

2025-01-29 SB 356 - Support.pdf

Uploaded by: Adam Spangler

Position: FAV

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January 29, 2025

TO: The Honorable Will Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Adam Spangler
Legislative Aide, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 356 – Public Health - Repeal of Prohibition on Transfer of
Human Immunodeficiency Virus (Carlton R. Smith Act) - **Favorable**

The Office of the Attorney General (OAG) urges the Judicial Proceedings Committee to report favorably on **Senate Bill 356**.

Senate Bill 356 would repeal § 18-601.1 of the Health–General Article, which makes the knowing transfer or attempted transfer of the human immunodeficiency virus (HIV) a criminal offense subject to up to 3 years’ imprisonment.

Section 18-601.1 was enacted in the 1980s, when the understanding of HIV transmission was more limited and the treatment of HIV and AIDS was far less advanced than it is today. The criminalization of HIV transmission is not consistent with the current public health understanding of effective ways to discourage and prevent HIV transmission.¹ Moreover, the treatment of HIV transmission under this statute, when the knowing transmission of other serious communicable or sexually transmitted diseases is not similarly treated under State law, stigmatizes those living with HIV and raises equity concerns.

For these reasons, the OAG urges a favorable report on **Senate Bill 356**.

cc: The Honorable Senator Will Smith, Jr.
Members of the Judicial Proceedings Committee

¹ See U.S. Centers for Disease Control and Prevention, HIV and STD Criminalization Laws, <https://www.cdc.gov/hiv/policies/law/states/exposure.html>

SB356 HIV decriminalization.docx.pdf

Uploaded by: Annapolis Pride

Position: FAV



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BILL: Senate Bill 356 - Public Health - Prohibition on Transfer of Human Immunodeficiency Virus - Repeal

DATE: January 27, 2025

POSITION: FAVORABLE

COMMITTEE: Judicial Proceedings

CONTACT: Joe Toolan | joe@annapolispride.org

Annapolis Pride **supports** Senate Bill 356, which repeals the criminalization of knowingly transmitting HIV. This misguided statute is not only ineffective as a public health measure but detrimental to preventing the spread of the virus. It also targets marginalized groups and misallocates desperately needed funds that could be used for prevention programs and access to care.

According to UNAIDS, statutes like the one currently in effect in Maryland have been shown to hinder access to HIV services and increase the risk of transmission. Repealing such a statute would promote testing and treatment, reduce stigma and shift the focus to prevention through antiretroviral therapy (ART) and pre-exposure prophylaxis (PrEP). When taken consistently, ART can suppress the virus to undetectable levels, effectively eliminating the risk of transmission. Criminalization, however, perpetuates outdated misconceptions of HIV as a highly contagious and uncontrollable disease.

Criminalizing HIV transmission raises significant human rights concerns, particularly due to its discriminatory impact on marginalized groups, including LGBTQ+ individuals and people of color, exacerbating existing inequalities. These laws often penalize people even in cases where there is no intent to harm or when they have disclosed their status and taken precautions, undermining principles of consent and shared responsibility.

Research by the Williams Institute reveals a stark disparity: Black individuals account for 82% of defendants in HIV-related criminal cases, despite representing only 14% of the state's population and 44% of those living with HIV. This data highlights a clear pattern of racial bias in the criminal justice system and in enforcement. By focusing on intent to transmit and rooted in historical prejudice, these laws create significant opportunities for the discriminatory targeting and prosecution of Black individuals, particularly Black men, living with HIV.

Lastly, statutes like Maryland's shift critical funding to legal proceedings and incarceration when it would be more effectively spent on education, prevention programs and access to care.

Annapolis Pride's mission is to advocate for, empower, and celebrate the LGBTQ+ community in Anne Arundel County to live fully and authentically. Our vision is a safe, equitable, and anti-racist community where people of all identities thrive. Accordingly, Annapolis Pride respectfully requests a **favorable** committee report on Senate Bill 356.



SB 356 - Public Health - Prohibition on Transfer o

Uploaded by: Catherine OMalley

Position: FAV

BILL NO: Senate Bill 356
TITLE: Public Health - Prohibition on Transfer of Human Immunodeficiency Virus -
Repeal
COMMITTEE: Judicial Proceedings
HEARING DATE: January 29, 2025
POSITION: SUPPORT

Senate Bill 356 would repeal the prohibition on an individual from knowingly transferring or attempting to transfer the human immunodeficiency virus to another individual. According to 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. Under current law, punishable activities include consensual sex, breastfeeding, needle sharing, blood and tissue donation, and biting or spitting. The Women's Law Center supports SB 356 because it will work towards ending the stigma of HIV in the LGBTQIA+ community by no longer singling out HIV.

When the HIV epidemic first emerged, people with HIV were stigmatized by the law, our health-care system, and general society. Many states passed laws like Maryland's to criminalize the knowing transmission of HIV. These laws marginalize and unfairly target the LGBTQIA+ community, as well as other marginalized communities, such as certain immigrant populations, with high rates of HIV. It is time to remove the vestiges of laws that stigmatize people living with HIV.

Importantly, research shows that these laws actually do the opposite of what is intended. Rather than reducing HIV transmission rates, they in reality bring about the conditions that increase HIV risk and infection. Criminal approaches to HIV transmission are counterproductive to advancing public health and detrimental to the health and wellbeing of those in marginalized settings, particularly those in the sex trades. SB 356 will rightfully repeal Maryland's draconian HIV criminalization law, resulting in improved health outcomes for all persons, including those in the LGBTQIA+ community, sex workers and trafficking survivors.

For these reasons the Women's Law Center of Maryland urges a favorable report on Senate Bill 356.

The Women's Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland. Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.

SB0356 - Public Health - Prohibition on Transfer o

Uploaded by: Charlotte Hoffman

Position: FAV



Charlotte Persephone Hoffman, Esq.
(they/she)
Policy Director
charlotte@transmaryland.org

Wednesday January 29, 2025

The Honorable William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401

Testimony of Trans Maryland

IN SUPPORT OF

Senate Bill #356: Public Health -
Prohibition on Transfer of Human Immunodeficiency Virus - Repeal

To the Chair, Vice Chair, and esteemed members of the Senate Judicial Proceedings Committee:

Trans Maryland is a multi-racial, multi-gender community power building organization for Maryland's trans community. In our work with and on behalf of transgender and gender-diverse Marylanders, we have seen firsthand how Health-Gen. § 18-601.1, Maryland's statute criminalizing the knowing transference or attempted transference of HIV to another person,¹ not only harms a population that is already marginalized, but also undermines the law's ultimate goal of decreasing transmission of an infectious disease. Moreover, the science and treatment of HIV has advanced so far since the law in question was first adopted that even if it were once justified as a public health measure, it now only serves to further stigmatize an easily preventable and treatable sexually-transmitted infection. For these reasons, we strongly support Senate Bill 356.

While § 18-601.1's original purpose was to discourage transmission of HIV, the overwhelming evidence is that laws criminalizing HIV transmission have the opposite effect. Instead, by increasing the stigma of people living with HIV, they paradoxically result in a decrease in HIV testing and an increase in risky sexual behavior, especially by people who do not know their HIV

¹ Md. Code, Health-Gen. § 18-601.1.



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status.² Indeed, the fact that these laws (including § 18-601.1) criminalize only the *knowing* transmission of HIV, they act as a disincentive to getting tested.

This effect is especially pronounced among groups who are subject to excessively high policing, including transgender Marylanders, Marylanders of color, and, especially, transgender women of color. According to a study by the Movement Advancement Project, trans women of color face incarceration at a rate four times the national average, and over one in five transgender people have reported being mistreated by the police.³ With mistreatment by the criminal justice system being so common, is it any wonder many Marylanders opt out of HIV testing rather than potentially provide the police with yet another tool to use in their oppression?

On top of this, people living with HIV experience continue to experience intense discrimination. In a recent survey from the Sero Project, 48% of persons with HIV status reported receiving serious HIV-related discrimination.⁴ Only 18% of respondents stated that they 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.⁵ Indeed, something we have heard repeatedly from people living with HIV is that they fear their HIV+ status could be used against them by someone making a false allegation under § 18-601.1.

Finally, it is crucial to emphasize just how much the science of HIV has changed since 1989 when § 18-601.1 was adopted, a mere eight years after the first reported case of what would come to be known as AIDS and six years after the identification of the virus that would come to be known as HIV. At that time, not only was there no known treatment for AIDS or known mechanism to prevent HIV infection from proceeding to AIDS, but there was also widespread misunderstandings about how HIV was transmitted in the first place. Notably, large swathes of the public (including many legislators) refused to believe public health experts that HIV could not

² 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/3Ur0Mccq>. (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]. Burris 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]).

³ 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”).

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

⁵ *Id.* at 22.



