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Frederick County Health Department

**HOUSE BILL 287**
***Prohibition on Transfer of Human Immunodeficiency Virus –Repeal***
**WRITTEN TESTIMONY BEFORE THE**
**JUDICIAL PROCEEDINGS COMMITTEE**
***Barbara Brookmyer, MD, MPH, Health Officer, Frederick County Health Department***
*Position: Support – March 27, 2023*

The bill would repeal the prohibition on an individual from knowingly transferring or attempting to transfer the human immunodeficiency virus to another individual; and generally relating to transfer of human immunodeficiency virus.

The Department of Legislative Service's analysis sates that the Judiciary advised that in the 3 years examined that there were zero convictions for knowingly transferring or attempting to transfer HIV out of five charges in FY20, two charges in FY21 and three charges in FY22.

The current criminalization of HIV perpetuates stigma, exacerbates disparities, and likely discourages HIV testing. The current law was passed at a time when little was known about HIV including how HIV was transmitted and how best to treat the virus. The Centers for Disease Control and Prevention notes that after more than 40 years of HIV research and significant biomedical advancements to treat and prevent HIV transmission, many state laws are now outdated and do not reflect our current understanding of HIV. In many cases, this same standard is not applied to other treatable diseases.

The U.S. Department of Justice Civil Rights Division in its 2014 publication, Best Practices Guide to Reform HIV-Specific Criminal Laws to Align with Scientifically-Support Factors, recommends that states bring las into alignment with current evidence regarding HIV transmission and current knowledge of quality and length of life for those living with HIV citing the following facts to be taken into account:

- The CDC categorizes the risk of transmission of HIV from biting, spitting, or throwing body fluids, even in the absence of risk reduction measures, as negligible, defined as exposure routes that are technically possible but unlikely and not well documented.[1]
- The CDC categorizes the risk of transmission of HIV during receptive and insertive oral intercourse, even in the absence of risk reduction measure, as low.[2]
- The estimated per-act probability of acquiring HIV during the following activity per 10,000 exposures is as follows: insertive penile-vaginal intercourse, 4; receptive penile-vaginal intercourse, 8; insertive anal intercourse, 11; and receptive anal intercourse, 138. These risk assessments are in the absence of risk reduction factors.[3]
- Taking antiretroviral therapy (ART) can reduce the risk of HIV transmission as much as 96%, consistent use of condoms reduces the risk of HIV transmission by about 80%, and the use of ART and condoms in combination reduces these risks of transmission by 99.2%.[4]

Maryland
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- With testing and treatment, HIV can be a manageable chronic disease. As of 2013, a 20-year old with the HIV virus who is on ART and is living in the United States or Canada has a life expectancy into their early 70's, a life expectancy that approaches that of an HIV-negative 20-year old in the general population.[5]

When a person living with HIV is on ART and has a continuously undetectable viral load the risk of HIV transmission is effectively zero. [6]

In the interest of alignment of policy with current scientific and medical evidence, and their intersection with HIV data privacy laws, this bill should be supported.

For more information, please contact Dr. Barbara Brookmyer at BbrookmyerFrederickCountyMD.gov or 301-600-2509.

1 HIV Transmission Risk: Estimated Per-Act Probability of Acquiring HIV from an Infected Source, by Exposure Act, Centers for Disease Control and Prevention, available at http://www.cdc.gov/hiv/policies/law/risk.html.
2 Id.
3 Id.
4 Id.
5 Closing the Gap: Increases in Life Expectancy among Treated Individuals in the United States and Canada, Hasina Samji et. al., Page 16, PLOS ONE, available at http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0081355 .
6 Alison Rodger et al., *Sexual activity without condoms and risk of HIV transmission in serodifferent couples when the HIV-positive partner is using suppressive antiretroviral therapy*, 316 JAMA 171, 171 (2016). The connection between effective treatment, viral suppression, and significantly reduced transmission risk was first highlighted in 1994, when a study of pregnant women demonstrated AZT therapy dramatically decreased rates of perinatal transmission. Edward M. Connor et al., *Reduction of Maternal-Infant Transmission of Human Immunodeficiency Virus Type 1 with Zidovudine Treatment*, 331 New Eng. J. Med. 1173, 1173 (1994).