



**WESTERN
MICHIGAN**
UNIVERSITY

The Journal of Sociology & Social Welfare

Volume 29
Issue 4 December

Article 14

December 2002

Review of *HIV, AIDS, and the Law*. Donald T. Dickson. Reviewed by Ronald J. Mancoske.

Ronald J. Mancoske
Southern University at New Orleans

Follow this and additional works at: <https://scholarworks.wmich.edu/jssw>



Part of the Social Work Commons

Recommended Citation

Mancoske, Ronald J. (2002) "Review of *HIV, AIDS, and the Law*. Donald T. Dickson. Reviewed by Ronald J. Mancoske.," *The Journal of Sociology & Social Welfare*: Vol. 29 : Iss. 4 , Article 14.

Available at: <https://scholarworks.wmich.edu/jssw/vol29/iss4/14>

This Book Review is brought to you by the Western Michigan University School of Social Work. For more information, please contact wmu-scholarworks@wmich.edu.



**WESTERN
MICHIGAN**
UNIVERSITY

is not just picking out those findings that support his view. The brevity of the presentation means that this is not done.

Another limitation, that the author discusses briefly, is the extent to which we can generalise from children in public care to children living with their birth parents. In many ways, children living away from their parents pose a simpler moral dilemma. Parents are generally seen as the first line of protection for children so, in their absence, children are more vulnerable to exploitation and need greater safeguards, including a right to be heard. Giving a greater voice to children in birth families has major repercussions for the power relationships between parents and children, echoing the equalising of power, being seen in many cultures, between husbands and wives. Such a radical change is bound to face strong opposition but the tide of history seems in its favour. In a traditional society, parenting entailed preparing children for a fixed pattern of living, so obedience to parents was a good preparation for later life. As custom and authority are reduced, individuals are increasingly responsible for shaping their own life styles. Helping children to form and express their opinions, and to make well-founded decisions, is becoming a crucial parental task.

The debate between the welfare-oriented and rights-oriented approaches to child welfare is still only warming up. This book is a very valuable contribution, firmly within the rights orientation, offering a sophisticated and far-ranging account of the myriad theories and values involved in the question of children's right to participation in decisions made about them.

Eileen Munro

London School of Economics

Donald T. Dickson, *HIV, AIDS, and the Law*, Hawthorne, NY: Aldine de Gruyter, 2001. \$49.95 hardcover, \$24.95 papercover

Dickson attempts to integrate two fields of knowledge (law and social work) by choosing selectively those laws having particular relevance to social work practice in the area of HIV/AIDS. The book is divided into three parts. The first part presents foundation material on both the epidemiology of HIV/AIDS and on

the legal and social policy context. The second part discusses ethical and legal bases for practice in the HIV/AIDS area by covering privacy, confidentiality, civil rights, and discrimination. The third part discusses families and children issues such as criminal law; worker liability; workplace testing and discrimination; insurance; and corrections. The chapters describe variations in laws by drawing upon court cases and statutes from across the country.

The first part of this book dealing with foundations addresses the epidemiology and the legal and social policy context of HIV/AIDS. It addresses worldwide data on the pandemic and characteristics of the epidemic on special populations in the United States using recent federal data. The chapter looks at epidemiological changes over time, changes in case conversions to AIDS, and changes in medications. The critical Supreme Court decision that asymptomatic HIV infection is a disability is noted. The second foundations chapter addresses basic legal and social policy foundations which provides for unique treatment of HIV/AIDS under the laws—sometimes called “AIDS exceptionalism”. This policy distinction discusses how AIDS is viewed separately from other public health threats covered by laws. The chapter also covers a basic overview of the sources and types of laws and of methods for conducting legal research.

The second section of the book covers ethical and legal aspects of HIV/AIDS laws that impact social work practice. Policy issues are reflected in laws on privacy and confidentiality in the context of civil rights and discrimination. Two critical areas of disabilities law (Americans with Disabilities Act and Section 504 of the Rehabilitation Act) cover protections from discrimination for those with disabilities. This section also addresses how ethics and law come together to inform practice, and notes as well ways that ethics and laws diverge.

The third section of the book covers a panoply of HIV/AIDS issues where laws and social policies intersect with social work practice. Covered are children and family issues such as mandatory testing, mandatory treatments, school-based issues, and custody issues. Approaches to control and penalize transmission of HIV receive attention. Criminal offenses, enhanced sentencing, and involuntary testing laws are summarized. The practitioner's

legal liability is discussed. Privacy, confidentiality, and duty to warn have been persistent questions important to practitioners as the pandemic persists. AIDS in the workplace issues also impact practice, and legal issues such as hiring practices, workplace testing, and infected workers are discussed. Lastly, HIV/AIDS and health coverage and HIV/AIDS in correctional settings are briefly noted.

For social work practitioners who want a very general overview of how laws intersect with HIV/AIDS services, this excellent text provides just the kind of brief summary of laws that they will find useful. It encapsulates legal issues and gives guidance to trends in laws from a national perspective. The chapters are pithy and to the point and written in a language that gives clear focus on the laws without detailing the debates or controversies behind the laws. Even when court decisions are cited, the quotes clarify decisions and avoid general debates over legal and social policy controversies. This text is not meant for practitioners who want to examine philosophical controversies behind the laws impacting specific practice decisions. This text does not address practitioner questions on specific cases—it suggests general directions in HIV/AIDS law.

What this text does well is to summarize general laws relative to various topics where social policy and social work practice intersects in the HIV/AIDS arena. It suggests that broader social policy (such as AIDS exceptionalism or public health protections) may guide the philosophy of the laws. The critical reader will want to go beyond these legal summaries to examine how each piece of the puzzle provided in law contributes to the overall policy debate. These summaries tangentially bring the policy arena to the fore for critical analysis. As the worldwide HIV/AIDS pandemic continues to mount, social policies, which coherently promote health and human rights, are essential to social development. A human rights analysis of laws is essential. This text's summaries do not analyze how the laws may contribute to well being or ways they may mire people in further suffering. Without critical analysis, laws can be instruments of coercion and power, not health and well being.

Ronald J. Mancoske
Southern University at New Orleans