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be transmitted through everyday interactions. Indiana teenager Ryan White, who until his death in 1990 became a spokesperson for people living with HIV and AIDS after contracting HIV through a blood transfusion, reported his school required him to use a separate bathroom and drinking fountain, that he was given disposable utensils in the school cafeteria, and that he was prohibited from attending gym class. According to White, "Listening to medical facts was not enough. People wanted 100 percent guarantees."⁶

Unfortunately, such attitudes were also present in Maryland in 1989. While part of an omnibus bill that came out of the report of the Governor's Advisory Council on AIDS, § 18-601.1 was not part of the Advisory Council's initial recommendations and was instead added as an amendment during the legislative process. This was done over the objections of organizations including the Maryland Disability Law Center, which noted that it would have the effect of discouraging HIV testing.⁷ Section 18-601.1 was already behind the times at its adoption.

In the 35 years since, there have been incredible advances in the treatment and prevention of HIV, and yet Maryland's law has remained the same, with at least 148 Marylanders charged under § 18-601.1 since 2000 alone.⁸ Yet by the mid 1990s, multi-drug cocktails—officially referred to as highly active antiretroviral therapy, or HAART—significantly changed the calculus of HIV. With HAART, AIDS was no longer an inevitable next step for people living with HIV. As a result, worldwide AIDS death rates peaked in the early 2000s as HAART became more widely available outside of the developed world. These treatments have only improved over the past three decades.

More recently, we have also seen dramatic improvements in HIV prevention, with effective pre-exposure prophylaxis (PrEP) widely available to individuals at risk of contracting HIV. With proper use, PrEP is almost 100% effective at preventing transmission of HIV from sex.

Simply put, HIV is not the death sentence it was believed to be in 1989. It is now routinely treatable and preventable, in ways many other infectious diseases that have never been criminalized like HIV are not. There is no longer (if there ever was in the first place) any need for Maryland to treat HIV as a uniquely insidious infection deserving of criminalization. Instead, Maryland law only serves to further stigmatize HIV and disincentivize people from getting tested in the first place. It is long past time for § 18-601.1's repeal.

For these reasons we urge an favorable report on Senate Bill 356.

⁶ Tim Franklin, "Teen's Story of AIDS Prejudice Wins Hearts," *The Chicago Tribune* (March 4, 1988), available at <https://www.chicagotribune.com/1988/03/04/teens-story-of-aids-prejudice-wins-hearts/>.

⁷ See Nathan Cisneros et al, *Enforcement of HIV Criminalization in Maryland* (Williams Institute, 2024), available at <https://www.hivlawandpolicy.org/sites/default/files/2024-02/Enforcement%20of%20HIV%20Criminalization%20in%20Maryland%2C%20The%20Williams%20Institute%2C%20UCLA%20School%20of%20Law%20%282024%29.pdf>.

⁸ *Id.*

SB0356_FAV_MedChi, MACHC_PH - Prohibition on Trans

Uploaded by: Christine Krone

Position: FAV



MID-ATLANTIC ASSOCIATION OF
COMMUNITY HEALTH CENTERS

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Senate Judicial Proceedings Committee
January 29, 2025

Senate Bill 356 – *Public Health – Prohibition on Transfer of Human Immunodeficiency Virus – Repeal*
POSTION: SUPPORT

On behalf of The Maryland State Medical Society and the Mid-Atlantic Association of Community Health Centers, we submit this letter of support for Senate Bill 356, which repeals Maryland’s criminalization of the transfer or attempt to transfer human immunodeficiency virus (HIV) to another individual.

Repeal of this law would update Maryland statutes to be in line with current guidelines from the American Medical Association, the Centers for Disease Control and Prevention, and other leading organizations in the fields of medicine, public health, and human rights. The current law was enacted in 1989 when there was very little medical understanding of HIV or effective treatment. Today, there is highly effective treatment as well as pre- and post-exposure prophylaxis and, therefore, the disease is no longer a death sentence. However, stigma and discrimination continue to harm those living with HIV.

Effective HIV response requires access to high-quality preventative, diagnostic care, treatment, and supportive services that are non-stigmatizing, non-discriminatory, inclusive, and responsive to the needs of those affected. Criminalization laws perpetuate HIV-related stigma and discrimination, deter individuals from getting tested, and do not reflect our current understanding of HIV. Repeal of Maryland’s law is overdue. A favorable report is requested.

For more information call:

Christine K. Krone
J. Steven Wise
Danna L. Kauffman
Andrew G. Vetter
410-244-7000

SB356 - Favorable - 2025.pdf

Uploaded by: Debi Jasen

Position: FAV

Senate Bill 356 - Judicial Proceedings Committee - FAVORABLE

Chair, Vice Chair, and Members of the Judicial Proceedings Committee;

Please give Senate Bill 356 a FAVORABLE report.

Why does our law reflect an era when HIV/ AIDS was called "The Gay Plague"? I can't think of a law that criminalizes exposing someone to HPV or herpes. Is it because those aren't automatically associated with the Queer community, like AIDS is?

HIV is treatable, and likelihood of transmission is significantly decreased with medication. I urge you to give Senate Bill 356 a favorable report. Thank you for your consideration.

Sincerely,

Debi Jasen
Pasadena, MD

Ezra Towne_SB0356_Favorable_2025_0127.pdf

Uploaded by: Ezra Towne

Position: FAV

Ezra Towne

**Favorable Testimony on Bill SB0356:
Public Health - Repeal of Prohibition on Transfer of Human Immunodeficiency Virus
Carlton R. Smith Act**

January 27, 2025

Chair William C. Smith, Jr., Vice-Chair Jeff Waldstreicher, and esteemed members of the Judicial Proceedings Committee,

I write to you today as a transmasculine nonbinary adult invested in the well-being of members of my community who are persons living with HIV (PLWH). My testimony on SB0356 is favorable, and I urge you to move this bill promptly through committee with a favorable vote.

SB0356 would repeal the outdated MD Code, Gen-Health § 18-601.1 (enacted in 1989) which unfairly penalizes people living with HIV (PLWH) with longer prison times and larger fines if they knowingly transfer or attempt to transfer HIV, as compared to people living with other infectious diseases. This code was crafted at a time when we knew very little about HIV, and how to or if we could treat it so that it is untransferrable.

My favorable testimony hinges on four key points:

- It unfairly stigmatizes people with HIV, marking PLWH as potential criminals. As such, it also discourages testing. Being unaware of your status undoubtedly leads to viral transfer.
- We now know a lot more about how to treat HIV in order to keep PLWH alive and well by suppressing its viral load, preventing it from becoming AIDS. We also know that modern medication suppresses viral load until it is undetectable. When it is undetectable, it is also untransferrable.
- Data shows that Gen-Health code § 18-601.1 is enforced disproportionately along racial lines. According to a 2024 study by the Williams Institute on enforcement of HIV criminalization in Maryland, black people comprise 82% of all HIV related prosecutions, yet only 30% of the state's population. Black men are also especially affected. They comprise just 14% of the state's population, and 68% of HIV related prosecutions.

In addition, MD Code, Gen-Health § 18-601.1 is unnecessary because it is covered in other areas of Maryland's criminal code: assault in the first degree (§ 3-202), assault in the second degree (§ 3-203), reckless endangerment (§ 3-204), knowingly and willfully causing another to ingest a bodily fluid (§ 3-215), rape in the first degree (§ 3-303), and sexual offense in the third degree (§ 3-307).

I applaud the Judicial Proceedings committee for hearing SB0356, considering its full impact, and working to move the bill onto the House floor as quickly as possible via a favorable report.

Sincerely,
Ezra Towne
District 18, Wheaton, MD

2025 ACNM SB 356 Senate Side.pdf

Uploaded by: Jan Krievs

Position: FAV



Committee: Senate Judicial Proceedings Committee

Bill Number: Senate Bill 356

Title: Public Health - Prohibition on Transfer of Human Immunodeficiency Virus - Repeal

Hearing Date: January 28, 2025

Position: Support

The Maryland Affiliate of the American College of Nurse Midwives (ACNM) supports *Senate Bill 356 - Public Health - Prohibition on Transfer of Human Immunodeficiency Virus - Repeal*. The bill will repeal the current misdemeanor (MD. CODE. ANN., HEALTH-GEN. § 18-601.1) that criminalizes the transmission or potential transmission of HIV.

The current law is stated in such a way that even breastfeeding a child or consensual sex using a barrier contraceptive can be interpreted as a criminal act. In 2025, the science of preventing and treating HIV renders this law both cruel and unnecessary. Medications for both pre- and post-exposure prophylaxis have transformed the risk equation in all settings, including perinatal exposure, sexual activity, and even needle-sharing. In addition, current treatment regimens for people living with HIV are highly effective at preserving health and preventing transmission.ⁱ

We ask for a favorable report on this legislation. If we can provide any further information, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.

ⁱ HIV.gov. <https://www.hiv.gov/tasp>. Accessed 1/18/2025.

