R-Savannah), who supported the original aggravated prostitution law passed in 1991 and co-sponsored the recent bill to amend it, said on the floor of the legislature that the changes do not prevent prosecutors from charging people with a felony for aggravated prostitution. Instead, he said, the amendments undo the 2010 law that put those who are

convicted on the registry “along with pedophiles and rapists for a lifetime, with no recourse for removal.”

“Having stood, as I mentioned, in 1991 and passed this,” Walley said, “it is a particular gratifying moment for me to see how we continue to evolve and seek what’s just and what’s right and what’s best.”

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<http://beta.docker.realhealthmag.com/article/tennessee-agrees-remove-sex-workers-hiv-sex-offender-registry>