

SB211 2024 AnnapolisPride.pdf

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Position: FAV



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BILL: Senate Bill 211 - Public Health - Giving Infants a Future Without Transmission (GIFT) Act

DATE: February 8, 2024

POSITION: FAVORABLE

COMMITTEE: Finance

CONTACT: Jaden Farris | jaden@annapolispride.org

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.

As such, Annapolis Pride supports Senate Bill 211, which takes important steps towards protecting the health and well-being of newborns by improving the identification and treatment of HIV and syphilis in pregnant individuals. This legislation requires healthcare providers to report the pregnancy status of individuals diagnosed with HIV and/or syphilis-positive individuals and facilitates timely identification of pregnant individuals and newborns at risk. Early diagnosis allows for the immediate administration of appropriate treatments, significantly reducing the risk of transmission.

Without intervention, the unfortunate reality is that one-third of babies born to HIV and/or syphilis-positive individuals will contract the virus, facing a lifelong battle with its consequences.¹ This is a preventable tragedy, not a statistic we should accept.

However, achieving true well-being for our community requires addressing systemic issues beyond Senate Bill 211. While we strongly support its efforts to protect newborns and pregnant individuals through improved HIV and syphilis identification and treatment, we must recognize that the current criminalization of HIV disproportionately harms LGBTQ+ individuals, particularly within communities of color. Therefore, in addition to supporting Senate Bill 211, Annapolis Pride urges this committee to also champion the decriminalization of HIV.

Accordingly, Annapolis Pride respectfully requests a favorable committee report on Senate Bill 211.

¹ McIntyre, J., & Gray, G. (2002). What can we do to reduce mother to child transmission of HIV?. *BMJ (Clinical research ed.)*, 324(7331), 218–221.
<https://doi.org/10.1136/bmj.324.7331.218>

SB 211- Giving Infants a Future Without Transmissi

Uploaded by: Jane Krienke

Position: FAV



Maryland
Hospital Association

February 8, 2024

To: The Honorable Pamela Beidle, Chair, Senate Finance Committee

Re: Letter of Support- Senate Bill 211- Giving Infants a Future Without Transmission (GIFT) Act

Dear Chair Beidle:

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment in support of Senate Bill 211.

Undiagnosed and untreated HIV and syphilis infections in pregnant women increase the risk of perinatal HIV transmission, stillbirth or premature births, and infant mortality. Although Maryland law requires HIV testing to be offered during both the first and third trimesters, late or no initiation of prenatal care and HIV antiretroviral therapy was a leading factor behind a rise in perinatal HIV infections in Maryland in 2022.¹ Meanwhile congenital syphilis infections rose by an alarming 102% in the state between 2016 and 2020.²

SB 211 recognizes the critical need to not delay diagnoses or miss opportunities to intervene. The bill would help strengthen HIV and syphilis screening and reporting requirements, which are essential to ensure pregnant people and infants receive the care and support they need and in a timely manner.

This bill will help reduce maternal and infant mortality risk and promote the health of mothers and babies.

For these reasons, we request a *favorable* report on SB 211.

For more information, please contact:

Pegeen Townsend, Consultant

Ptownsend@mhaonline.org

¹ Maryland Department of Health. https://www.mbp.state.md.us/forms/Clinician_letter_HIV_02172023.pdf

² CDC: Spotlight on Sexually Transmitted Infections & Prevention. <https://www.cdc.gov/std/dstdp/sti-funding-at-work/jurisdictional-spotlights/maryland.pdf>

10 - SB 211 - FIN- MDH- LOS.pdf

Uploaded by: Jason Caplan

Position: FAV



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

February 8, 2024

The Honorable Pamela Beidle
Chair, Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401-1991

**RE: Senate Bill 211 – Public Health - Giving Infants a Future Without Transmission (GIFT) Act–
Letter of Support**

Dear Chair Beidle and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of support for Senate Bill (SB) 211 – Public Health - Giving Infants a Future Without Transmission (GIFT) Act. This bill aims to amend human immunodeficiency virus (HIV) and syphilis reporting and testing requirements for hospitals and health care providers attending to pregnant women and newborns. Specifically, SB 211 mandates: (1) HIV and syphilis testing at certain times for expectant mothers; (2) newborn HIV testing in cases where the mother's HIV status is unknown; and (3) the reporting of pregnant women living with HIV by healthcare providers.

