

HB 1281 Repeal section 12.1-20-17 of the North Dakota Century Code, relating to willfully transferring body fluid containing the human immunodeficiency virus.

Testimony of Gretchen Dobervich

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Good morning, Chairperson and Members of the House Human Services Committee. For the record, my name is Representative Gretchen Dobervich, I represent District 11 in Fargo. I come before you this morning in support of a bill to further reduce the transmission of HIV in North Dakota.

The first case of AIDS was diagnosed in the United States in 1981. In the late 1980's and early 1990's state legislatures enacted laws to protect citizens from the transmission of HIV, the virus that if untreated leads to AIDS. Since that time there have been dramatic advances in knowledge about HIV and AIDS and HIV diagnosis, prevention, and treatment.

These medical advances include antiviral medications which can reduce the virus to an undetectable load with near impossible transmission. Prevention such as PrEP (pre-exposure prophylaxis), a medication, which can prevent the risk of transmitting HIV through sexual activity by 99%, and by 74% through infected needles; and PEP (post-exposure prophylaxis), a medication which can be taken up to 72 hours after exposure to HIV to prevent infection.

Even with laws and effective prevention and treatment options, if a person does not know they have HIV, they unknowingly place others at risk. Currently in the United States one in six people with HIV do not know they have the virus. The further reduction of HIV transmissions starts with testing.

The North Dakota Department of Health and Human Services reported 76 new cases of HIV in North Dakota in 2020 and a 58% decrease in the number of people getting tested. There were 3,200 HIV tests in ND in 2020. The HIV new infection rate in North Dakota has been declining since 2017. That said, if testing is also decreasing, there is a strong possibility that there are undiagnosed cases of HIV, which increases the public's risk.

As the Opioid Epidemic rages on, so does the increased risk of contracting HIV through shared needles, syringes, and other drug injection equipment. The HIV virus can survive 42 days in a used syringe. Sharing syringes is the second most common modality of transmitting HIV. North Dakota has six needle exchange programs. In the first six months of 2019, 418 individuals utilized the services. Of those individuals, 124 received HIV tests on request and a total of 72,266 used syringes were collected and safely destroyed.

HIV testing is readily available through public health, primary care providers, needle exchange programs and home tests. Despite availability, a major barrier to persons seeking testing are laws which criminalize HIV. This is evidenced in a 2014 report from the United States Justice Department entitled *Best Practices Guide to Reform HIV-Specific Criminal Laws to Align with Scientifically Supported Factors*. This guide cites judicial research indicating laws criminalizing

HIV decrease the likelihood an individual will be tested and seek treatment to manage HIV, creating a greater public health threat.

Currently, under North Dakota Century Code 12.1-20-17, knowingly transmitting the HIV virus to another person is a sex crime and Class A Felony. While this section of code was appropriate in the 1980s and 1990s when little was known about HIV and AIDS and its intent was to protect the public, it is time to update the law to reflect increased knowledge, medical advances in treatment and prevention and remove barriers to HIV testing to protect the public.

If North Dakota Century Code 12.1-20-17 is repealed, penalties for willful transfer of HIV would be addressed in North Dakota Century Code 23-07-21 which addresses other sexually transmitted infections and potentially fatal infectious diseases.

I ask the ND House Human Services Committee to favorably consider updating our state's legal response to HIV to appropriately reflect medical advances in HIV treatment and prevention and best practices recommended by the US Justice Department. HB 1281 will reduce the public's risk of contracting the virus by increasing the likelihood a person will get tested and treated. Please vote Do Pass on HB 1281.

Chairperson and Members of the House Judiciary Committee, that concludes my testimony and I stand for questions.