

**To: Maryland Judicial Proceedings Committees**

**FAV Position: Repeal of Maryland's HIV Criminalization Laws (SB 1165)**

Dear Honorable Members,

**Alongside dedicated efforts of the HIV Planning Group's (HPG) Integrated Management, Planning, and Community Coordinated Transition (IMPACCT) Session (Workgroup—part of the required Maryland MD HPG, appeals for your strong support in repealing Maryland's outdated HIV criminalization statute, as outlined in Senate Bill 1165.**

**And to that we recommend a FAV position without any further amendments.**

Our collaborative mandate over the past year has been to thoroughly review the potential misuse of HIV surveillance data for criminalization purposes and its adverse impacts on Persons Living with HIV (PWH) in our state. This effort culminated in a comprehensive analysis, demonstrating the critical need for legal reforms to reflect contemporary scientific advancements and prioritize public health.

**About The Maryland HIV Planning Group (HPG)**

The MD HPG is a collaborative body composed of various stakeholders involved in the planning and implementation of HIV prevention and care services within the state of Maryland. This group includes representatives from across Maryland and local health departments, community organizations, healthcare providers, and individuals living with HIV.

**The HPG is statutorily tasked with guiding the HIV prevention and treatment strategies for the state, ensuring that efforts are comprehensive, evidence-based, and aligned with the needs of those most affected by HIV.**

The HPG plays a crucial role in developing the state's HIV prevention and care plan—which outlines the priorities, goals and strategies to reduce HIV transmission and improve the quality of life for people living with HIV. *This involves assessing the current HIV epidemic in the state, identifying gaps in services, and recommending appropriate actions to address these gaps.*

The formation and operation of this planning group is in response to federal funding requirements—such as those from the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA), which support state and local efforts in HIV prevention and treatment.

The Maryland HPG works closely with these and other stakeholders to coordinate a statewide response to the HIV epidemic, aiming for a collaborative and integrated approach to HIV prevention and care.

**Year Long Review and Rationale of the HPG to Work to Repeal 18.601.1**

*As part of the HPG, Workgroup 5 was given the Governing Task of: Review and report back on the potential use of HIV surveillance data for HIV criminalization and other negative impacts on persons living with HIV (PWH) in Maryland and develop plans to address and mitigate potential risk for PWH and criminalization by prosecutors.*

### **Historical Context and Legal Implications**

Since the late 1980s, amid rising HIV epidemic fears, federal and state policies have inadvertently supported the criminalization of HIV, often without regard to transmission risk or intent. Maryland's adherence to these outdated approaches, particularly through MD. CODE ANN., HEALTH-GEN. § 18-601.1, has not only fueled stigma, but also darkened public health initiatives aimed at combating the epidemic.

Our review highlighted the stark legal discrepancies between HIV and other communicable diseases, underscoring a unique and unwarranted legal burden on PWH.

### **Scientific Misconceptions and Judicial Outcomes**

Our work revealed a persistent gap between scientific understanding of HIV and its interpretation within legal frameworks. Notable cases in Maryland have seen PWH subjected to severe legal ramifications for behaviors posing negligible transmission risks.

This misalignment significantly perpetuates HIV-related stigma and deters individuals from seeking necessary testing or treatment.

### **Recommendations Tied to the Repeal of 18.601.1**

1. **Align Legal Frameworks with Scientific Evidence:** We urge the revision of current requirements to accurately reflect the realities of HIV transmission and the efficacy of modern treatment.
2. **Promote Public Health Over Criminalization:** Shift the focus from punitive responses to strategies *emphasizing prevention, care, and the reduction of stigma*.

This approach should prioritize the health and dignity of PWH while building broader societal benefits—and bring about the state's stated (sacrosanct) ideals of health and equity.

3. **Engage and Educate Legal and Healthcare Professionals:** Implement educational initiatives to bridge the knowledge gap, ensuring legal and healthcare practices are informed by the latest scientific and medical insights regarding HIV.
4. **Uphold Privacy and Ethical Standards:** Strengthen safeguards around the use of HIV surveillance data, ensuring it serves public health purposes without contributing to the criminalization of PWH.

5. **Support Community Involvement:** Encourage active participation from diverse stakeholders, including PWH, healthcare providers, legal experts, and advocacy groups, in shaping policies that affect the HIV community.

## **Conclusion**

*The repeal of Maryland's HIV criminalization law represents a pivotal step towards aligning our legal system with current scientific knowledge and ethical considerations.*

By embracing these changes, Maryland can lead in promoting a just, informed, and compassionate approach to HIV, enhancing public health outcomes and respecting the rights of PWH.

We trust in your commitment to justice and public health and respectfully urge your support for SB 1165. Together, we can usher in a new era of progress and empathy in our collective response to HIV.

Sincerely,

HealthHIV and Workgroup 5, Maryland HIV Planning Steering Group