FAV HB0039_SB0365 Public Health - Repeal on Transf

Uploaded by: Jeremy Browning

Position: FAV



**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>

POZ. (n.d.). *Undetectable equals untransmittable (U=U)*. Retrieved from <https://www.poz.com/basics/hiv-basics/undetectable-equals-untransmittable>

Centers for Disease Control and Prevention. (n.d.). *Pre-exposure prophylaxis (PrEP)*. Retrieved from <https://www.cdc.gov/hiv/prevention/prep.html>

HPPP Testimony SB 356 (HIV Crim Repeal)- FAV.pdf

Uploaded by: Jessica Emerson

Position: FAV

Testimony of the Human Trafficking Prevention Project

BILL NO: Senate Bill 356
TITLE: Public Health - Repeal of Prohibition on Transfer of Human Immunodeficiency Virus (Carlton R. Smith Act)
COMMITTEE: Judicial Proceedings
HEARING DATE: January 29, 2025
POSITION: FAVORABLE

Senate Bill 356 would repeal the current prohibition on an individual from transferring the human immunodeficiency virus (HIV) to another individual.¹ The Human Trafficking Prevention Project, which regularly serves clients who have traded sex by choice, out of circumstance, and/or because they have experienced sex trafficking, supports SB 356, with no amendments, because the criminalization of HIV disproportionately impacts and harms those in the sex trades, and conflicts with public health recommendations that encourage risk reduction.

Currently, more than 30 states have laws that criminalize alleged exposure, non-disclosure, or transmission of HIV.² While HIV criminalization laws criminalize non-disclosure of a person's HIV status prior to *any* instance of consensual sex, data indicates that it is primarily sex workers living with HIV who are criminalized under these laws.³ The intersection of laws criminalizing the transmission of HIV with those criminalizing sex work increase the harm sex workers already face in numerous ways. First, they reinforce stigma and discrimination against sex workers, particularly those who are living with HIV. By reinforcing the trope of people in the sex trades as diseased and amoral,⁴ this only gives further license to those who seek to harm them by justifying their dehumanization.⁵ Sex workers *already* rarely report the violence they experience due to stigma and the criminalization of sex work; the possibility of also having their HIV status criminalized makes reporting even less likely.

Secondly, HIV criminalization laws conflict with data-driven and evidence-based public health efforts to combat HIV. People who trade sex are already put at increased risk of HIV “as a result of multiple factors and limited choices related to poverty, the criminalization of sex work, and associated biological risk.”⁶ HIV criminalization laws impact the ability and willingness of sex workers to access necessary health care by negatively affecting provider attitudes and increasing fear of provider judgment and reporting to law enforcement. This in turn results in discriminatory healthcare delivery that ultimately pushes people away from accessing essential services such as prevention, treatment, and care for HIV.⁷

¹ MD CODE ANN., HEALTH-GEN. § 18-601.1 (West 2020).

² The Center for HIV Law and Policy & the National LGBTQ Task Force, *The Intersection of Sex Work and HIV Criminalization: An Advocate's Toolkit* 1 (2017), https://www.hivlawandpolicy.org/sites/default/files/Sex%20Work%20HIV%20Toolkit%20FINAL%20R2_0.pdf.

³ *Id.* See also Amira Hasenbush, et. al., *HIV Criminalization and Sex Work in California* (2017), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/HIV-Criminalization-Sex-Work-CA-Oct-2017.pdf>.

⁴ Carol Galletly & Steven Pinkerton, *Conflicting Messages: How Criminal HIV Disclosure Laws Undermine Public Health Efforts to Control the Spread of HIV*, 10 AIDS Behav. 451, 458 (2006), <https://www.hivlawandpolicy.org/sites/default/files/Conflicting%20Messages.pdf> (citing commonly held beliefs of HIV as “a disease that mainly affected society's ‘undesirables’ (i.e., persons who were not part of mainstream society)”).

⁵ SW and HIV article p.3

⁶ P. 4

⁷ Eric Mykhalovskiy, *The Problem of “Significant Risk”: Exploring the Public Health Impact of Criminalizing HIV Non-Disclosure*, 73 SoC. Science & MeD. 668 (2011).

The irony is that HIV criminalization laws actually do the opposite of what is intended- instead of *reducing* HIV transmission rates, they actually bring about the conditions that *increase* HIV risk and infection. Criminal approaches to HIV transmission are counterproductive to advancing public health and detrimental to the health and wellbeing of those operating in marginalized settings, particularly those in the sex trades. SB 356 will rightfully repeal Maryland's draconian and discriminatory HIV criminalization law, resulting in improved health outcomes for all persons, including sex workers and trafficking survivors. **For these reasons, the Human Trafficking Prevention Project strongly supports Senate Bill 356, without any amendments as have been suggested in past legislative sessions, and respectfully urges a favorable report.**

The Human Trafficking Prevention Project is dedicated to ending the criminalization of sex workers, survivors of human trafficking, and those populations put at highest risk of exploitation through access to civil legal services and support for policies that dismantle harmful systems and increase access to basic human rights and legal relief.

*For more information, please contact:
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Director, Human Trafficking Prevention Project
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SB356-FAV-SWASC.pdf

Uploaded by: Kate Calhoun

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 356
Public Health - Prohibition on Transfer of Human Immunodeficiency Virus - Repeal
Judicial Proceedings
January 28, 2025

Social Work Advocates for Social Change (SWASC) strongly supports SB 356, which repeals the antiquated misdemeanor penalty for knowingly transferring or attempting to transfer HIV to another. This outdated law was enacted at a time when both the science and stigma of HIV was very different. Its repeal recognizes medical advancements, and would reduce stigma, address racial inequities, promote public health, and eliminate duplicative and unnecessary laws

Modern medicine makes HIV non-transmissible for those with undetectable viral loads. People living with HIV who adhere to treatment can maintain undetectable viral loads, eliminating the risk of transmission to others.¹ Despite this, Maryland’s current law, enacted in 1989 during the peak of the HIV epidemic, allows for the prosecution of People Living with HIV (PLHIV) even when they pose no risk of harm, perpetuating outdated and harmful perceptions of HIV.

Criminalization undermines public health efforts to end the HIV epidemic by discouraging testing and treatment. Studies suggest that fear of prosecution deters individuals from seeking testing and care. A 2017 study revealed that 7% of individuals cited prosecution as a barrier to testing, which could lead to an estimated 18.5% increase in HIV transmission.² Additionally, national data suggests that most new infections come from individuals who are unaware of their HIV status, highlighting the need for policies that encourage – rather than hinder – testing and treatment.³

HIV criminalization exacerbates racial disparities in the legal system. In Maryland, Black men make up 15% of the population, but account for 44% of HIV cases and 65% of HIV-related arrests.⁴ The current law perpetuates systemic inequalities by disproportionately targeting communities already most impacted by the HIV epidemic. Repealing Section 18-601.1 is an opportunity to advance racial equity and dismantle discriminatory practices in public health law.

Reckless endangerment laws already address intentional harm. Individuals who aim to transmit HIV intentionally, as well as other sexually transmitted infections (STIs), could still be prosecuted under reckless endangerment statutes. The current law is duplicative, unnecessary, and singles out HIV leading to further stigmatization of the illness. For these reasons, **thirteen other states have already eliminated HIV criminalization laws.**

The science underscores my – and other members of SWASC’s – personal and



For more information, please contact

Kate Calhoun

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professional experiences working with PLHIV. I have spent nearly half of my life working alongside PLHIV. Beginning in 1997, I worked for 20 years at a camp for children affected by HIV. As a Peace Corps volunteer in Zambia, I worked with PLHIV to develop income-generating activities, and later, I worked as a housing case manager for PLHIV at a transitional shelter in Honolulu, Hawai'i. These experiences motivate SWASC's strong support for policies that reduce HIV stigma, reflect medical advancements, align with public health initiatives, and promote equity.

Thank you for your consideration. **Social Work Advocates for Social Change urges a favorable report on SB 356.**

Social Work Advocates for Social Change is a coalition of MSW students at the University of Maryland School of Social Work that seeks to promote equity and justice through public policy, and to engage the communities impacted by public policy in the policymaking process.

¹ Centers for Disease Control and Prevention (CDC). (2023, August 9). *HIV as prevention.*

<https://www.cdc.gov/hiv/risk/art/index.html>

² Sweeney, P., Gray, S. C., Purcell, D. W., Sewell, J., Babu, A. S., Tarver, B. A., & Mermin, J. (2017). Association of HIV diagnosis rates and laws criminalizing HIV exposure in the United States. *Aids, 31*(10), 1483-1488.

³ Centers for Disease Control and Prevention. (2023, August). *Vital signs: Ending the HIV epidemic.*

<https://www.cdc.gov/vitalsigns/end-HIV/>

⁴ Cisneros, N., Tentindo, W., Sears, B., Macklin, M. L., & Bendana, D. (2024). Enforcement of HIV Criminalization in Maryland.

SB356 LGBTQ+ Caucus

Uploaded by: Kris Fair

Position: FAV



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**LETTER OF SUPPORT
HOUSE BILL 39 & SENATE BILL 356**

February 18, 2025

Chair Clippinger and Chair Smith:

On behalf of the LGBTQ+ Caucus, we are writing to express our support of **HB39/SB356: Public Health - Prohibition on Transfer of Human Immunodeficiency Virus - Repeal**. As advocates and stewards of the LGBTQ+ community, we believe this bill will protect, strengthen, and secure LGBTQ+ rights for all LGBTQ+ residents. The benefits and effects of passing the proposed legislation will create a positive and long-lasting change for all of Maryland.

