



March 15, 2021

Dear Honorable Member of the Pennsylvania House of Representatives,

RE: Opposition to [HB 103](#) PN 73 (Schmitt)

We write in opposition to HB 103, a bill that would:

- Create redundant criminal penalties;
- Ignore established science;
- Conflict with guidance from medical and public health professionals;
- Disregard national strategies on [ending the HIV](#) and [viral hepatitis](#) epidemics, as well as “End the Epidemic” plans in [Philadelphia](#) and [Pittsburgh](#);
- Increase stigma against vulnerable populations, particularly Black, Indigenous and other communities of color, LGBTQ+ people and immigrants;
- Make Pennsylvania an outlier in further criminalizing people with HIV and other health conditions, while many other states (IA, MI, CO, CA and NC) have modernized or repealed HIV criminalization statutes and, in the past few weeks, VA and GA legislatures have passed similar modernization measures).

Summary: HB 103 creates a new offense for throwing, tossing, spitting, or expelling saliva or bodily fluid or material which comes into contact with a law enforcement officer. 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 in prison and up to \$15,000 in fines if the person knew, had reason to know, should have known, or believed such fluid or material was obtained from an individual living with HIV, Hepatitis B or other communicable diseases.

Redundancy of criminal penalties: The original sponsor said this bill was introduced to fill a loophole for protecting law enforcement officers, but ample legal safeguards already exist. Throwing, tossing,

spitting, or expelling saliva or bodily fluid or material at law enforcement officers and civilians already carries serious penalties, including:

- [§ 2702 \(a\)\(2\)](#) Aggravated assault. Felony of the first degree to cause, attempt to cause, or even recklessly cause, an officer serious bodily injury (10 to 20 years in prison; up to \$25,000 in fines).
- [§ 2702 \(a\)\(3\)](#) Aggravated assault. Felony of the second degree to cause an officer bodily injury (five to 10 years in prison; up to \$25,000 in fines).

Ignores the science: Upgrading the offense to target people living with HIV or Hepatitis B is based on outdated and unscientific fears about disease transmission.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 and Prevention 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.

As HB 103 doesn't require a risk of transmission or proof that transmission occurred, charges could be filed solely on a falsely perceived or negligible risk of harm.

Disregards 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. 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.”

Increases stigma against other 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, and people living with Hepatitis B already face considerable

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](#).

stigma and discrimination - with increased targeted stigma just in the past year. Criminalizing people living with, or at high-risk for 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.

Creating redundant criminal penalties does not protect public health. Criminalizing people with HIV and Hepatitis B 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, we urge you to oppose House Bill 103.

Respectfully submitted,

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