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**Opposition to [HB 103](#) PN 73 (Schmitt)
Remove Penalty Enhancement for**

People Living with a Communicable Disease, Including HIV and Hepatitis B

HB 103 would create a new offense for exposing a law enforcement officer to saliva or bodily fluid or material. It would be a first-degree misdemeanor, punishable by 2½ to five years incarceration and up to \$10,000 in fines. The offense is upgraded to a third-degree felony, punishable by 3½ to seven years incarceration and up to \$15,000 in fines, if the fluid originated from an individual living with a communicable disease, including HIV and Hepatitis B.

If passed, HB 103 would create redundant criminal penalties: The bill was drafted to fill a perceived loophole for protecting law enforcement officers, but ample legal safeguards already exist. Throwing, tossing, spitting, or expelling saliva or bodily fluid or material at anyone, including law enforcement officers already carries serious penalties, including [§ 2702 \(a\)\(2\)](#) Aggravated assault and [§ 2702 \(a\)\(3\)](#) Aggravated assault.

If passed, the penalty enhancement in HB 103 would ignore established science and conflict with guidance from medical and public health professionals: Upgrading the offense to target people living with HIV or Hepatitis B is based on outdated and unscientific fears about disease transmission. In more than 40 years of studying HIV and Hepatitis B, the Centers for Disease Control conclusively established that neither [HIV](#) nor [Hepatitis B](#) can be transmitted through saliva. The CDC does not consider [urine or feces](#) a risk for HIV transmission. The [American Academy of HIV Medicine](#) opposes this enhancement, citing concern that this “will end up actually undermining Pennsylvania’s progress in working to end the HIV epidemic in the state.”

As the penalty enhancement of HB 103 doesn’t require proof that transmission occurred, or even any risk of transmission, charges could be filed solely on a falsely perceived or negligible risk of harm.

If passed, the penalty enhancement in HB 103 would disregard local and national strategies on ending the HIV and viral hepatitis epidemics: Upgrading the offense just because someone is living with HIV or Hepatitis B disregards America’s efforts to end the HIV and viral hepatitis epidemics, as well as “End the Epidemic” plans in [Philadelphia](#) and [Pittsburgh](#). The federal [HIV National Strategic Plan](#) identifies decriminalizing HIV as a means to reduce the stigma and discrimination fueling the epidemic: *“HIV-specific criminal laws perpetuate HIV-related stigma and discrimination. ... Such efforts must ensure that all state and federal criminal laws and policies regarding HIV transmission and prevention are scientifically based and reflect well-tested and effective public health strategies, and that legislators, prosecutors, and people in law enforcement have an accurate understanding of HIV transmission risks.”*

Many public health and medical organizations have called for an end to HIV criminalization, including modernizing or repealing statutes with heightened criminal penalties for those living with HIV or other health conditions.¹ The CDC’s recent commentary published in [Lancet \(January 2021\)](#) makes it clear that “it is time to align with science and consider reforming, rescinding, and revising [HIV criminalization] laws for the sake of people with HIV and for the public’s health.”

Similarly, the U.S. Department of Health and Human Services [National Viral Hepatitis Strategic Plan](#) calls for *“enforcing current protections that prohibit discrimination against people with viral hepatitis and reexamine state laws that criminalize viral hepatitis and behavior related to viral hepatitis.”*

If passed, the penalty enhancement in HB 103 would make Pennsylvania an outlier in further criminalizing people with HIV and other health conditions: Many other states (IA, MI, CO, CA and NC) have modernized or repealed HIV criminalization statutes and, in the past few weeks, VA and GA legislatures have passed similar modernization measures.

If passed, the penalty enhancement in HB 103 would increase stigma against vulnerable populations: Like HIV, Hepatitis B is a virus affecting our most vulnerable communities in PA, including foreign-born Asian Americans, Pacific Islanders and African immigrants, as well as those impacted by the opioid crisis, those living with HIV and the LGBTQ+ community. These communities already face considerable stigma and discrimination - with increased targeted stigma in the past year. Criminalizing people living with Hepatitis B will only serve to further disenfranchise these communities, putting up needless barriers to getting people tested and into care, and further exacerbating existing health inequities.

Laws that criminalize people living with HIV disproportionately impact women, especially Black and other women of color, women who are sex workers and women of transgender experience. They are also disproportionately enforced against all Black people living with HIV.

Criminalizing people with communicable diseases doesn’t make anyone safer. Laws that increase stigma and discrimination only fuel the HIV and Hepatitis B epidemics and other public health crises.

For these reasons, HB 103’s enhanced penalty for people living with a communicable disease, including HIV and Hepatitis B must be removed.

¹ [American Medical Association](#), [Association of Nurses in AIDS Care](#), [Centers for Disease Control & Prevention](#), [Council on State and Territorial Epidemiologists](#), [Infectious Disease Society of America](#), [National Alliance of State and Territorial AIDS Directors](#), and [National Association of County and City Health Officials](#).