HB39/SB356 removes stigmatizing anti-HIV language from the health code. HIV is the only specifically criminalized infectious disease in the Maryland code. The criminal charge in the language we're trying to repeal hinges on whether someone knows their status, thus discouraging testing to avoid prosecution. The repeal will lead to better health outcomes and less criminalization for LGBTQ+ folks living with HIV and Black folks living with HIV.

Thank you for considering the bill's positive effects on the LGBTQ+ community. Please reach out to us regarding any additional questions or concerns on the bill. We appreciate your efforts to foster community and further the rights of all Marylanders.

Respectfully,

Delegate Kris Fair
Chair

Maryland_Testimony_Senate- SB356 (1_27_25) (1).pdf

Uploaded by: Kytara Epps

Position: FAV



January 27, 2025

Senator William C. Smith Jr.
Chairperson
Judicial Proceedings Committee
Miller Senate Office Building
2 East Street
Annapolis, MD 21401

Re: Support for SB 356 -Repeal of Prohibition on Transfer of Human Immunodeficiency Virus (Carlton R. Smith Act) (Maryland Code Section 18-601.1)

Dear Chairperson Smith,

The Center for HIV Law and Policy (CHLP) is a national abolitionist legal and policy organization fighting to end the stigma, discrimination, and violence towards our communities experiencing racial oppression, patriarchal violence, and/or economic divestment. Our work focuses on people living with and deeply affected by HIV and other stigmatized health conditions. We utilize legal advocacy, high-impact policy and research initiatives, and multi-issue partnerships, networks, and resources as concrete ways to support our communities working to decriminalize HIV and other stigmatized health conditions.

Through our Positive Justice Project, we analyze and advocate against the diverse forms of criminalization of people living with HIV and other sexually transmitted infections (STIs).¹ We have collaborated with federal, statewide, and local coalitions of grassroots activists, including organizers in Maryland, to modernize these laws to reflect scientific developments, remove stigmatizing and counterproductive language, and center the dignity of people living with these conditions.

We offer testimony to urge the passage of SB 356, which would repeal Maryland Code Section 18-601.1 (Section 18-601.1), a statute that specifically targets people living with HIV (PLHIV) for criminal punishment. Passage of SB 356 would remove a stigmatizing, archaic law; advance racial justice; and further the fight to end the HIV epidemic.

Under Section 18-601.1, Marylanders living with HIV face up to three years in prison and a \$2,500 fine for knowingly transferring or attempting to transfer HIV to another person.² Any type of conduct by PLHIV, including consensual sex, blood and tissue donation, chestfeeding, or needle sharing, is subject to prosecution.³ Despite scientific consensus, prosecutors have used

¹ The Center for HIV Law and Policy (CHLP), *HIV Criminalization in the United States: A Sourcebook on State and Federal HIV Criminal Law and Practice*, <https://www.hivlawandpolicy.org/resources/hiv-criminalization-united-states-sourcebook-state-and-federal-hiv-criminal-law-and> (last visited Jan. 23, 2024).

² MD. CODE. ANN., HEALTH-GEN. § 18-601.1 (2024).

³ The Center for HIV Law and Policy (CHLP), *HIV Criminalization in the United States: A Sourcebook on State and Federal HIV Criminal Law and Practice*,

Section 18-601.1 to criminalize behavior that poses effectively no risk of transmitting HIV.⁴ On its face, neither disclosure nor the use of condoms or other protection operate as an affirmative defense to prosecution under this law.⁵

In addition to removing the criminal penalties imposed by Section 18-601.1, SB 356 would remove the continuing and lasting punishment and other collateral consequences caused by criminalization. A criminal conviction can negatively affect an individual's ability to obtain employment, find housing, and pursue an education.⁶

Moreover, SB 356 would additionally reduce the threat of Intimate Partner Violence (IPV). According to the CDC, women living with HIV in the United States experience IPV at rates that are higher than women not living with HIV. Over half of women living with HIV have reported instances of IPV⁷. Women living with HIV may experience abuse that is more frequent and more severe than women who are not living with HIV. Disclosure of HIV status may also play a role in increased rates of violence, with 0.5-4% of women living with HIV reporting experiencing violence following HIV serostatus disclosure.⁸ Understanding laws like Section 18-601.1 exist, perpetrators of intimate violence use the threat of disclosure of one's HIV status to exercise control over PLHIV, leading to the coercion and abuse of the PLHIV.

SB 356 would also reduce stigma against people living with HIV, which Section 18-601.1 continues to perpetuate. Although there is already an existing law criminalizing exposure to infectious diseases, Section 18-601.1 unjustly singles out people living with HIV with longer prison times and higher fines if they engage in various activities, including conduct that poses no risk of HIV transmission. In targeting PLHIV, the law creates and exacerbates stigma against people disparately affected by HIV, who are often Black and brown LGBTQ+ Marylanders.⁹ In

<https://www.hivlawandpolicy.org/resources/hiv-criminalization-united-states-sourcebook-state-and-federal-hiv-criminal-law-and> (last visited Jan. 23, 2024).

⁴ The Center for HIV Law and Policy (CHLP), *HIV Criminalization in the United States: A Sourcebook on State and Federal HIV Criminal Law and Practice*, <https://www.hivlawandpolicy.org/resources/hiv-criminalization-united-states-sourcebook-state-and-federal-hiv-criminal-law-and> (last visited Jan. 23, 2024) (describing prosecution under Section 18-601.1 for biting, which poses a negligible risk of HIV transmission); See CTR. FOR DISEASE CONTROL & PREVENTION, *HIV Risk Behaviors, Estimated Per-Act Probability of Acquiring HIV from an Infected Source, by Exposure Act*, (Dec. 4, 2015) available at <http://www.cdc.gov/hiv/policies/law/risk.html> (last visited Jan. 31, 2024).

⁵ The Center for HIV Law and Policy (CHLP), *HIV Criminalization in the United States: A Sourcebook on State and Federal HIV Criminal Law and Practice*, <https://www.hivlawandpolicy.org/resources/hiv-criminalization-united-states-sourcebook-state-and-federal-hiv-criminal-law-and> (last visited Jan. 23, 2024)

⁶ The Center for American Progress, *A Criminal Record Shouldn't Be a Life Sentence to Poverty* (May 28, 2021), <https://www.americanprogress.org/article/criminal-record-shouldnt-life-sentence-poverty-2/>; Simone Ispa-Landa & Charles E. Loeffler, *Indefinite Punishment and the Criminal Record: Stigma Reports Among Expungement-Seekers in Illinois*, 0 *Criminology* 1, 1 (2016).

⁷ Dawson, L., Kates, J. and Ramaswamy, A., 2019. HIV, Intimate Partner Violence (IPV), and Women: An Emerging Policy Landscape. *Kaiser Family Foundation*.

⁸ Centers for Disease Control and Prevention, 2014. Intersection of intimate partner violence and HIV in women. *Atlanta, GA: Author Retrieved from* http://www.CDC.gov/violenceprevention/pdf/ipv/13_243567_green_aag-a.pdf.

⁹ Edwin J. Bernard et al., *Punishing Vulnerability Through HIV Criminalization*, 112 *Am. J. Pub. Health* S395_S397 (2022) (“[W]e observe that HIV criminalization serves as a proxy for discrimination based on class, ethnicity, gender identity, migrant status, race, sex, sexual orientation, and other markers of social

the more than three decades since the passage of Section 18-601.1, our understanding of HIV transmission and the tools we have for prevention and treatment of HIV has dramatically transformed. The statute ignores these advancements and keeps Maryland entrenched in the past. SB 356 would eliminate this archaic law that continues to stigmatize PLHIV.

The unfair targeting of PLHIV through Section 18-601.1 additionally undermines Maryland's efforts to end the HIV epidemic. With carceral penalties for PLHIV exacerbating stigma, Section 18-601.1 inhibits honest conversations about sexual health and discourages people from accessing care.¹⁰ Section 18-601.1 and similar laws also directly disincentivize HIV testing, as only people who are aware of their status are vulnerable to criminal sanctions. With an estimated 3,200 Marylanders living with HIV but unaware of their status,¹¹ about one-quarter of newly diagnosed people being diagnosed late, and almost one-third of PLHIV not receiving care,¹² it is imperative that Section 18-601 is repealed to remove this stigmatizing barrier to testing and treatment.

SB 356 would also advance Maryland's efforts to end racial injustice. Not only does Section 18-601.1 needlessly criminalize PLHIV, it disproportionately targets Black Marylanders. Despite representing 30 percent of the state's population and 71 percent of the state's population of PLHIV, Black people comprise 82 percent of all prosecutions under Section 18-601.1.¹³ Black men are particularly impacted, as they account for 68 percent of all HIV-related prosecutions.¹⁴ While more work is needed to reduce racial disparities within the criminal legal system, the repeal of Section 18-601.1 would move Maryland toward ensuring racial justice.

As an abolitionist legal and policy organization, we understand the role of laws in perpetuating the oppression of marginalized communities, particularly folks living with HIV and other stigmatized health conditions. And we are not alone. Leading harm reduction and public health organizations recognize that the best way to further combat HIV and STI transmission is through testing and destigmatization, not criminalization. The American Medical Association, the Center for Disease Control, the White House, and the United Nations all oppose health status criminalization.¹⁵

vulnerability. The most aggressive push to criminalize people living with HIV tends to occur at the intersection of several stigmatized identities”).

