



BILL NO: Senate Bill 1165
TITLE: Public Health - Prohibition on Transfer of Human Immunodeficiency Virus - Repeal
COMMITTEE: Judicial Proceedings
HEARING DATE: March 26, 2024
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report on SB 1165.**

Senate Bill 1165 repeals the prohibition on an individual from knowingly transferring or attempting to transfer the human immunodeficiency virus (HIV) to another individual. The Prohibition on Transfer of HIV became law in 1989, at the height of the AIDS crisis and the hysteria surrounding it. While well-intentioned at the time, unintended consequences of the law have become evident over the past two decades. In 1989, the concept of “U=U”, Undetectable Equals Un-transmittable, was impossible to imagine. Furthermore, the thought that someone would willingly not get tested was unfathomable. However, as time passed, and treatment of HIV continued to improve, these issues became evident.

This law applies even when people have taken precautions against transmitting the virus (such as wearing a condom), disclosed their status, and have undetectable and therefore un-transmittable viral loads. The law does not require actual transmission of HIV. Consequently, people do not test for the disease so they will not be aware of their status and risk criminal repercussions. Furthermore, intentional and threatened transmission of HIV and all other infectious diseases is already criminalized elsewhere in state law, with far more serious penalties.¹

For survivors of domestic violence, this is a serious public health issue. The rate of women living with HIV who have experienced domestic violence is 55 percent, double the national rate.²

¹ See MD Code, Criminal Law, § 3-202 (Assault in the first degree), § 3-203 (assault in the second degree), § 3-204 (reckless endangerment), § 3-215 (Knowingly and willfully causing another to ingest bodily fluid), § 3-303 (rape in the first degree), and § 3-307 (sexual offense in the third degree).

² Sullivan T. P. (2019). The intersection of intimate partner violence and HIV: detection, disclosure, discussion, and implications for treatment adherence. *Topics in antiviral medicine*, 27(2), 84–87.

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Victims of domestic violence are 48 percent more likely to be exposed to HIV than non-victims.³ The current law criminalizes women who are victims of intimate partner and domestic violence who are often HIV positive because of the abuse. Victims are unlikely to test for HIV because they fear repercussions from the abusive partner. One study revealed that 45 percent of women experiencing domestic violence experienced physical abuse as a direct consequence of disclosing their HIV status.⁴ The law as it is currently written, therefore, actively discourages testing for HIV and seeking medical services and interventions.

MNADV believes repealing the archaic 1989 law would reduce stigmatization of people living with HIV, including victims of domestic violence. It would also encourage testing and treatment for victims of domestic and intimate partner violence, which in turn would reduce the unknowing transmission of HIV and provide victims an opportunity to seek medical treatment without fear of criminal repercussions.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB 1165.**

³ Intersection of Intimate Partner Violence and HIV in Women https://www.cdc.gov/violenceprevention/pdf/ipv/13_243567_green_aag-a.pdf

⁴ Gielen AC, McDonnell KA, Burke JG, O'Campo P. Women's lives after an HIV-positive diagnosis: disclosure and violence. *Matern Child Health J.* Jun 2000;4(2):111-120.

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