



Trans Maryland  
1800 E Northern Parkway #66332  
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**House Bill # 485**  
**Public Health - Prohibition on Transfer of Human Immunodeficiency Virus - Repeal**  
House Judiciary Committee  
February 6, 2024  
**Position: Support**

Honorable Chair Clippinger, Vice Chair Bartlett, and the Esteemed Committee members;

Trans Maryland is a multi-racial, multi-gender community power building organization for Maryland's trans community. We offer this testimony in strong support of HB 485, which repeals the Maryland law which criminalizes knowingly transferring or attempting to transfer HIV to another person.<sup>1</sup>

Overwhelming comprehensive studies show that laws like the current Maryland law criminalizing HIV criminalization are actually contrary to their stated public health goal. Instead they serve to increase the stigma of persons with HIV, which result in increased sexual risk behavior, and decreased HIV testing in persons who were HIV-negative or did not know their HIV status.<sup>2</sup>

Furthermore, this law has a disproportionate negative effect on transgender Marylander constituents and constituents of color. A study from the Movement Advancement Project showed severe disproportionate criminalization of transgender people within the United States.<sup>3</sup> Additionally, in a recent survey from the Sero Project, 48% of persons with HIV status reported receiving serious HIV-related discrimination.<sup>4</sup> Only 18% believed they could receive a fair hearing, if accused of failing to disclose HIV status, because of their HIV status, transgender identity, sexual orientation, race, ethnicity, or immigration status.<sup>5</sup>

For these reasons **we urge an favorable report on this Bill #485.**

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<sup>1</sup> Md. Code, Health-Gen. § 18-601.1.

<sup>2</sup> Harsono D, Galletly C, O'Keefe E, & Lazzarini Z, *Criminalization of HIV Exposure: A Review of Empirical Studies in the United States*, National Institutes of Health, 2017, available at <https://bit.ly/3Ur0Mcq>. (Citing Lee SG. Criminal law and HIV testing: empirical analysis of how at-risk individuals respond to the law. *Yale J Health Pol'y L & Ethics*. 2014;14(1):194–238. Lee SG. Criminal law and HIV testing: empirical analysis of how at-risk individuals respond to the law. *Yale J Health Pol'y L & Ethics*. 2014;14(1):194–238. [[PubMed](#)] [[Google Scholar](#)]. Burriss S, Beletsky L, Burleson JA, Case P, Lazzarini Z. Do criminal laws influence HIV risk behavior? An empirical trial. *Ariz State Law J*. 2007;39:467–517. [[Google Scholar](#)]. Wise DL. *Criminal penalties for non-disclosure of HIV-positive status: effects on HIV testing rates and incidence [dissertation]* University of Missouri; Kansas City: 2008. [[Google Scholar](#)]. Francis AM, Mialon HM. The optimal penalty for sexually transmitting HIV. *Am Law Econ Rev*. 2008;10(2):388–423. [[Google Scholar](#)]. Delavande A, Goldman D, Sood N. Criminal prosecution and HIV-related risky behavior. *J Law Econ*. 2010;53(4):741–782. [[Google Scholar](#)].

<sup>3</sup> Movement Advancement Project, *Unjust: How the Broken Criminal Justice System Fails Transgender People* (2016), available at <https://www.lgbtmap.org/policy-and-issue-analysis/criminal-justice-trans> (finding that “policing strategies that profile and target transgender people, particularly transgender women of color” resulted in “a shocking 21% of transgender women have spent time in prison or jail, compared to only 5% of all U.S. adults... [as well as] 22% of transgender people report being mistreated by police”).

<sup>4</sup> Sero Project, *National Criminalization Survey 2021*, page 20, available at <https://bit.ly/3QxXjor>.

<sup>5</sup> *Id.* at 22.

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