In recent years, Maryland has witnessed an increase in perinatal HIV transmissions. Although HIV testing is the standard of care for all pregnant women and is a routine component of preconception care, some pregnant women are not diagnosed with HIV until late in their pregnancy or after birth. If undiagnosed and untreated, HIV can be transmitted to the infant during pregnancy or delivery, resulting in the gradual weakening of the child's immune system and increased susceptibility to life-threatening infections. The risk of transmission is <1 % in women with HIV who begin treatment before or during pregnancy and sustain low levels of the virus throughout pregnancy.

Congenital syphilis (CS) in Maryland has reached epidemic proportions,¹ with a nearly 300% increase in reported CS cases, mirroring a decade of alarming increases nationwide,^{2,3} Numerous public health and medical organizations, including the Centers for Disease Control and Prevention,⁴ the American

¹ Data source: MDH NBS database. Note: CS cases are more than two standard deviations above the 5-year mean, diagnoses not limited to a geographic area.

² Data from Maryland's Statewide Sexually Transmitted Infections database, STI/HIV NBS. Accessed August 7, 2023.

³ McDonald R, O'Callaghan K, Torrone E, et al. Vital Signs: Missed Opportunities for Preventing Congenital Syphilis — United States, 2022. *MMWR Morb Mortal Wkly Rep* 2023;72:1269–1274.<https://www.cdc.gov/mmwr/volumes/72/wr/mm7246e1.htm>.

⁴ Ibid.

Academy of Pediatrics,⁵ the Association of State and Territorial Health Officials,^{6,7} and the National Governors Association,⁸ have issued calls to action advocating for enhanced testing. A CDC predictive modeling analysis of 2017 data revealed that 12 of Maryland's 24 jurisdictions were at elevated risk for congenital syphilis.⁹ A more recent review by the Department indicates an additional six jurisdictions reached that elevated threshold in 2022. Ninety-four percent of live births in Maryland in 2021 were residents of those 18 jurisdictions. Requiring syphilis testing at delivery not only aligns with the Code of Maryland Regulations¹⁰ and national recommendations but also serves as a safety net for women who had no prenatal care or who did not receive timely testing or timely and adequate treatment.

The Department urges a favorable report on SB 211 which provides for potentially life-saving and life-altering interventions for Maryland infants.

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, M.D., M.P.H.
Secretary

⁵ Williams JE, Graf RJ, et al. Maternal and Congenital Syphilis: A Call for Improved Diagnostics and Education. *Pediatrics* (2022) 150 (3): e2022057927.

⁶ Congenital Syphilis Call To Action Letter. April 2023. Association of State and Territorial Health Officials. <https://www.astho.org/globalassets/pdf/press-releases/congenital-syphilis-call-to-action-letter-april-2023.pdf>.

⁷ Congenital Syphilis Technical Package: Effective Public Health Approaches to Reducing Congenital Syphilis. Association of State and Territorial Health Officials. <https://www.astho.org/communications/blog/effective-public-health-approaches-to-reducing-congenital-syphilis/>.

⁸ Issue Brief: Congenital Syphilis. January 9, 2024. National Governors Association. <https://www.nga.org/publications/issue-brief-congenital-syphilis/>

⁹ Cuffe K, Torrone EA, Hong J, et al. Identification of US Counties at Elevated Risk for Congenital Syphilis Using Predictive Modeling and a Risk Scoring System. *Sex Transm Dis*. 2022 Mar 1;49(3):184-189. <https://pubmed.ncbi.nlm.nih.gov/32044864/>

¹⁰ Code of Maryland Regulations. 10.06.01.17D. Communicable Diseases and Related Conditions of Public Health Importance, Syphilis and HIV. <https://dsd.maryland.gov/regulations/Pages/10.06.01.17.aspx>. Accessed 1/23/2024.

