

December 7, 2015; HIV/AIDS Laws Differ in US

Last week, I discussed actor Charlie Sheen's situation. Four years ago, he contracted HIV. Some of his sexual partners found out and blackmailed him. Recently, he went public and admitted on the Today Show that he has HIV. By doing so, he may successfully stop the blackmailers. However, by making such a public admission, he's possibly opened himself up to both civil and criminal lawsuits.

The legal minefield facing Sheen highlights America's troubled and unresolved history of developing a cohesive strategy to combating the spread of human immunodeficiency virus (HIV) and its advanced stage of acquired immunodeficiency syndrome (AIDS). HIV and AIDS first came to the public's attention in 1981 when unexplained cases of enlarged lymph nodes were detected in gay men. Many of the men subsequently became gravely ill and died from the unknown illness. Scientists soon determined the nature and cause of the virus, but an effective treatment remained elusive.

In the early years, a diagnosis of HIV was often considered a death sentence because the vast majority of AIDS patients died from the virus. Hysteria spread across the U.S., and indeed around the world. Misinformation about HIV and AIDS became rampant. Religious zealots claimed that AIDS was God's revenge against sinning homosexuals and was viewed as an effective way of ridding the world of the homosexual scourge. Their homophobic rants continued despite the fact that in 1983, an AIDS outbreak in Africa was primarily transmitted among heterosexual couples.

In 1985, the plight of 13 year-old Ryan White began to change the predominantly negative tenor of the public discussion surrounding AIDS to that of a more sympathetic and constructive approach. Ryan suffered from hemophilia, an illness that requires frequent blood transfusions. Apparently, Ryan was given blood from someone who had the HIV virus and, as a result, he contracted HIV and later developed AIDS.

His Indiana school refused to allow him to attend classes. As a result, Ryan's parents filed a lawsuit against the school district. He was eventually allowed to return to school but with certain restrictions. He was required to eat with disposable utensils, to drink from a specific water fountain, and to use a designated restroom.

Over the next five years, Ryan's battle with AIDS was highly publicized. In his final days, he was visited at the hospital by singers Elton John and Michael Jackson as well as political activist, Jesse Jackson, and football player Howie Long.

By the time he died on April 8, 1990, Ryan had become the poster child for a

more compassionate and educated dialogue concerning the medical and social treatment of HIV and AIDS patients. Upon learning of Ryan's death, former President Reagan issued a public statement acknowledging Ryan's "courageous battle," and further noted that Ryan "and his family stand as a symbol of the need for greater tolerance and understanding toward those afflicted with AIDS."

Unfortunately, over the 25 years since Ryan's death, his legacy has often been ignored, forgotten, or misconstrued by American politicians. The reaction to the AIDS epidemic by the various U.S. legislatures has largely been fragmented and often based on emotional impulses rather than on scientific fact and logic.

As I've stated in past columns, the American legal system is built around the basic principle of state's rights. That is, unless an area of the law is specifically reserved to the federal government, each state is free to pass laws concerning a specific matter.

This is certainly the situation when it comes to the legal treatment of those who have contracted HIV and AIDS. As we've seen from the publicity surrounding Sheen's case, the various states and territories take very different approaches to criminalizing the actions of those who have HIV and AIDS.

For example, some 35 states and territories, including Guam, have specific laws that require HIV positive individuals to inform sexual partners of their HIV status before engaging in sexual activity. However, in some jurisdictions, those who give such warning cannot be criminally prosecuted if the other sexual partner later develops HIV. In other jurisdictions, they can be criminally charged.

Not only do the laws differ from state to state, so do the possible penalties for violating these laws. One type of behavior may be labeled a misdemeanor in one state, and a felony in another. The difference for the offender could be a six-month jail term versus a 20-year sentence.

Next week, we'll take a closer look at how the laws of various states and territories differ from one another.