



Maryland Commission on LGBTQIA+ Affairs

Bill Title: Public Health - Repeal on Transfer of Human Immunodeficiency Virus (Carlton R. Smith Act)

Bill Number(s): [HB0039/SB0365](#)

Position: FAVORABLE

Date: January 24, 2025

Submitted by: Director Jeremy Browning on behalf of the Maryland Commission on LGBTQIA+ Affairs

Senate Judicial Proceedings Committee

The Hon. William C. Smith, Chair
The Hon. J. Jeff Waldstreicher, Vice Chair

House Judiciary Committee

The Hon. Luke Clippinger, Chair
The Hon. J. Sandy Bartlett

Testimony on Behalf of the Maryland Commission on LGBTQIA+ Affairs prepared by Commissioner Mickey Dhir

Chair Smith, Vice-Chair Waldstreicher, and members of the Senate Judicial Proceedings Committee/ Chair Clippinger and Vice-Chair Bartlett and members of the House Judiciary Committee, my name is Mickey Dhir (he/him), and I am the Chair of the Health and Wellness committee of the Maryland Commission on LGBTQIA+ Affairs and an HIV certified medical provider. Today, I am honored to testify to express the strong support of Senate Bill 0635/House Bill 0039, Carlton R. Smith Act, on behalf of the Maryland Commission on LGBTQIA+ Affairs.

As a Commission, we believe that reforming existing laws related to HIV is a crucial step towards fostering a more just and compassionate society. Ending the HIV Epidemic in the U.S. requires addressing structural barriers to HIV prevention and care.

After more than 40 years of HIV research and significant biomedical advancements to treat and prevent HIV, most HIV criminalization laws do not reflect current scientific and medical evidence.

- Many of these laws were passed at a time when very little was known about HIV, including how HIV was transmitted and should be treated.
- These laws have not increased disclosure and may discourage HIV testing, increase stigma against people with HIV, and exacerbate disparities.

HIV criminalization laws were enacted before the availability of antiretroviral therapy (ART):

- Scientific Dissonance: A critical gap exists between current scientific understanding of HIV and these outdated laws. Decades of research have yielded significant advancements, including findings from the [National Institutes of Health \(NIH\)](#):
- Antiretroviral Therapy (ART): With effective ART regimens, individuals with HIV can achieve viral suppression, rendering them virtually untransmittable (VT) through sex.

These laws, however, perpetuate the misconception that HIV transmission is inevitable ([Undetectable Equals Untransmittable](#)).

- Improved Prevention: Advances like Pre-Exposure Prophylaxis (PrEP) offer powerful prevention tools not considered when these laws were enacted ([CDC Preventing HIV with PrEP](#)).

Current Context in Maryland

Maryland already has general criminal laws that address the intentional transmission of diseases, including HIV. These laws appropriately focus on intent and actual harm, making additional, HIV-specific laws unnecessary. Crucially, they must account for whether an individual living with HIV has a detectable or undetectable viral load, reflecting current scientific understanding. Furthermore, it is essential to dispel persistent myths about HIV transmission—spit and saliva do not transmit HIV. Perpetuating these inaccuracies only deepens stigma and discrimination against people living with HIV, undermining public health efforts and perpetuating fear.

Why Senate Bill 0635/House Bill 0039 Matters

HIV criminalization laws have long been a source of stigma and discrimination, disproportionately affecting individuals living with HIV and people who have been marginalized and made vulnerable. These laws not only perpetuate misinformation and fear but also hinder our collective efforts to address the HIV epidemic effectively. In essence supporting the passage of this important bill will:

1. Promote Public Health:
 - Decriminalizing HIV helps destigmatize the virus, encouraging individuals to seek testing and treatment without fear of legal repercussions.
 - It allows for a more open and honest dialogue about HIV, contributing to increased awareness, prevention, and overall public health outcomes.
2. Address Stigma and Discrimination:
 - Criminalization perpetuates stigma, discrimination, and misinformation about HIV, leading to negative social attitudes and biases against those living with the virus.
 - Decriminalization sends a powerful message of inclusivity, acknowledging that individuals with HIV should not face legal penalties simply for their health status.
3. Protect Human Rights:
 - Current laws often infringe upon the basic human rights of individuals living with HIV, including privacy, autonomy, and the right to live free from discrimination.
 - Senate Bill 0635/House Bill 0039 is an opportunity to align our legal framework with principles of justice, equality, and the protection of fundamental human rights.
4. Foster Supportive Healthcare Environments:
 - Decriminalization can contribute to creating a more supportive healthcare environment where individuals feel comfortable disclosing their HIV status to healthcare providers without fear of legal consequences.

- This, in turn, enables better-informed healthcare decisions and improved overall health outcomes.
5. Adapt to Scientific Advances:
 - Advances in medical science have transformed our understanding of HIV transmission, treatment, and prevention.
 - Senate Bill 0635/House Bill 0039 reflects a commitment to adapting our legal system to reflect these advances, promoting evidence-based policies that prioritize public health.
 6. Eliminate Disparities:
 - These laws disproportionately impact marginalized communities, hindering access to testing, treatment, and prevention resources.
 - Senate Bill 0635/House Bill 0039 is a move towards addressing health disparities and ensuring equitable access to HIV testing, treatment, and prevention resources for all communities, particularly marginalized populations.

When a law meant to protect the public is not working as intended, is unjust, and may be hurting efforts to keep communities healthy, it should be repealed. For those reasons, the Maryland Commission on LGBTQIA+ Affairs urges a favorable report on Senate Bill 0635/House Bill 0039, Carlton R. Smith Act.

Thank you for your time and consideration.

References:

National Institutes of Health. (2023). *HIV/AIDS research yields dividends across medical fields*. Retrieved from <https://www.nih.gov/news-events/news-releases/hiv-aids-research-yields-dividends-across-medical-fields>

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