



The Honorable Rep. Robert Cornejo
Chair, House Committee on Civil and Criminal Proceedings
MO House of Representatives, Room 115-B
201 West Capitol Avenue
Jefferson City, Missouri 65101

April 6, 2015

Re: OPPOSE HB 1181--Testimony from the Human Rights Campaign before the House Committee on Civil and Criminal Proceedings regarding HB 1181, concerning the criminalization of certain acts of individuals knowingly infected with HIV

Dear Chairperson Cornejo and Members of the House Committee on Civil and Criminal Proceedings:

The Human Rights Campaign (HRC), on behalf of our thousands of members in Missouri, strongly opposes HB 1181, which would amend Mo. Ann. Stat. § 191.677 to criminalize the act of intentionally projecting saliva at another person when done knowingly by a person infected with the Human Immunodeficiency Virus (HIV). We urge you to vote against this unnecessary and harmful bill.

The Human Rights Campaign is America's largest civil rights organization working to achieve lesbian, gay, bisexual, and transgender (LGBT) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBT citizens and realize a nation that achieves fundamental fairness and equality for all. HRC believes that individuals should be free of stigmatization and not unfairly criminalized due to their HIV status.

According to the Presidential Commission on the HIV Epidemic, criminal sanctions for HIV transmission must be carefully drawn, directed only towards behavior which is scientifically established as a mode of transmission, and should be employed only when all other public health and civil actions fail to produce responsible behavior.ⁱ HB 1181 fails to meet this standard because it criminalizes behavior with a low or negligible risk of HIV transmission, which may result in stigmatization and negative health outcomes among people with HIV and the LGBT community in Missouri.

Research has demonstrated that HIV-specific criminal laws may not alter behaviors among persons living with HIV.ⁱⁱ In one study comparing persons in a state with HIV-specific criminal laws to persons in a state without such laws, little difference in self-reported sexual behaviors was found, and persons who believed the law required safer sex practices or disclosure of HIV status to partners reported little difference in risk behaviors. The authors concluded that these laws did not deter risky behavior and may cause harm by interfering with public health efforts to reach those populations at highest risk of infection.

In addition, a number of national assessments of state-specific criminal laws have raised concern that current state laws criminalize behaviors that pose low or negligible risk for HIV transmission.ⁱⁱⁱ A substantial percentage of HIV-specific criminal charges arise from incidents involving spitting and

biting.^{iv} However, contact with saliva has never been shown to result in HIV transmission.^v In fact, there is no documented case of transmission from an HIV-infected person spitting onto another person.^{vi}

Moreover, HIV-specific criminal laws may also increase stigma towards persons living with HIV, reduce frequency of HIV testing since knowledge of status is required for culpability, and lead to inflammatory or ill-informed media coverage that may perpetuate misinformation regarding modes of HIV transmission.^{vii} Missouri already has laws that criminalize behaviors with low or negligible risk of HIV transmission,^{viii} and so we urge you to consider modernizing existing statutes to fit public health best practices rather than criminalize additional behaviors which have never been known to transmit HIV.

Threat of criminal prosecution is also a constant fear for many people living with HIV. Because the LGBT community represents a significant proportion of population living with HIV, this community is particularly vulnerable to prosecution under HIV criminalization statutes. According to the Centers for Disease Control and Prevention (CDC), gay and bisexual men account for 63% of new HIV cases annually, as many as 1 in 5 gay and bisexual men in major cities are living with HIV, and of those, nearly half are unaware of their HIV status.^{ix} Additionally, transgender people, particularly transgender women of color, are estimated to be up to 50 times more likely to acquire HIV than the general population.^x This can result in shame, isolation, loss of employment, subsequent loss of employer-provided health insurance, and many other negative effects. Furthermore, media attention created in the wake of criminal prosecutions may reinforce stigma about people living with HIV and LGBT people.

HIV-specific criminal laws relating to spitting are unnecessary and have detrimental social implications—including the perpetuation of misinformation regarding modes of HIV transmission. We urge you to oppose this harmful bill. If you should have any questions regarding HRC's testimony opposing HB 1181, please contact me at 202-572-8960 or by email at Alison.Gill@hrc.org.

Sincerely,



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Senior Legislative Counsel
Human Rights Campaign

ⁱ Report of the presidential commission on the human immunodeficiency virus epidemic. White House (1988). Available at <http://archive.org/details/reportofpresiden00pres> (Accessed 3 Mar 2014).