¹⁰ CHLP, *Stigma*, <https://www.hivlawandpolicy.org/issues/stigma>, (last visited Jan. 23, 2024); Anna North, Vox, *These laws were meant to protect people from HIV. They've only increased stigma and abuse*, (Oct. 10, 2019 11:27AM),

<https://www.vox.com/the-highlight/2019/10/3/20863210/hiv-aids-law-iowacriminalization>; Amy Baugher et al., *Black men who have sex with men living in states with HIV criminalization laws report high stigma*, 23 U.S. cities, 2017, 35 AIDS 1637, 43 (2021) (finding HIV criminalization increased stigma among Black same gender loving men in particular).

¹¹ Centers for Disease Control and Prevention (CDC), *HIV Surveillance Report, 2021 (May 2023)* available at <https://www.cdc.gov/hiv/library/reports/hiv-surveillance.html>.

¹² AIDS Vu, *Local Data: Maryland*, available at <https://aidsvu.org/local-data/united-states/south/maryland/> (last visited Jan. 31, 2024). (last visited Jan. 31, 2024).

¹³ UCLA School of Law The Williams Institute, *Enforcement of HIV Criminalization in Maryland* (Jan. 2024), <https://williamsinstitute.law.ucla.edu/publications/hiv-crim-md/>.

¹⁴ *Id.*

¹⁵ The White House, *Remarks by President Biden to Commemorate World AIDS Day, Launch the National HIV/AIDS Strategy, and Kick Off the Global Fund Replenishment Process* (Dec. 1, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/12/01/remarks-by-president-biden-to-commemorate->



Accordingly, we urge you and your colleagues to support SB 356, which would repeal Section 18-601.1, the law that explicitly criminalizes PLHIV in Maryland. We invite you to advance the fight to end the HIV epidemic and pass SB 356. We thank you for allowing us the opportunity to testify and for reviewing our comments.

Sincerely,

Kytara Epps, MPH
Public Health and Advocacy Strategist
The Center for HIV Law and Policy

world-aids-day-launch-the-national-hiv-aids-strategy-and-kick-off-the-global-fundreplenishment-process/; American Medical Association, *Discrimination and Criminalization Based on HIV Seropositivity H-20.914*, <https://policysearch.amaassn.org/policyfinder/detail/HIV?uri=%2FAMADoc%2FHOD.xml-0-1254.xml> (last visited Jan. 23, 2024); UNAIDS, *GLOBAL AIDS STRATEGY 2021–2026. END INEQUALITIES. END AIDS.*, https://www.unaids.org/sites/default/files/media_asset/global-AIDS-strategy-2021-2026_en.pdf (last visited Jan. 23, 2024); United Nations Development Programme, *UNDP Guidance for Prosecutors on HIV Related Criminal Cases* (Jun. 7, 2021), <https://www.undp.org/publications/undp-guidance-prosecutors-hiv-related-criminal-cases>.

SB 356 - MNADV - FAV.pdf

Uploaded by: Laure Ruth

Position: FAV



BILL NO: Senate Bill 356
TITLE: Public Health - Prohibition on Transfer of Human Immunodeficiency Virus - Repeal
COMMITTEE: Judicial proceedings
HEARING DATE: January 30, 2025
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 Judiciary Committee to issue a favorable report on SB 356.**

Senate Bill 356 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 Untransmittable, 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 untransmittable 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.

For further information contact Laure Ruth • Public Policy Director • 301-852-35630 • lruth@mnadv.org



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 356.**

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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HIV transfer - Other states approach to reform of

Uploaded by: Lisae C Jordan

Position: FAV

Timeline of State Reforms and Repeals of HIV Criminal Laws

States with most significant changes to their HIV laws



The Center for HIV Law and Policy
www.hivlawandpolicy.org



2022: NEW JERSEY

- Third state to repeal its felony HIV-specific and STI-specific criminal laws.
- Expanded prohibited behavior from sexual contact to any behavior that could transmit an infectious disease.
- Enforcement now falls under the general criminal endangerment law, which can be used to prosecute incidents of exposing another to an infectious or communicable disease.
- In prosecutions under the endangerment law, the disclosure of personal health information is now prohibited.



2021: NEVADA

- Replaced HIV-specific felony with a misdemeanor offense in the public health code requiring intent to transmit, conduct likely to transmit, and actual transmission of a communicable disease.
- Provided a defense to prosecution if a person takes steps to prevent transmission or if the person exposed knows the defendant has a communicable disease, knows conduct could result in transmission, and consents to the conduct.
- Repealed the category B felony for prostitution after a positive HIV test.
- Repealed provisions that require HIV testing for individuals arrested or entering a correctional facility.
- Bars prosecution of people diagnosed with communicable diseases who donate blood, semen, organs, and other tissue even if transmission to another occurs.
- Bars prosecution of people with communicable diseases who become pregnant and disease exposure or transmission to the fetus occurs.
- States that prosecutions of exposure or transmission incidents cannot be brought under criminal law, and that an individual's HIV status cannot be used to satisfy an element of a different offense.



2021: INDIANA

- Removed inaccurate and stigmatizing language.
- Limited prosecution under the HIV and Hepatitis B virus exposure law to behavior posing a significant risk of transmission of HIV or Hepatitis B, as determined by the Centers for Disease Control and Prevention.

2022

2021



2022: GEORGIA

- An intent requirement is now included for PLHIV and those engaged in sex work.
- PLHIV will no longer be prosecuted for sharing needles or syringes, asking another to perform or submit to an act of sodomy, or donating blood, blood products, bodily fluids or organs without first disclosing their status.
- No felony punishment for PLHIV or PLHep who place their blood, semen, vaginal secretions, saliva, urine, or feces on an officer/correctional officer.
- Felony-level punishments are retained. However, a person convicted of any of the laws above now faces up to 5 years' imprisonment instead of 10 years' imprisonment.



2021: ILLINOIS

- Second state to entirely repeal its HIV criminal laws, removing any specific mention of HIV from the Illinois Criminal Code.
- Transmission of HIV can be used as an aggravating factor in certain offenses, such as sexual assault.
- Prosecution under general criminal law still possible.



2021: VIRGINIA

- Infected sexual battery law targets only sexual behavior that poses a substantial risk of transmission of an STI.
- Retains felony penalty for infected sexual battery, however both intent to transmit and actual transmission of disease are required for conviction.
- Removes misdemeanor penalty for nondisclosure of HIV, hepatitis B, or syphilis before engaging in sexual intercourse, cunnilingus, fellatio, or anal sex with another person.
- Replaced mandatory HIV and hepatitis C testing of convicted sex workers and injection drug users with optional STI testing and the test results cannot be used for any criminal prosecution.
- Eliminated the felony prohibition on donating organs, blood, tissue, and bodily fluids. PLHIV can donate organs if the recipient consents and the organ transplant complies with the federal HIV Organ Policy Equity Act.



2021: MISSOURI

- Removed most references to HIV and replaced them with "a serious infectious or communicable disease."
- Limits prosecution to activities that create a "substantial risk of transmission."
- Condom use is a defense.
- Allows all parties to keep private their identity and health status in prosecutions.
- Reduced minimum sentences and creates different levels of offenses while keeping felony punishments even without the intent to transmit a disease:
 - knowing exposure is a Class D felony, punishable by up to 7 years in prison; if transmission occurs, offense is a Class C felony punishable by up to 10 years in prison; acting "in a reckless manner by exposing" someone to a disease is a Class A misdemeanor punishable for up to one year.
- Left in place harsh penalty enhancement for sex workers living with HIV.
- Kept felony punishments for needle sharing as well as organ, blood, and tissue donation by PLHIV unless deemed medically appropriate.
- Broadened criminalized diseases from HIV, Hepatitis B, or Hepatitis C to a broader list of diseases involving exposures to corrections or mental health employees.



Timeline of State Reforms and Repeals of HIV Criminal Laws

States with most significant changes to their HIV laws



The Center for HIV Law and Policy
www.hivlawandpolicy.org



2020: WASHINGTON

- Reform reduces penalty for HIV exposure from a felony to a misdemeanor.
- Specific intent to transmit and transmission must occur for prosecution. Previously, exposure carried a felony conviction (punishable by up to life in prison) and required neither intent to transmit nor transmission.
- Affords affirmative defenses against prosecution, including disclosure of status and the use of a condom or other “practical means to prevent transmission.”
- Removes the requirement for sex offender registration.
- Misrepresenting HIV status to a sexual partner, intent to transmit, and transmission carry a higher penalty of gross misdemeanor.
- Retains felony penalty for PLHIV convicted of transmitting HIV to a child or vulnerable adult, and registration as a sex offender; amends law allowing health authorities to intervene when a person with sexually transmitted disease threatens public health.