2024 ACNM SB 211 Senate Side.pdf

Uploaded by: Michael Paddy

Position: FAV



Committee: Senate Finance Committee

Bill Number: SB 211

Title: Public Health – Giving Infants a Future Without Transmission (GIFT) Act

Hearing Date: February 8, 2024

Position: Support

The Maryland Affiliate of the American College of Nurse Midwives (ACNM) supports *Senate Bill 211 – Public Health – Giving Infants a Future Without Transmission (GIFT) Act*. The bill updates testing and hospital protocol requirements to reduce the perinatal transmission rates for HIV and syphilis. In particular, we would like to highlight several aspects of the legislation:

- The existing law does not acknowledge the role of non-physicians in HIV testing and pregnancy care. We appreciate the Department’s proposed language which recognizes the broad scope of providers, including certified nurse-midwives and licensed certified midwives, who provide services to people who are pregnant and/or at risk for HIV;
- The new proposed language regarding requirements for HIV testing during pregnancy reflects best practices; and
- The proposed requirement that hospitals determine the syphilis serologic status of the new mother before discharge will help ensure the provision of appropriate follow-up care after discharge.

We ask for a favorable report. If we can provide any further information, please contact Michael Paddy at mpaddy@policypartners.net.

SB0211_FAV_MedChi, MDAAP, MDACOG_PH - Giving Infan

Uploaded by: Pam Kasemeyer

Position: FAV



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TO: The Honorable Pamela Beidle, Chair
Members, Senate Finance Committee
Chair, Senate Finance Committee (Maryland Department of Health)

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Andrew G. Vetter
Christine K. Krone

DATE: February 8, 2024

RE: **SUPPORT** – Senate Bill 211 – *Public Health – Giving Infants a Future Without Transmission (GIFT) Act*

On behalf of the Maryland State Medical Society, the Maryland Chapter of the American Academy of Pediatrics, and the Maryland Section of the American College of Obstetricians and Gynecologists, we submit this letter of **support** for Senate Bill 211.

Senate Bill 211 is a Departmental bill that proposes to modify current requirements related to HIV and syphilis testing and reporting for pregnant women and newborns. These modifications strengthen the State's current framework to address an increased incidence of HIV and syphilis in newborns. The bill expands the testing and reporting requirements from just physicians to any health care provider who has diagnosed an individual with HIV, while under their care, and expands the reporting requirements to include the pregnancy status of an individual, if applicable. Senate Bill 211 also requires testing of a pregnant woman in the third trimester as well as at the time of delivery, including stillborn births under certain circumstances. Expanding the application of these requirements to all health care providers will ensure that certified nurse midwives, certified midwives, and direct-entry midwives as well as other health care providers will play a role in the State's effort to address the noted increased incidence of HIV. Finally, the bill requires a hospital to determine the syphilis serologic status of a mother before discharging the newborn for purposes of neonatal evaluation and treatment.

Improving maternal child health has been a priority for the General Assembly as well as the above-named organizations. The enhanced testing and reporting requirements reflected in Senate Bill 211 provides the State an additional avenue to enhance the health and safety of Maryland's women and children. A favorable report is requested.

For more information:

Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Andrew G. Vetter
Christine K. Krone
(410) 244-7000

SB0211_FWA_mgoldstein 2024.pdf

Uploaded by: Mathew Goldstein

Position: FWA



Secular Maryland

<https://secularmaryland.dorik.io> secularmaryland@tutanota.com

February 08, 2024

SB 211 - FWA

Public Health - Giving Infants a Future Without Transmission (GIFT) Act

Dear Chair Pamela Beidle, Vice-Chair Katherine Klausmeier, and Members of the Finance Committee,

Health General §18–307(a) irresponsibly grants a religious belief exemption to pregnant women from being properly screened for syphilis. This provision is clearly unethical and should be revoked.