ⁱⁱ Scott Burris et al., *Do Criminal Laws Influence HIV Risk Behavior? An Empirical Trial*, 39 Ariz. St. L.J. 467, 467-517 (2007); Galletly CL et. al., *New Jersey's HIV Exposure Law and HIV-Related Attitudes, Beliefs, and Sexual and Seropositive Status Disclosure Behaviors of Persons Living with HIV*. Am J Public Health (2012). Available at

<http://www.ncbi.nlm.nih.gov/pubmed/22994175>; Horvath KJ et al., *Should It Be Illegal For HIV-Positive Persons To Have Unprotected Sex Without Disclosure? An Examination of Attitudes Among US Men Who Have Sex with Men and the Impact of State Law*. AIDS Care (2010). Available at <http://www.ncbi.nlm.nih.gov/pubmed/20635241>; Galletly CL et al., *Preventing HIV Transmission via HIV Exposure Laws: Applying Logic and Mathematical Modeling to Compare Statutory Approaches to Penalizing Undisclosed Exposure to HIV*. Law Med Ethics (2008). Available at <http://www.ncbi.nlm.nih.gov/pubmed/18840251>

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- ⁱⁱⁱ J. Stan Lehman et al. *Prevalence and Public Health Implications of State Laws that Criminalize Potential HIV Exposure in the United States*. Spring Science+Business Media New York, 2014. Available at <http://link.springer.com/article/10.1007/s10461-014-0724-0/fulltext.html>
- ^{iv} *Spit Does Not Transmit: Fact Sheet for Law Enforcement Professionals on the Risk of HIV Transmission in the Line of Duty*. The Center for HIV Law and Policy. Available at <http://www.hivlawandpolicy.org/sites/www.hivlawandpolicy.org/files/Law%20Enforcement%20Factsheet%20%285.14.14%29.pdf>
- ^v *HIV and Its Transmission*. Centers for Disease Control & Prevention (1999). Available at <http://hivlawandpolicy.org/resources/hiv-and-its-transmission-centers-disease-control-and-prevention>; *HIV, STIs and Relative Risks in the United States Chart*, The Center for HIV Law & Policy (2011). Available at <http://www.hivlawandpolicy.org/resources/chart-hiv-stis-and-relative-risks-united-states-center-hiv-law-and-policy-2011>
- ^{vi} *HIV Transmission: Can HIV be transmitted by being spit on by an HIV infected person?* Centers for Disease Control & Prevention (Feb. 12, 2014). Available at <http://www.cdc.gov/hiv/basics/transmission.html>
- ^{vii} Lazzarini Z et. al., *Evaluating the Impact of Criminal Laws on HIV Risk Behavior*. J. Law Med Ethics (2002). Available at http://www.publichealthlaw.net/Research/PDF/HIV_Crim.pdf; Lazzarini Z, Klitzman R. *HIV and the Law: Integrating Law, Policy, and Social Epidemiology*. J. Law Med Ethics (2002). Available at <http://www.ncbi.nlm.nih.gov/pubmed/12561262>; Wolf LE, Vezina R. *Crime and Punishment: Is There a Role From Criminal Law in HIV Prevention Policy?* Whittier L. Rev. 821-86 (2004); UNAIDS. *Criminal Law, Public Health and HIV Transmission: A Policy Options Paper* (2002). Available at http://data.unaids.org/publications/IRC-pub02/jc733-criminallaw_en.pdf (Accessed 3 Mar 2014); Galletly CL, Pinkerton SD, *Conflicting Messages: How Criminal HIV Disclosure Laws Undermine Public Health Efforts to Control the Spread of HIV*. AIDS Behav (2006). Available at <http://www.ncbi.nlm.nih.gov/pubmed/16804750>; O'Toole EM, *HIV-Specific Crime Legislation: Targeting An Epidemic for Criminal Prosecution*. J.L. Health. (1995-1996). Available at <http://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1255&context=jlh>
- ^{viii} 26 states criminalize behaviors by HIV+ people that carry low or negligible risk of HIV transmission. Gill, A.M. (2015). *2014 State Equality Index*. Washington, DC: Human Rights Campaign Foundation. Available at www.hrc.org/SEI
- ^{ix} *HIV Among Gay and Bisexual Men*. Centers for Disease Control and Prevention (CDC), 2015. Available at <http://www.cdc.gov/hiv/risk/gender/msm/facts/index.html>
- ^x *HIV Among Transgender People*. Centers for Disease Control, 2013. Available at <http://www.cdc.gov/hiv/risk/transgender/>