2018: NORTH CAROLINA

- No HIV-specific criminal statute. PLHIV required to comply with public health administrative regulations and “control measures.” Violating these regulations is a misdemeanor (up to 2 years).
- PLHIV must disclose their status and use condoms unless certain exceptions apply: they have been virally suppressed for at least six months, their partner is taking pre-exposure prophylaxis (PrEP), or their partner is also HIV positive.
- Neither intent to transmit nor transmission is required for public health violations.



2017: CALIFORNIA

- Extensive reform reduced penalties for intentional exposure, solicitation, and performing sex work from felonies to misdemeanors.
- It is no longer a felony to donate blood, tissue, semen, or breast milk.
- Prosecution requires specific intent to transmit coupled with conduct likely to transmit and transmission results.
- Provides privacy protections for PLHIV charged under current law.
- Now applies to “infectious or communicable diseases” with “significant public health consequences.”
- Prohibits disclosure of defendant’s identity prior to a conviction.
- Limits use of medical records; records can’t be only source of proof of intent.
- Anyone convicted must be assessed for community placement prior to sentencing.



1994: TEXAS

- The first state to repeal its HIV-specific law; legislative history indicates one representative included it in an omnibus crime bill.
- Repeal did not end prosecutions. PLHIV in Texas prosecuted for HIV exposure since repeal have been charged with attempted murder, aggravated assault.



2020

2018

2017

2016

2014

1994



2018: LOUISIANA

- The intentional exposure statute was amended to include three affirmative defenses to prosecution:
 - if defendant can prove that the exposed person was aware of the defendant’s HIV status, knew that HIV transmission could occur, and consented with that knowledge.
 - if the exposure occurred after a physician told the defendant they are non-infectious. and the defendant disclosed their HIV status to the complainant.
 - if a defendant disclosed their status and took means to prevent transmission or is themselves a healthcare provider who was following infection control procedures.” It is worth noting that since the disclosure of health status is required in order to use any of these affirmative defenses, that disclosure is often exceedingly difficult to prove in court. Most evidence is based on conflicting testimony, with one person’s word against another’s.



2018: MICHIGAN

- Reform removed types of physical contact not likely to transmit HIV.
- Anal or vaginal sex without first disclosing status with a “specific intent” to transmit is a felony (up to 4 years). Transmission is not required for prosecution.
- Reckless exposure: sexual activity prior to disclosure resulting in transmission but without intent to transmit is a felony (up to 4 years).
- Reckless exposure without transmission is a misdemeanor.
- PLHIV who can show that they have been virally suppressed for at least six months and are following their physician’s treatment plan may use that as a defense to prove that they did not act with reckless disregard. Does not apply to acting with intent to transmit provisions of the new law.



2016: COLORADO

- Reduced the maximum authorized sentence enhancement to double the sentence for PLHIV who are charged with an underlying sex offense if transmission occurs.
- Intent to transmit is not required for prosecution.
- Eliminated felony offenses involving sex work and HIV, and mandatory HIV testing for someone accused of engaging in sex work.



2014: IOWA

- Removed sex offender registration requirement, including retroactively.
- Did not affect felony convictions of those already convicted and incarcerated.
- Added defense to prosecution if a person took practical measures to prevent transmission (e.g., prophylactic device, viral suppression).
- Still HIV-specific, but added new felonies for people living with TB, hepatitis, and meningococcal disease.
- Exposure with intent to transmit when transmission occurs is still a felony (up to 25 years). Intentional exposure without transmission is a felony (up to 5 years).
- Exposure with “reckless disregard” if transmission occurs is a felony when transmission occurs (up to 5 years), and a misdemeanor (up to one year) if it does not.

HIV transfer - testimony - senate - 2025 - SB356 F

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

P.O. Box 8782
Silver Spring, MD 20907
Phone: 301-565-2277
Fax: 301-565-3619

For more information contact:
Lisae C. Jordan, Esquire
443-995-5544
mcasa.org

Testimony Supporting Senate Bill 356
Lisae C. Jordan, Executive Director & Counsel
January 29, 2025

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 356.

Senate Bill 356 – Repeal of HIV-Specific Law on Intentional Transmission

Senate Bill 356 would repeal HIV-specific provisions criminalizing knowing transmission or attempted transmission of the HIV virus and imposing a penalty of up to 3 years imprisonment, a \$2500 fine, or both.

Previously, MCASA has encouraged this Committee to adopt amendments to continue to criminalize conduct to transmit an infectious or contagious disease with the specific intent to harm another person (we emphasize that MCASA does not believe that this should apply only to HIV). We continue to believe that a separate statute is an appropriate public policy to protect rape survivors and note that other states have taken this approach; see chart submitted with this testimony. However, we have reviewed the Attorney General's advice letter opining that other law is available to prosecute these cases and have received assurances from legislators that if this opinion is incorrect and the current law fails to protect rape survivors, this issue will be addressed in the future. As a result, MCASA supports SB356 as written.

One of the risks faced by rape survivors is HIV infection.¹ Studies of HIV transmission have been based on consensual sexual activity, and do not account for the violence of rape, so it is unclear what the risk level is, however, 91.9% of rape victims reported some degree of initial fear or concern for contracting HIV and 72.6% reported extreme fear or concern for contracting HIV.²

¹ Draughon, J. (2012). *Sexual Assault Injuries and Increased Risk of HIV Transmission*.

² Resnick, H., Monnier, J., Seals, B., Holmes, M., Walsh, J., Acierno, R., Kilpatrick, D., (2002). *Rape-Related HIV Risk Concerns Among Recent Rape Victims*.

Sexual assault programs and prosecutors in Maryland have reported cases of sexual assault where perpetrators have intentionally attempted to infect their victims with HIV. These have included situations where perpetrators have told the victim they are infected during the assault. It is appropriate to prosecute this exceeding cruel and demeaning behavior. However, there is also consensus that Health General §18-601.1 and a law specifically targeting HIV is interwoven with discrimination against the LGBTQ+ community. Public Health officials also report that statutes singling out HIV increase stigma, exacerbate disparities, and may discourage HIV testing.³ This is particularly relevant for sex workers, many of whom are victims of sex trafficking, and who may avoid testing for HIV due to §18-601.1.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on Senate Bill 356**



³ <https://www.cdc.gov/hiv/policies/law/states/exposure.html>

SB 356 -MDH - JPR - LOS (1).pdf

Uploaded by: Meghan Lynch

Position: FAV



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

January 29, 2025

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401

RE: Senate (SB) Bill 356 – Public Health - Repeal of Prohibition on Transfer of Human Immunodeficiency Virus (Carlton R. Smith Act) – Letter of Support

Dear Chair Smith and Committee Members:

The Maryland Department of Health (Department) respectfully submits this Letter of Support for Senate Bill 356– Public Health - Repeal of Prohibition on Transfer of Human Immunodeficiency Virus (Carlton R. Smith Act). This bill would repeal the existing provision under Maryland law that criminalizes certain actions involving the transfer of the Human Immunodeficiency Virus (HIV). The bill reflects a shift in public health policy, emphasizing science-based approaches to HIV prevention and treatment rather than punitive measures, which have historically perpetuated stigma and deterred individuals from seeking care and testing.

The Department recognizes that the current statute disproportionately impacts marginalized communities and does not align with the evidence-based strategies that prioritize education, prevention, and treatment to address HIV transmission effectively. Medical advancements, such as pre-exposure prophylaxis (PrEP) and antiretroviral therapy (ART), have significantly reduced transmission risks, underscoring the need for laws that reflect the current understanding of HIV prevention and management.

The Department supports SB 356 as part of ongoing efforts to reduce HIV stigma, advance health equity, and align Maryland’s public health policies with current best practices in HIV prevention and care. These changes will enable Maryland to better support individuals living with HIV while addressing systemic barriers to effective public health interventions.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,

Laura Herrera Scott, MD, MPH
Secretary

Copy of Melanie Testimony 1_1.pdf

Uploaded by: Melanie Reese

Position: FAV

William C. Smith, Jr. ,Chair, Jeffrey D. Waldstreicher, Vice-Chair, and Esteemed Judiciary Proceedings Committee Members

My name is Melanie Reese, I am a member of the Maryland Coalition to Decriminalize HIV. I am here in support of House Bill 39 - Public Health-Prohibition on Transfer of Human Immunodeficiency Virus-Repeal. HIV is not a crime, but the law I am here to change says that it is.

In Maryland, HIV is the only virus specifically targeted for enhanced criminal penalties. Section 18-601.1 of the health article criminalizes people based on their knowledge of their own status!

This law was passed out of FEAR in 1989 and hasn't been updated to reflect medical science and treatment advances- it actually discourages people from getting tested and does NOTHING to change transmission rates. When you consider the data, 18-601.1 is used to disproportionately target Black, Indigenous and other persons of color in Maryland! HIV Criminalization is not justice...it is stigmatization!!

I became HIV+ during a date rape. However, I would not even think of prosecuting my attacker for giving me HIV because it would not change my status. It would not make me HIV-, but only put another HIV+ Black individual at risk for incarceration, doing further harm to individuals & communities that are already over-policed, over-prosecuted & criminalized.

As a sexual assault survivor, I know that a disease specific law puts women at risk for domestic & intimate partner violence.

