

March 24, 2023

Luke H. Clippinger, Chair
David Moon, Vice-Chair
Members of the Judiciary Committee
Maryland House of Delegates
House Office Building, Room 101
6 Bladen St., Annapolis, MD 21401

Re: House Bill 287 concerning HIV decriminalization – SUPPORT

Dear Chair Clippinger, Vice-Chair Moon, and Members of the House of Delegates Judiciary Committee,

SAGE, the world's largest and oldest organization dedicated to improving the lives of lesbian, gay, bisexual, transgender, and queer (LGBTQ+) older people, respectfully submits written comments in support of H.B. 287, concerning HIV decriminalization. As an organization that offers supportive services and consumer resources to LGBTQ+ older people and their caregivers, including people aging with HIV, SAGE is committed to advocating for public policy changes that address the needs of LGBTQ+ elders and older adults living with HIV. H.B. 287 would repeal a statute that criminalizes HIV status, which is an important step towards creating a more just and equitable society where people are valued and respected.

We believe that current HIV criminalization laws are outdated and do not reflect the HIV medical and scientific advances that have taken place in the last two decades that make HIV impossible to transmit sexually when a person with HIV has an undetectable viral load. A person who takes HIV medication as prescribed, and gets and stays virally suppressed, not only can live a long and healthy life but also will not transmit HIV to sexual partners. This is often referred to as Undetectable=Untransmittable or U=U.

Since 2014, the Centers for Disease Control and Prevention (CDC) have encouraged states with HIV criminal statutes to re-assess these laws based on the current state of the evidence regarding HIV transmission risk and the public's health. It is important to note that behavior such as biting, spitting, and throwing bodily fluids, which pose a negligible risk of HIV transmission, have in some cases resulted in overly harsh sentencing. These laws continue to be used against people living with HIV regardless of intent to harm others or actual transmission having occurred. 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 HIV disclosure and may discourage HIV testing and entry into medical care, increase stigma against people with HIV, and exacerbate health disparities.

HIV epidemics are driven by undiagnosed HIV, not by people who know their HIV positive status. Furthermore, these laws disproportionately affect Black men and women and those already targeted by the criminal legal system. People living with HIV in Maryland could face misdemeanor penalties that include up to 3 years in prison and a significant fine. Under current Maryland law, any type of HIV exposure could result in

prosecution, including consensual sex and breast/chest feeding. In Maryland, even people living with HIV who disclose their status or use HIV prevention tools like condoms can still be prosecuted, and disclosure or using condoms is not an affirmative defense under current law. People living with HIV can face prosecution even without exposing anyone to any risk of HIV transmission.

According to the Maryland Department of Health, of the 32,149 people living with diagnosed HIV in Maryland in 2021, 53.7% are 50+ years old. Over 50% of people living with HIV in the United States are over 50, and by 2030 that percentage will reach 73%. As the HIV community continues to age, older people with HIV are more at risk for being convicted under HIV criminalization laws simply because there will be more older adults with HIV as the years go by. These types of laws will lead to a disproportionate impact on an already marginalized population.

Criminalizing older adults with HIV is bad public policy because it reinforces stigma against people living with HIV, discourages HIV testing and entry into medical care, and exacerbates health disparities. It can also have a negative impact on older adults' mental health and well-being, as they may feel targeted, isolated, and afraid of seeking the care and support they need. Repealing these laws promotes public health, reduces stigma, and helps to ensure that all people, including older adults with HIV, are treated with dignity and respect. Repealing HIV criminalization laws is a critical step towards addressing the health and well-being of older adults with HIV. By eliminating the fear of criminal prosecution, older adults with HIV will be more likely to live full and productive lives.

SAGE respectfully asks that you vote in favor of HB 287. Please do not hesitate to email me if SAGE can provide additional information at twilder@sageusa.org. Thank you for your consideration of this important legislation.

Sincerely,

Terri L Wilder, MSW

HIV/Aging Policy Advocate