Congenital syphilis results through transplacental transmission of the bacteria to the fetus. The rate of infection during pregnancy in cases of untreated syphilis approaches 100%, resulting in a 40% fetal and infant death rate. Transmission is possible at any stage of pregnancy and can also result in serious injury short of death including multiple organ problems targeting the ears, eyes, liver, bone marrow, skin, bones, and heart. Health care providers in the United States and other countries are required to notify public health authorities whenever syphilis is diagnosed because the infection can spread via kissing and sexual activities.

Screenings and sonograms are legally required at the beginning of prenatal care in all states for identification of syphilis. Symptoms of syphilis may be very mild, or be similar to signs of other health problems. The only way to know for sure if someone has syphilis is to get tested. When a fetus contracts syphilis from its mother early treatment is essential in lowering the risks of miscarriage, stillbirth, after birth infant death, and the long-term effects of syphilis. The United States Preventive Services Task Force (USPSTF) strongly recommends universal screening of all pregnant women, while the World Health Organization recommends all women be tested at their first antenatal visit and again in the third trimester.

Government has a *parens patriae* duty to protect our country's children. States relinquish their duty and leave infants vulnerable to death and disability when they

include religious exemptions in the law mandating syphilis testing during pregnancy.

Respectfully,
Mathew Goldstein
3838 Early Glow Ln
Bowie, MD 20716p

2024 WLCM SB 211 Senate Side.pdf

Uploaded by: Robyn Elliott

Position: FWA

Committee:	Senate Finance Committee
Bill Number:	SB 211 - Public Health: Giving Infants a Future Without Transmission Act
Hearing Date:	February 8, 2024
Position:	Support with Amendments

The Women's Law Center of Maryland supports the public health intention of *Senate Bill 211 – Public Health – Giving Infants a Future Without Transmission (GIFT) Act*. We understand that our public health officials need to be actively engaged with the health care provider community to reduce the perinatal transmission of HIV.

The Women's Law Center of Maryland provides legal services to support individuals facing intimate partner violence, sexual abuse, or human trafficking. We do not provide healthcare services, and defer to our health professional colleagues on the question of appropriate clinical protocols for HIV testing to reduce the perinatal transmission of HIV. We would like to raise two separate policy questions that could be addressed by amendments:

- **More Appropriate References to the Pregnant Person:** We object to the language on page 6 in line 7 about that the HIV testing is to:

“(1) THE BODY OF A PREGNANT WOMAN DURING DELIVERY;”

The use of the word “BODY” is inappropriate, as it does not acknowledge that the pregnant individual is a person. We would also note that the bill consistently uses the term “woman” and does not acknowledge that some pregnant individuals may not identify as women.

- **Report of Pregnancy Status:** We appreciate that the Department's plans to use pregnancy status reports to support public health interventions to curb perinatal transmission of HIV. Such intervention may yield positive health outcomes. However, we believe there may be other avenues to further this goal. We unfortunately live in an environment where people may be intimidated by the collection and reporting of such data.

We would like to thank the Department for its commitment to improving the health of pregnant people and newborns. We would be pleased to work with the Department, the Committee, and other stakeholders on amendments to address the questions we have raised, yet still ensure that the legislation allows the Department of Health to take an effective public health approach to reducing perinatal transmission of HIV and syphilis. If we can be of further assistance, please contact Robyn Elliott at relliott@policypartners.net.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

GIFTAct_Testimony.pdf

Uploaded by: Kytara Epps

Position: UNF



February 7, 2024

Senator Pamela Beidle

Chairperson
Senate Finance Committee
3E Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: Opposition to Senate Bill 211 (The GIFT Act), which would expose pregnant persons to criminal liability, undermine bodily autonomy and rights of parents, and exacerbate medical distrust.

Dear Senator Beidle,

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.

Our partner organization The Well Project (TWP), which works to change the course of the HIV pandemic through a unique and comprehensive focus on women across the gender spectrum, has been heavily involved in advocacy, provider education, research promotion, and resource development at the intersection of HIV and reproductive health/rights/justice, particularly around the issue of chestfeeding and bodily autonomy for parents living with HIV.

