

2021 HOUSE JUDICIARY

HB 1106

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1106
1/12/2021

Relating to willfully transferring body fluid containing the human immunodeficiency virus..

Vice Chair, Rep. Karls called the meeting to order at 10:30AM

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter.

Discussion Topics:

- AID's virus current law
- 2019 statistics of individuals living in ND with HIV
- Medications to assist with release
- Uniform treatment of sexually transmitted disease

Rep. Dobervich: Introduced bill.10:32

Lindsey VenderBusch: Director of the Division of Sexually Transmitted and Bloodborne Disease, ND Dept. of Health: Testimony #445

Do Not Pass Motion Made by **Rep. Satrom**; Seconded by **Rep. Vetter**

| Representatives | Vote |
|------------------------------------|------|
| Representative Lawrence R. Klemin | Y |
| Representative Karen Karls | Y |
| Representative Rick Becker | Y |
| Representative Ruth Buffalo | N |
| Representative Cole Christensen | Y |
| Representative Claire Cory | Y |
| Representative Karla Rose Hanson | N |
| Representative Terry B. Jones | Y |
| Representative Jeffery J. Magrum | Y |
| Representative Bob Paulson | Y |
| Representative Gary Paur | Y |
| Representative Shannon Roers Jones | N |
| Representative Bernie Satrom | Y |
| Representative Steve Vetter | Y |

11-3-0 Carrier: **Rep. Christensen**

Additional written testimony #552, #580

Chairman Klemin closed at 11:53

Delores Shimek, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1106: Judiciary Committee (Rep. Klemin, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1106 was placed on the Eleventh order on the calendar.

Good Morning Chairman Klemin and members of the House Judiciary Committee. My name is Lindsey VanderBusch and I am the Director of the Division of Sexually Transmitted and Bloodborne Diseases with the North Dakota Department of Health. I do not have testimony for HB1106 but want to let you know I am available virtually to answer questions, if needed. Thank You.

January 12, 2021

Dear Legislators,

The ACLU of North Dakota supports House Bill 1106, legislation that would finally end the criminalization of HIV in North Dakota.

We oppose HIV criminalization for three main reasons:

1) Stigma and harm to people living with HIV.

Simply put, it's wrong to punish people for something they wouldn't be punished for, or would be punished for more lightly, if they were HIV negative.

HIV criminalization contributes to stigma against people living with HIV by assigning them moral blame for the virus. It also contributes to fearmongering, portraying the possibility of becoming HIV positive as a uniquely horrible fate and people living with HIV as dangerous and deceptive.

Finally, HIV criminalization undermines the message of antidiscrimination laws. When the government overtly discriminates against people living with HIV in criminal law, it's not surprising that private actors also discriminate against people living with HIV in employment, housing, education, and healthcare settings.

2) Risks to public health.

Public health research and theory doesn't support HIV criminalization.

First, studies have shown that these laws don't reduce the spread of HIV, which undermines the justification for criminalization. Second, major medical organizations, including the American Medical Association, support decriminalizing HIV. Finally, HIV criminalization can actually lead to the spread of HIV in some ways.

This is because criminalization discourages testing and treatment. Because one must "know" one's status before being convicted under current law, some people who merely suspect they are living with HIV may put off testing to avoid the risk of criminalization.

Consistent HIV treatment prevents the spread of the virus. This is jeopardized by criminalizing the virus, which is why it must end.



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Advocacy Director

3) Disparate impact on marginalized communities and contribution to mass incarceration.

HIV criminalization contributes to larger problems within the criminal legal system.

The U.S. incarcerates Black, Latinx, indigenous, low-income, and disabled people at much higher rates than white people, wealthy people, and non-disabled people. HIV criminalization, unsurprisingly, is also enforced against these marginalized communities at a higher rate. In California, for example, Black women made up 4% of people living with HIV in the state, but 21% of those arrested in relation to their HIV status.

The U.S. also incarcerates more people per capita than any other country in the world. HIV criminalization is another way to send more people to prison for longer. In addition to convictions directly related to HIV, the threat of HIV-related prosecution can pressure people into accepting plea bargains for other charges.

By passing House Bill 1106 and decriminalizing HIV in North Dakota, the legislature can rectify serious flaws in state law and finally treat people living with HIV the dignity and respect they deserve.

We often hear about “North Dakota nice.” HIV criminalization is the opposite and should be eliminated.

Sincerely,

Dane DeKrey
ACLU of North Dakota



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Advocacy Director

Greetings Representative Lawrence R. Klemin and members of the Judiciary Committee,

My name is Brandi Hardy, from Bismarck, ND. I am the Legislative Coordinator with the North Dakota Human Rights Coalition (NDHRC).

We are in support of HB 1106, to repeal section 12.1 - 20 -17 of the North Dakota Century Code, relating to willfully transferring body fluid containing the human immunodeficiency virus.

The North Dakota Human Rights Coalition recognizes the HIV criminalization has often resulted in horrendous human rights violations. These laws can influence harm within marginalized communities (e.g immigrants/refugees, LGBTQ+ individuals, sex workers, and people who use invetro drugs), contributing to the untrue and harmful stigmas.

We believe our laws should reflect public health approaches that reflect sound practices and policy from trusted partners such as the ND Department of Public Health and National Alliance of State & Territorial AIDs Directors.

I urge you to vote in favor of HB 1106.

Thank you for your time. I encourage you to contact me for further questions.

Respectfully,

Brandi Hardy
Legislative Coordinator
NDHRC
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