

Good morning, Chairman Weisz and members of the House Human Services Committee. My name is Lindsey VanderBusch, and I am the Director of the Sexually Transmitted and Bloodborne Diseases Unit for the North Dakota Department of Health and Human Services (Department). I am here today to provide testimony in support of House Bill 1281.

In the early 1980s, HIV emerged as an epidemic in the United States. By 1984, the first case of HIV/AIDS in North Dakota was reported to the Department of Health. During that decade, nearly 100,000 people were known to be infected nationally and the mortality rate was overwhelming; over 50% of people infected died within one year of diagnosis and 75% after five years.

Today, over 35 years later, the picture of the epidemic has drastically shifted. The development of diagnostics, treatment and prevention tools has advanced. Screening tests can be done in minutes with a single drop of blood. Antiretroviral medications used to treat HIV can also be used in HIV negative people to prevent infection; you may also know this by the term, HIV PrEP. Also, people with HIV infection who receive prompt and appropriate treatment can reduce the level of virus that is found in their blood to undetected levels. In 2021, the Centers for Disease Control and Prevention (CDC) affirmed that when individuals have achieved and sustained viral suppression, there is no risk of transmission through sexual contact to an HIV negative person. While still being studied, the risk through injection drug use is also thought to be significantly reduced.¹ The current and modern treatment used for people who have HIV has transformed this infection from being untreatable with an almost certainty of death to a chronic, treatable disease in which people live full and productive lives.

What remains, however, are laws that while enacted with good intentions do not reflect the current state of the HIV epidemic. What was once seen as a mechanism to encourage people to inform new sex or needle-sharing partners of the potential risk for transmission is now acting as a deterrent for at-risk people – keeping them from seeking testing and understanding their HIV status.

¹ Mermin J., Salvant Valentine S., McCray E. (2021). HIV Criminalization laws and ending the US HIV epidemic. *TheLancet*,8(1), E4-E6. Retrieved from [https://doi.org/10.1016/S2352-3018\(20\)30333-7](https://doi.org/10.1016/S2352-3018(20)30333-7)

Studies have shown that most HIV transmission takes place during sex between two consenting adults, where neither partner is aware that one of them is living with HIV.² HIV infected individuals who know their status are significantly less likely to engage in sexual behaviors that may risk HIV transmission to a partner compared with HIV infected individuals who remain unaware they are infected.³

There may be situations when individuals knowingly and intentionally try to infect others with HIV. These circumstances of intentional transmission are rare and could be handled by other criminal statutes such as reckless endangerment or attempted murder, etc.

The current state of risk reduction options for HIV negative persons and HIV treatment effectively eliminates the risk of transmission sexually for those virally suppressed. Furthermore, those not infected but at risk now have the opportunity to receive HIV PrEP. Promotion of and advocacy for these resources is an effective way to achieve HIV elimination in North Dakota and in the nation.

This concludes my testimony and I urge the committee to support house bill 1281. Thank you and I would be happy to take questions.

² Marks, G et al. Estimating sexual transmission of HIV from persons aware and unaware that they are infected with the virus in the USA. *AIDS* 20(10):1447-50, 2006.

³ Marks G et al. Meta-analysis of high-risk sexual behavior in persons aware and unaware they are infected with HIV in the United States. *JAIDS*, 39(4):446-53, 2005.