Through CHLP's 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 and the Maryland Department of Health to modernize these laws to remove stigmatizing and counterproductive language, reduce the potential for criminalization of marginalized folks, and center the dignity of people living with these conditions.

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).

We offer testimony to express serious concerns regarding Senate Bill 211 (SB211), also known as the Giving Infants a Future Without Transmission (GIFT) Act.² Although reducing the rates of vertical (parent-to-child) transmission of HIV and syphilis is an important goal in ending these epidemics, SB211 would put parents, pregnant people living with HIV, and others at risk of criminalization, exacerbate existing medical distrust, discourage healthy parenting behaviors, and undermine the goal of ending the HIV epidemic. As such, we ask the Legislature to reject SB211.

SB211 would increase the non-consensual data collection of pregnant persons, people living with HIV (PLHIV), and others in several significant ways. The bill would newly require that healthcare providers and healthcare institutions report the pregnancy status of people diagnosed with HIV. Furthermore, the bill would newly mandate that healthcare providers obtain an additional blood sample from birthing parents, even those who deliver stillborn infants, for syphilis testing. Lastly, the bill would newly require that healthcare providers obtain additional samples from the birthing parent and the newborn for HIV testing, without requiring affirmative consent from the parent.

To be sure, the existing law obtains extensive information on PLHIV without their affirmative consent and maintains this information within a state “registry.”³ Although such non-consensual data collection and maintenance already exposes PLHIV to criminal sanctions, SB211 would go further and expand the problems with this registry, including the information it contains and the manner in which it obtains this information.

- I. **The bill would expose PLHIV who are pregnant to increased criminalization. Moreover, the proposed bill would discourage Black and brown parents from engaging in healthcare by exacerbating medical distrust and would undermine parents’ rights to choose how and what to feed their newborn.**

In mandating the reporting of someone’s HIV diagnosis concurrently with their pregnancy status, SB211 broadens the possibility of prosecution under Section 18-601.1. The official, permanent record of someone’s HIV status alongside pregnancy status would open the door even further to surveillance, prosecution, and potential child regulation system involvement.

Under Maryland Code Section 18-601.1 (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.⁴ Any type of conduct by PLHIV, including chestfeeding, is subject to prosecution. Prosecutors have used Section 18-601.1 to criminalize behavior by people living with HIV, despite scientific evidence

² *Giving Infants a Future Without Transmission (GIFT) Act*, SB0211 (2024).

³ MD. CODE ANN., HEALTH-GEN. § 18-201.1 (2024).

⁴ MD. CODE ANN., HEALTH-GEN. § 18-601.1 (2024).

that such behavior poses effectively no risk of transmitting HIV.⁵ Neither disclosure nor the use of condoms or other protection operate as an affirmative defense to prosecution under this law.⁶

SB211's additional data collection and maintenance would particularly threaten Black and brown parents with either criminalization or child protective services intervention. 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 18-601.1.⁷ Thus under the laws as already written, Black people are especially targeted for arrest and prosecution. Additional surveillance under SB211 would likely only exacerbate the inequalities marginalized communities face.

Although the goal of improving the health of children is laudable, SB211 runs the risk of accomplishing the opposite effect. Increasing the risk of prosecution for chestfeeding by PLHIV is contrary to the scientific evidence and national and international guidelines. Governing bodies such as UNICEF and the World Health Organization (WHO) recommend exclusive chestfeeding for the first six months of an infant's life, including for parents living with HIV on effective treatment.⁸ Efforts across the United States are focused on increasing the ability of Black parents to engage in chestfeeding if they so desire.⁹ The U.S. Perinatal HIV Clinical Guidelines now state that HIV viral suppression reduces HIV transmission from chestfeeding to less than 1 percent. However, studies show that pregnant PLHIV can feel judged and restricted when it comes to their child-rearing and infant feeding choices.¹⁰

Many of the co-signers to this letter have experienced dealing with parents living with HIV who were either threatened with having their child removed should they engage in chestfeeding (even with the agreement of their HIV provider) or have actually had their child removed by the family regulation system. The revised U.S. Perinatal HIV Clinical Guidelines now clearly state that involvement of so-called child protective services "is not an appropriate response to the infant feeding choices of an individual with HIV," citing the harm wrought by such systems, as well as the heightened HIV stigma that occurs with engaging them.

