



**2024 SESSION  
POSITION PAPER**

**BILL:** SB 1165 – Public Health – Prohibition on Transfer of Human Immunodeficiency Virus - Repeal

**COMMITTEE:** Senate – Judicial Proceedings Committee

**POSITION:** Letter of Support

**BILL ANALYSIS:** SB 1165 would repeal a prohibition on knowingly transferring or attempting to transfer the human immunodeficiency virus (HIV) to another individual.

**POSITION RATIONALE:** The Maryland Association of County Health Officers (MACHO) supports SB 1165. Under current Maryland law, a person with HIV can face up to three years in prison and a \$2,500 fine for knowingly transferring or attempting to transfer the virus to another person.<sup>1</sup> Punishable activities include consensual sex, breastfeeding, needle sharing, blood and tissue donation, and biting or spitting.<sup>2</sup> The current law is stigmatizing, does not reflect current understanding of HIV, and has negative public health repercussions. It is also unnecessary. Maryland does not need an HIV-specific criminal law, as a person who knowingly attempts to transfer HIV to someone else can be prosecuted under non-HIV-specific general criminal laws (such as reckless endangerment).

Although HIV remains an important public health issue, it is now treatable and we know that “U=U,” or “undetectable = untransmissible.” With proper treatment, people with low enough viral loads cannot transmit HIV sexually to others.<sup>3</sup> In fact, most people can become undetectable within six months of treatment.<sup>4</sup> In order for people with HIV to get treatment, we must do all we can to decrease HIV stigma and increase testing. Maryland’s HIV-specific criminal law is counterproductive to these efforts.

Between 2000 and 2020, Maryland saw at least 104 prosecutions due to an “allegation of an HIV-related crime.” Most of these cases occurred between 2010 and 2020, with the most recent arrest occurring in 2020.<sup>5</sup> Under the current law, a lack of knowledge of one’s HIV status could act as a defense to prosecution, potentially leading people to choose to forego testing, rather than know their HIV status. According to the Centers for Disease Control and Prevention, people with undiagnosed HIV account for almost 40% of all HIV transmissions.<sup>6</sup> We must encourage Marylanders to know their HIV status so they can both protect their sexual partners and seek

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<sup>1</sup> MD. CODE. ANN., HEALTH-GEN. § 18-601.1 (2016).

<sup>2</sup> The Center for HIV Law and Policy. (2022). HIV Criminalization in the United States: A Sourcebook on State and Federal HIV Criminal Law and Practice. Retrieved from

<sup>3</sup> National Institute of Allergy and Infectious Diseases. (2019). HIV Undetectable=Untransmittable (U=U), or Treatment as Prevention. Retrieved from <https://www.niaid.nih.gov/diseases-conditions/treatment-prevention>

<sup>4</sup> US Centers for Disease Control and Prevention. (2022). Newly Diagnosed with HIV. Retrieved from <https://www.cdc.gov/hiv/basics/livingwithhiv/newly-diagnosed.html>

<sup>5</sup> Cisneros, N., Tentindo, W., Sears, B., Macklin, M., & Bendana, D. (2024). Enforcement of HIV Criminalization in Maryland. The Williams Institute, UCLA School of Law. Retrieved from <https://williamsinstitute.law.ucla.edu/publications/hiv-crim-md/#:~:text=While%20previous%20comprehensive%20attempts%20to,crime%20from%202000%20to%202020>.

<sup>6</sup> Li Z, Purcell DW, Sansom SL, Hayes D, Hall HI. *Vital Signs: HIV Transmission Along the Continuum of Care — United States, 2016*. MMWR Morb Mortal Wkly Rep 2019;68:267–272.

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proper treatment to support their own health. Today, people with HIV can live long, thriving lives but only if they get the treatment they need.

HIV stigma can negatively affect people with HIV, impacting their mental and physical health. It can lead to discriminatory treatment from health care providers, employers, friends, and family, causing social isolation and acting as a barrier to proper medical treatment.<sup>7</sup> By passing HB 485, Maryland will send an important message that people with HIV are no less valued than others, and bring the state into accordance with today's knowledge of and ability to treat HIV.

For these reasons, the Maryland Association of County Health Officers submits this letter of support for SB 1165. For more information, please contact Ruth Maiorana, MACHO Executive Director at [rmaiora1@jhu.edu](mailto:rmaiora1@jhu.edu) or 410-937-1433. *This communication reflects the position of MACHO.*

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<sup>7</sup> Anderson, B. (2009). HIV Stigma and Discrimination Persist, Even in Health Care. *American Medical Association Journal of Ethics*; 11(12):998-1001. doi: 10.1001/virtualmentor.2009.11.12.oped1-0912.