Even in situations like these, I have empathy, navigating HIV is often difficult because of stigma & managing the disease itself. Criminal laws such as this one contribute to that stigma & prevent people from wanting to know their own status. An individual should never be prosecuted for being HIV+.

HIV Criminalization is particularly harmful to Black, Indigenous & LGBTQ communities who face higher rates of diagnoses. More practically, with treatment as prevention & U=U, HIV cannot be transmitted.

I didn't immediately accept my status but being HIV+ was the best thing that happened to me because I learned to love myself & that I was enough. I wouldn't have begun that journey without my diagnosis. Before my diagnosis, I believed I was powerless, but now I feel powerful & help others, especially women, empower themselves.

HIV IS NOT A CRIME! Don't make me a criminal because I am HIV+! A criminal? Not Me!! Health Justice Now! Health Not Prison!

CORRECTED - 2025 - Written Testimony _ Support Let

Uploaded by: Mike Webb

Position: FAV



January 27, 2025

Senator William Smith, et. al.
Senate Judicial Proceedings Committee
Maryland General Assembly
2 East Miller Senate Office Building
Annapolis, Maryland 21401

Re: IN SUPPORT OF SB 356 - Public Health - Repeal of Prohibition on Transfer of Human Immunodeficiency Virus (Carlton R. Smith Act)
(Committee Hearing Scheduled for January 29 2025, at 11 a.m. ET)

Dear Senator Smith et al.,

Equality Federation is testifying in favor of SB 356. Equality Federation (EF) has been a leader in supporting and amplifying statewide LGBTQ+ advocacy efforts for over 25 years to bring national attention and awareness to historically siloed state-based LGBTQ+ issues. In close partnership with FreeState Justice, EF is a staunch supporter of modernizing HIV laws like the one that currently exists in Maryland.

Data and [lived experiences illustrate how HIV criminalization laws in Maryland don't work as intended](#), are a threat to public health, don't align with current science, and increase HIV stigma and discrimination. Notably, the Baltimore Ending the HIV Epidemic (EHE) Plan that the Baltimore City Health Department developed explicitly states that "removal of this law would be a significant positive step for de-stigmatization of people living with HIV and would go a long way in helping improve prevention and treatment recommendations."¹ Maryland's current HIV-criminalizing law disproportionately criminalizes Black people, who are already disproportionately targeted by our criminal justice system. This disparate impact is magnified due to the fact that 74.4% of Marylanders living with diagnosed HIV in 2021 were Black people. Consequently, this law systematically targets Black Marylanders, including Marylanders who happen to be Black *and* members of the LGBTQ+ community.

Repealing this law is also recommended by the Centers for Disease Control & Prevention (CDC) because HIV criminalization contradicts science and doesn't take into consideration treatment and technological advancements since the early days of the epidemic. This is illustrated by the fact that a good majority (65%) of Marylanders living with HIV are virally suppressed, meaning it is impossible for them to sexually transmit the virus, yet, under current law, they can still face prosecution.

For all these reasons, EF respectfully asks that you vote in favor of SB 356. Please do not hesitate to email me if I can provide additional information at fran@equalityfederation.org.

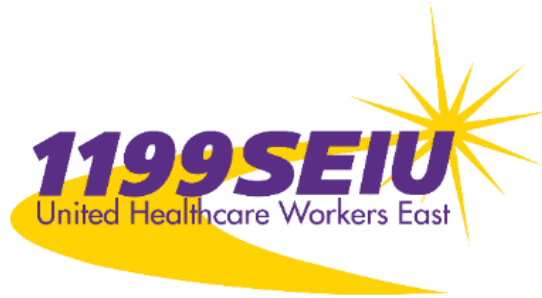
Sincerely,
Fran Hutchins, Executive Director

¹ Baltimore's Guiding Document for HIV/AIDS Efforts in the City (2020 - 2030)

SB356 1199SEIU

Uploaded by: Ricarra Jones

Position: FAV



Testimony on SB356

Public Health - Prohibition on Transfer of Human Immunodeficiency Virus – Repeal Position: **FAV**

To Chair Smith and Members of the Judicial Proceedings Committee,

My name is Ricarra Jones, and I am the Political Director with 1199SEIU United Healthcare Workers East. We are the largest healthcare workers union in the nation, with 10,000 members in Maryland and Washington, DC. We represent members who work at federally qualified health centers that provide HIV testing and treatment. Our union urges a favorable report on SB356.

Maryland's current law ¹ authorizing the imposition of fines and imprisonment as punishment for individuals with HIV is a detriment to public health. The existence of these penalties dissuades people from seeking HIV testing and treatment, which are vital to ending the HIV epidemic.

Furthermore, Marylanders with HIV can face legal consequences for engaging in behaviors that cannot result in HIV transmission and be charged without evidence of transmission. The state's law is outdated and does not consider the availability of medication that renders HIV undetectable, and therefore not transmittable. Nonetheless, a person who uses medication, shares their status with partners, or uses a condom can be charged under current law. It's time to modernize the law and destigmatize HIV.

HIV is the only disease that is targeted with enhanced criminal punishment under the law, which reinforces the stigma that people with HIV face due to outdated scientific and medical beliefs. Repealing § 18-601.1 from the MD Code will encourage residents to get tested and seek treatment, allowing the state to meet its public health goals and make a meaningful step towards ending the HIV/AIDS epidemic. We urge a favorable report on SB356.

Sincerely,
Ricarra Jones, ricarra.jones@1199.org

¹ MD Code, Health-Gen §18-601.1

SB356 ETAF Council of Justice Leaders

Uploaded by: Robert Suttle

Position: FAV

Testimony in support of SB0356, the Carlton R. Smith Jr., HIV Modernization Act, before the Maryland State Senate Judicial Proceedings Committee on January 29, 2025, by Robert Suttle:

Good morning, Chairperson and members of the committee. Thank you for this opportunity to speak.

My name is Robert Suttle. I am an HIV long-term survivor. I live in New York City and serve as chair of The Elizabeth Taylor AIDS Foundation (ETAF) Council of Justice Leaders—a diverse group of advocates with lived experience of HIV criminalization. Together, we work to educate, raise awareness, and end the stigma and injustice of HIV criminalization nationwide.

I strongly support SB0356, the Carlton R. Smith, Jr., HIV Modernization Act, and encourage you to do so as well.

HIV criminalization is rooted in outdated science and fear from decades ago when HIV was poorly understood. These laws do not reflect what we now know: ***people living with HIV who are on effective treatment cannot transmit the virus to others.***¹ U=U (Undetectable = Untransmittable) is a scientific fact and a breakthrough that has transformed lives, relationships, and public health strategies worldwide.

Sadly, I know this firsthand. In 2009, I was convicted under Louisiana’s HIV-specific statute. Despite no evidence of intent to harm or actual transmission of the virus, I was sentenced to six months of prison hard labor and was required to register as a sex offender. This didn’t protect anyone—it only caused more personal harm than good.

Stories like mine are far too common. ***In Louisiana, Black men make up 91% of HIV-related arrests.***² ***Here in Maryland, the trend is strikingly similar: Black people***

¹ Centers for Disease and Control and Prevention (2023, January 6). HIV Criminalization Legal and Policy Assessment Tool: Legal, Health, and Equity Considerations Related to HIV Criminalization, Public Health Surveillance, and Data Privacy <https://www.cdc.gov/hiv/policies/law/hiv-criminalization-legal-and-policy-assessment-tool.html#print>

² Cisneros, N. & Sears, B. (2022). Enforcement of HIV Criminalization in Louisiana. The Williams Institute. <https://williamsinstitute.law.ucla.edu/publications/hiv-criminalization-louisiana/>
ENFORCEMENT OF HIV CRIMINALIZATION in Louisiana

account for 82% of HIV-related criminal cases.³ These laws don't just perpetuate stigma—they exacerbate racial and health inequities.

Repealing this law is not just about justice—it's essential for public health. These laws undermine efforts to end the HIV epidemic and, as the law is currently written, discourage testing, treatment, and disclosure in an environment that threatens criminalization against people living with HIV. Repealing this law is a crucial step toward ending the HIV epidemic in Maryland.

We can prevent HIV by eliminating stigma, or we can prosecute HIV by criminalizing those of us who are living with it. But we cannot do both.

I urge you to vote in favor of SB0356. Together, we can end the stigma, protect public health, and honor the dignity of all people, including those living and aging with HIV.

Thank you for the opportunity to speak today. I am happy to answer any questions you may have.

Robert Suttle, Chair

The Elizabeth Taylor AIDS Foundation (ETAF) Council of Justice Leaders

robert@robertsuttle.com

³ Cisneros, N. & Sears, B. (2024). Enforcement of HIV Criminalization in Maryland. The Williams Institute.