⁵ The Center for HIV Law and Policy (CHLP) (Sourcebook), *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 Centers for Disease Control and Prevention (CDC), *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).

⁶ 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).

⁷ UCLA School of Law The Williams Institute, *Enforcement of HIV Criminalization in Maryland* (Jan. 2024), <https://williamsinstitute.law.ucla.edu/publications/hiv-crim-md/>. (last visited Jan. 23, 2024)

⁸ World Health Organization (WHO), *Breastfeeding*, https://www.who.int/health-topics/breastfeeding#tab=tab_1 (last visited Feb. 7, 2024).

⁹ Rachel Crumpler, *Black Mothers Face Disproportionate Barriers to Breastfeeding* (Aug 2022). <https://www.northcarolinahealthnews.org/2022/08/25/black-mothers-face-disproportionate-barriers-to-breastfeeding/> (last visited February 7, 2024).

¹⁰ Alison Symington et al., *When law and science part ways: the criminalization of breastfeeding by women living with HIV*. 9 THERAPEUTIC ADVANCES IN INFECTIOUS DISEASE *Advances in Infectious Disease* (2022).

As parents living with HIV and allied providers have themselves stated:

- "Because [opposition to chestfeeding by parents living with HIV] represents one of the current frontiers of HIV stigma/moral panic, it is a salient example of how compounded biases affect healthcare practice with great potential harms for long-term health and equity, and is a key example of why we must eliminate the maternal-fetal conflict framing of perinatal care and ethics as it incorrectly assumes that healthcare providers take infants' best interests to heart more than their own mothers."
- "[P]olicy should be implemented by listening to the voices and needs of women living with HIV who want to get pregnant and breastfeed."
- "Support from my infectious disease doctor and partner is what allowed me to be successful in breastfeeding both of my children. "
- "It now feels as if we are one step closer to decriminalizing breast/chestfeeding among parents living with HIV since the guidelines specifically recommend against calling CPS. From my own personal experience, I know that this threat is one of the scariest, and by removing it, pregnant people living with HIV will have more confidence to exert agency over their bodies and how they care for their families."

With chestfeeding by PLHIV being criminalized in Maryland, SB211 would further put parents living with HIV at the risk of criminalization or family regulation system involvement. SB211 would run contrary to well researched medical guidelines by increasing the data collection and surveillance of pregnant PLHIV and simultaneously discouraging chestfeeding, which has proven medical benefits.¹¹

In addition to permanently documenting more information on the pregnancy status of PLHIV, SB211 would increase the number of samples collected in a manner that does not ensure informed, affirmative consent. Specifically, the bill would require providers to collect an additional blood sample of every pregnant person for syphilis testing after delivery, including people who deliver stillborn infants.¹² Furthermore, the bill would require providers to collect fluid or tissue samples for HIV testing from every pregnant person and their infant at the time of delivery.¹³ Neither of these provisions require the affirmative, informed consent of the patient. Indeed, the language mandating collection of samples for HIV testing allows for testing "unless [the] patient declines."

¹¹ U.S. Department of Health and Human Services, *Recommendations for the use of antiretroviral drugs during pregnancy and interventions to reduce perinatal HIV transmission in the United States* (2023), available at <https://clinicalinfo.hiv.gov/en/guidelines/perinatal/infant-feeding-individuals-hiv-united-states>. (last visited Feb 1, 2024)

¹² *Giving Infants a Future Without Transmission (GIFT) Act*, SB0211 (2024) (requiring collection of a blood sample from a parent "who delivers a stillborn infant at 20 weeks of gestation or later, or weighing at least 500 grams").

