



Positive Justice Project



## H.R. 3053 REPEAL HIV DISCRIMINATION ACT

The REPEAL (“Repeal Existing Policies that Encourage and Allow Legal”) HIV Discrimination Act, introduced by Congresswoman Barbara Lee, addresses the serious problem of discrimination in the use of criminal and civil commitment laws against those who test positive for HIV. This bill creates incentives and supports for states to reform existing policies that use the criminal law to target people living with HIV for felony charges and severe punishments for behavior that is otherwise legal (such as consensual sex between adults) or that poses no measurable risk of HIV transmission.

### Why Criminalization of HIV is a Problem

- 34 states and 2 U.S. territories have criminal statutes based on perceived exposure to HIV, and prosecutions for alleged exposure to HIV have occurred in at least 39 states.
- Harsh criminal sentences have been imposed on many people living with HIV, frequently in the absence of HIV transmission or even a serious risk that it could occur.
- These laws and prosecutions are based on long-outdated beliefs about the routes and risks of HIV transmission and about HIV as a “death sentence” when it is in fact a chronic, manageable disease.
- As a result of this widespread ignorance about HIV, the blood, semen, and saliva of people living with HIV have been referred to as “deadly weapons,” and individuals have been charged under aggravated assault, attempted murder, and even bioterrorism laws.
- Most people diagnosed with HIV behave responsibly to prevent further transmission, and behavior with the intent to transmit HIV is extremely rare.
- In most states, individuals with no intent to transmit HIV and those who use protection to prevent transmission are punished as harshly as the very few individuals who act with the intent to transmit HIV.
- Laws that are inconsistent with evidence-based initiatives (such as condom use to prevent HIV transmission) are at direct odds with U.S. public health goals and HIV prevention strategies and programs. Since usually only people who have been tested with HIV are arrested and prosecuted, these laws may actually discourage HIV testing and disclosure.
- Laws that place an additional burden on HIV-positive individuals because of their HIV status, that treat a positive HIV test as evidence of a crime, and that single out people with HIV for severe punishment in the absence of actual wrong-doing are contrary to our nation’s values of fair treatment under the law, including equitable treatment for people living with HIV and other disabilities.

### What the REPEAL HIV Discrimination Act Does to Solve the Problem

The bill requires designated officials (the Attorney General, the Secretary of Health and Human Services, and the Secretary of Defense) to:

- Work with state stakeholders (i.e., state attorneys general, state public health officials, people living with HIV, nongovernmental health organizations, legal advocacy and HIV service organizations) to review federal and state laws, policies and court cases that involve criminal liability for people living with HIV
- Develop a set of best practices for the treatment of HIV in criminal and civil commitment cases
- Issue guidance to states based on those best practices
- Monitor whether/how states change policies consistent with that guidance
- Provide support to states to assist with education, reform and implementation efforts

**For more information on H.R. 3053**, please contact the Office of Congresswoman Barbara Lee at (202) 225-2661