<https://williamsinstitute.law.ucla.edu/publications/hiv-crim-md/>

ENFORCEMENT OF HIV CRIMINALIZATION in Maryland

2025 MCHS SB 356 Senate Side.pdf

Uploaded by: Robyn Elliott

Position: FAV



Maryland Community Health System

Bill Number: SB 356 –Prohibition on Transfer of Human Immunodeficiency Virus- Repeal

Committee: House Judiciary Committee

Hearing Date: January 29, 2025

Position: Support

The Maryland Community Health System (MCHS) supports *Senate Bill 365- Public Health – Prohibition on Transfer of Human Immunodeficiency Virus- Repeal*. The bill would repeal the criminal penalty on an individual knowingly transferring HIV. The Centers for Disease Control and Prevention recommends that states repeal such laws, which were passed at the height of the AIDS crisisⁱ. These laws have contributed to the stigmatization of HIV and discouraged people to seek testing and/or treatment. As a network of federally qualified health centers, we serve communities that have felt disengaged or marginalized from the healthcare system. We want to reduce barriers, including social stigma, for people at risk for or with HIV.

We request a favorable report. If we can provide any further information, please contact Robyn Elliott at relliott@policypartners.net

ⁱ <https://www.cdc.gov/hiv/pdf/policies/law/cdc-hiv-criminal-ehe-2023.pdf>

FreeState_Justice_SB0356_FAVORABLE.pdf

Uploaded by: Ronnie Taylor

Position: FAV



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TEL 410) 625-LGBT (5428)
FAX 410) 625-7423
www.freestate-justice.org

Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401

Monday, January 27, 2025

SB0356 – Public Health - Prohibition on Transfer of Human
Immunodeficiency Virus - Repeal

Position: **FAVORABLE**

Chair Smith, Vice Chair Waldstreicher, and Esteemed Members of the Judicial
Proceedings Committee:

My name is Ronnie L. Taylor, and I serve as the Community Advocacy
Manager at FreeState Justice, Maryland’s leading advocacy organization
dedicated to addressing legal and systemic inequities impacting LGBTQIA+
individuals. I am testifying today in strong support of **SB0356**, which seeks to
repeal the archaic and harmful prohibition on the transfer of human
immunodeficiency virus (HIV) under Maryland’s Health Code.

SB0356 is a critical step toward modernizing Maryland’s public health laws,
reducing stigma for people living with HIV (PLHIV), and aligning state policy
with contemporary scientific understanding and public health best practices.

SB0356 addresses a long-standing injustice within Maryland’s criminal code.
Section 18-601.1 of the Health-General Article disproportionately criminalizes
PLHIV, perpetuates stigma, and creates barriers to testing and treatment.

This outdated law was introduced in 1989 during the height of HIV hysteria
and is based on disproven assumptions about HIV transmission. Under the
current statute, individuals can be prosecuted regardless of whether they
disclose their status, use preventive measures, or have an undetectable viral
load, even though medical science confirms that undetectable equals
untransmittable (U=U).

SB0356 will:

- 1. Bring Maryland’s Laws in Line with Current Science**
Medical advances have revolutionized HIV treatment and prevention.
According to the Centers for Disease Control and Prevention (CDC),

*FreeState Justice, Inc. is a social justice organization that works through direct legal services, legislative and policy
advocacy, and community engagement to enable Marylanders across the spectrum of lesbian, gay, bisexual, transgender,
and queer identities to be free to live authentically, with safety and dignity, in all communities throughout our state.*

LEADERSHIP TEAM

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Executive Director

Lauren Pruitt, Esq.
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Andrew Ansel

PLHIV who achieve viral suppression through antiretroviral therapy (ART) cannot transmit the virus to others. Criminalizing HIV based on outdated fears ignores this reality and undermines public health efforts.

2. **Encourage Testing and Treatment**

The current law disincentivizes testing because knowledge of HIV status is a prerequisite for prosecution. This creates a chilling effect on individuals seeking diagnosis and care, particularly in marginalized communities. Removing this statute will foster a supportive environment for people to learn their status and access life-saving treatments.

3. **Reduce Stigma and Discrimination**

HIV is the only disease explicitly singled out in Maryland's criminal code, reinforcing harmful stereotypes and stigmatizing PLHIV. The CDC has found no evidence that such laws reduce HIV transmission rates; instead, they perpetuate fear and misinformation.

4. **Address Racial Inequities**

Data from the Maryland Coalition to Decriminalize HIV highlights the racial disparities in enforcement of §18-601.1. Black individuals represent 82% of HIV-related prosecutions in Maryland, despite comprising only 30% of the state's population. Repealing this law is a necessary step toward reducing racial inequities in the criminal justice system.

5. **Align Maryland with National Trends**

Since 2021, nine states have modernized or repealed HIV criminalization laws. By passing SB0356, Maryland will join a growing number of states leading the charge in advancing equitable and evidence-based public health policies.

As a Black transgender woman and advocate, I have witnessed firsthand the disproportionate impact of HIV criminalization laws on marginalized communities. Marylanders living with HIV—particularly LGBTQIA+ individuals and Black men—face compounding stigma that these outdated laws exacerbate. Repealing §18-601.1 will remove an institutionalized barrier to justice, equity, and dignity for our communities.

In closing, I respectfully urge the committee to issue a **FAVORABLE** report for **SB0356**. By repealing the prohibition on the transfer of HIV, Maryland can modernize its laws, improve public health outcomes, and affirm its commitment to equity and inclusion.

This legislation is not only an opportunity to right past wrongs but also a chance to lead in the fight against HIV stigma and criminalization.

Best,

Ronnie L. Taylor

Ronnie L. Taylor

SB 356 - MACHO - JPR - LOS.pdf

Uploaded by: State of Maryland (MD)

Position: FAV



**2025 SESSION
POSITION PAPER**

BILL: SB 356 – Public Health – Prohibition on Transfer of Human Immunodeficiency Virus - Repeal

COMMITTEE: Senate – Judicial Proceedings Committee

POSITION: Letter of Support

BILL ANALYSIS: SB 356 would repeal the 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 HB 356. 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.¹ Punishable activities include consensual sex, breastfeeding, needle sharing, blood and tissue donation, and biting or spitting.² 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.³ In fact, most people can become undetectable within six months of treatment.⁴ 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 2020.⁵ Under the current law, a lack of knowledge of one’s HIV status could act as a defense against 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.⁶ We must encourage Marylanders to know their HIV status so they can both protect their sexual partners and seek

¹ MD. CODE. ANN., HEALTH-GEN. § 18-601.1 (2016).

² 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

³ 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>

⁴ US Centers for Disease Control and Prevention. (2022). Living with HIV. Retrieved from https://www.cdc.gov/hiv/living-with/?CDC_AAref_Val=https://www.cdc.gov/hiv/basics/livingwithhiv/newly-diagnosed.html

⁵ 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.>

⁶ 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.

DOI: <http://dx.doi.org/10.15585/mmwr.mm6811e1external icon>.

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.⁷ By passing SB 356, 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 356. For more information, please contact Ruth Maiorana, MACHO Executive Director at rmaiora1@jhu.edu or 410-937-1433. *This communication reflects the position of MACHO.*

615 North Wolfe Street, Room E 2530 // Baltimore, Maryland 21205 // 410-937-1433

⁷ 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.

MCPA-MSA_SB 356 Transfer of HIV - SWA_.pdf

Uploaded by: Samira Jackson

Position: FWA



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr., Chair and
Members of the Senate Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Samira Jackson, Representative, MCPA-MSA Joint Legislative Committee

DATE: January 29, 2025

RE: **SB 356 - Public Health - Prohibition on Transfer of Human Immunodeficiency Virus (Carlton R. Smith Act)**

POSITION: SUPPORT WITH AMENDMENTS

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **SUPPORT SB 356 WITH AMENDMENTS**. This bill repeals provisions of law that would make it a misdemeanor to knowingly transfer or attempt to transfer HIV to another individual.

No one should be stigmatized, targeted, or potentially face misdemeanor charges for having HIV and being in situations where the virus can be transferred. Statutes like the one SB 356 seeks to repeal were born out of the peak of the HIV epidemic out of ignorance and fear of contracting it. The fact that the law is rarely used demonstrates that it is dated, unnecessary, and should be repealed.

While individuals with HIV do not deserve to be stigmatized or live in fear they can be charged with a misdemeanor for an inadvertent action, individuals who have an infectious disease and knowingly use that disease to abuse victims through the transfer of the virus or intimidate victims through the threat of transfer should face consequences for those intentional actions.

Law enforcement and correctional officers often face hostile individuals who attempt to harm officers through biting, spitting, and other means of expelling bodily fluids. There are times when people do this knowing they have a communicable disease with the intent to infect the officers. Additionally, officers come across situations in which people are sexually assaulted or raped and the person performing these wicked acts does so with the intent to pass on a disease often further traumatizing the victim by verbalizing the intent during the process. In both of these cases, victims not only have to feel the physical and mental pains of the assault but also have to wait with bated breath to see if the perpetrator was successful in their attempt to harm them with a virus. Those perpetrators should face criminal charges for their targeted and deliberate actions.

SB 356 should be amended to specify criminal charges for those who intentionally harm or threaten to harm individuals and officers by transferring an infectious disease.

For these reasons, MCPA and MSA **SUPPORT SB 356 WITH AMENDMENTS** and urge a **FAVORABLE** committee report **AS AMENDED**.

532 Baltimore Boulevard, Suite 308
Westminster, Maryland 21157
667-314-3216 / 667-314-3236