¹³ *Id.*

Informed consent requires “a process of communication between a patient and physician that results in the patient's authorization or agreement to undergo a specific medical intervention.”¹⁴ Informed consent to HIV and syphilis testing is essential for ensuring the autonomy and dignity of patients. Requiring informed consent is consistent with current medical ethics as well as the national trends.

SB211 would require the collecting and testing samples without the informed, affirmative consent, limiting the bodily autonomy of pregnant Marylanders. While Maryland has protected the right to full reproductive choice during a period of increasing anti-choice bans and restrictions across the United States, passing SB211 would undermine Maryland’s commitment to reproductive freedom. With the additional information stored within the record, as well as the non-consensual manner of sample collection, it is more difficult for Marylanders to exercise their reproductive and parental rights.

Moreover, such non-consensual HIV and syphilis testing would only discourage pregnant people from seeking essential pre- and post-natal care. Many members of the Black, brown, and LGBTQ+ communities, particularly those with intersectional identities, have high rates of medical distrust.¹⁵ This is due not only to historical atrocities but also has been exacerbated by ongoing discrimination in and outside the healthcare system.¹⁶ Covertly testing individuals, particularly those from communities that have high medical distrust, could further discourage these folks from accessing care in the future. With Maryland having an estimated 3,200 folks living with HIV but unaware of their status and experiencing a more than 200 percent increase in congenital syphilis, we should focus on reducing medical distrust and increasing the number of folks not only tested, but also committed to entering and remaining in care.¹⁷ SB211 does the opposite.

¹⁴ CHLP, *Testing and Informed Consent*, <https://www.hivlawandpolicy.org/issues/testing-and-informed-consent> (last visited Feb. 7, 2024).

¹⁵ Amanda B. Cox et al., *Medical Mistrust Among a Racially and Ethnically Diverse Sample of Sexual Minority Men*, 10 LGBT HEALTH (2023); Alaina Brenick et al., *Understanding the Influence of Stigma and Medical Mistrust on Engagement in Routine Healthcare Among Black Women Who Have Sex with Women*, 4 LGBT HEALTH (2017).

¹⁶ Mohsen Bazargan et al., *Discrimination and Medical Mistrust in a Racially and Ethnically Diverse Sample of California Adults*, 19 ANNALS OF FAMILY MEDICINE 4 (2021); The Center for American Progress, *Discrimination Prevents LGBTQ People From Accessing Health Care* (Jan. 18, 2018), <https://www.americanprogress.org/article/discrimination-prevents-lgbtq-people-accessing-health-care/>; Simar Singh Bajaj, & Fatima Cody Stanford, *Beyond Tuskegee — Vaccine Distrust and Everyday Racism*, 384 NEJM (2021).

¹⁷ CDC, *HIV Surveillance Report, 2021 (May 2023)* available at <https://www.cdc.gov/hiv/library/reports/hiv-surveillance.html>; CDC, Maryland: *Spotlight on Sexually Transmitted Infections & Prevention* (Aug. 2023), available at <https://www.cdc.gov/std/dstdp/sti-funding-at-work/jurisdictional-spotlights/maryland.pdf> (last visited Feb. 1, 2024)

We oppose the current extensive and dangerous data collection and maintenance requirements related to HIV and syphilis under Maryland law. As such, we oppose the expansion of these requirements to include additional non-consensual data and sample collection that would further expose people to criminalization, undermine bodily autonomy, worsen medical distrust, and discourage chestfeeding. While we understand the importance of ending vertical transmission of HIV and syphilis, SB211 would reverse Maryland's progress toward this goal. Accordingly, we urge the Legislature to reject SB211.

Sincerely,

S. Mandisa Moore-O'Neal
Executive Director
Center for HIV Law and Policy

Kytara Epps, MPH
National Community Outreach Coordinator
Center for HIV Law and Policy

Sean McCormick
Staff Attorney
Center for HIV Law and Policy

Krista Martel
Executive Director
The Well Project

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