

FSD Legislative and Political Action Committee Report

- The last meeting was held on **Thursday March 4th at 5:00 p.m.**
- LGBTQ+ legislative actions were discussed. They will continue to be updated per legislative actions.
- Marvin B. continues to schedule and disperse Zoom link for committee meetings.
- **The next regular monthly meeting is scheduled for Thursday May 6th at 5:00 p.m.**

LGBTQ+ Legislative Update:

1. **H.B. 85: Old Glory Act: (1/4/21 Referred to the House Committee on Foreign Affairs).**
2. **H. Con. Res. 4: No Name Calling Week: (3/4/21 Committee on Health and Judiciary).**
3. **AB 1094 – Sexual orientation and gender identity data collection pilot project – LGBTQ Violent Death Data Collection Pilot Program (1/11/21 referred to the House Committee on Education and Labor – CA Assembly).**
4. **H. R. 5: The Equality Act (3/17/21 Senate Judiciary Committee):** The Equality Act is a bill in the United States Congress would amend the Civil Rights Act of 1964 to prohibit discrimination based on sex, sexual orientation and gender identity in employment, housing, public accommodations, education, federally funded programs, credit, and jury service.
5. **H.R. 1379: Protecting LGBTQ Youth Act (Referred to the House Committee on Education and Labor):** This bill expands programs that prevent and treat child abuse and neglect to address issues facing lesbian, gay, bisexual, and transgender youth. Specifically, these programs include (1) research and reporting requirements, (2) providing technical assistance, (3) grants to states and local agencies to train child-welfare personnel, and (4) community-based prevention-service grants, among others.
6. **H.R. 1443: LGBTQ Business Equal Credit Enforcement and Investment Act (2/26/2021 Referred to the House Committee on Financial Services):** To amend the Equal Credit Opportunity Act to require the collection of small business loan data related to LGBTQ-owned businesses.
7. **H.R.1596 - To establish the Commission to Study the Stigmatization, Criminalization, and Ongoing Exclusion and Inequity for LGBTQ Servicemembers and Veterans (3/03/2021 Referred to the Committee on Armed Services):** Text not received yet.
8. **H.R.1305 - REPEAL HIV Discrimination Act of 2021 (2/24/2021 Referred to the Committee on the Judiciary, and the Committees on Energy and Commerce, and Armed Services):** To modernize laws and policies, and eliminate discrimination, with respect to people living with HIV/AIDS, and for other purposes.

Congressional findings related to H.R. 1305:

1. At present:
 - a. 32 States and 2 United States territories have criminal statutes based on perceived exposure to HIV, rather than behaviors motivated by an intent to harm, presenting a significant risk of transmission and resulting in actual transmission of HIV to another.

- b. 11 States have HIV-specific laws that make spitting or biting a felony, even though it is not possible to transmit HIV via saliva.
 - c. 24 States require persons who are aware that they have HIV to disclose their status to sexual partners, regardless of whether they are non-infectious.
 - d. 14 of these 24 States also require disclosure to needle-sharing partners. Twenty-five States criminalize one or more behaviors that pose a low or negligible risk for HIV transmission.
2. HIV-specific criminal laws are classified as felonies in 28 States; in three States, a person's exposure to another to HIV does not subject the person to criminal prosecution for that act alone but may result in a sentence enhancement. Eighteen States impose sentences of up to 10 years per violation; seven impose sentences between 11 and 20 years; and five impose sentences of greater than 20 years.
 3. When members of the Armed Forces acquire HIV, they are issued orders that require them to disclose and use a condom under all circumstances including when the known risk of transmission is zero. Failure to disclose can result in prosecution under the Uniform Code of Military Justice (UCMJ).
 - a. The number of prosecutions, arrests, and instances where HIV-based charges are used to induce plea agreements is unknown. Because State-level prosecution and arrest data are not readily available in any national legal database, the societal impact of these laws may be underestimated and most cases that go to trial are not reduced to written, published opinions.
 - b. State and Federal criminal law does not currently reflect the four decades of medical advances and discoveries made regarding transmission and treatment of HIV/AIDS.
 - c. According to CDC, correct and consistent male or female condom use, or adherence to a pre-exposure prophylaxis (PrEP) regimen that results in viral suppression, are very effective in preventing HIV transmission. However, most State HIV-specific laws and prosecutions do not treat the use of a condom during sexual intercourse or adherence to PrEP as a mitigating factor or evidence that the defendant did not intend to transmit HIV.
 - d. Criminal laws and prosecutions do not take into account the benefits of effective antiretroviral medications, which suppress the virus to extremely low levels and further reduce the already low risk of transmitting HIV to near zero.
 4. In addition to HIV-specific criminal laws, general criminal laws are often misused to prosecute people based on their HIV status. Although HIV, and even AIDS, currently is viewed as a treatable, chronic, medical condition, people living with HIV have been charged under aggravated assault, attempted murder, and even bioterrorism statutes because prosecutors, courts, and legislators continue to view and characterize the blood, semen, and saliva of people living with HIV as a deadly weapon.
 5. Multiple peer-reviewed studies demonstrate that HIV-specific laws do not reduce risk-taking behavior or increase disclosure by people living with or at risk of HIV, and there is increasing evidence that these laws reduce the willingness to get tested.
 - a. Furthermore, placing legal responsibility for preventing the transmission of HIV and other pathogens that can be sexually transmitted exclusively on people diagnosed with a sexually

transmitted infection undermines the public health message that all people are responsible for practicing behaviors that protect themselves from HIV and other sexually transmitted infections.

- b. Unfortunately, some State laws create an expectation of disclosure work against public health communication and discourage risk-reduction measures that could prevent transmission as a result of those who are acutely infected and unaware of their status.
6. The identity of an individual subject to an HIV-based prosecution is broadcast through media reports, potentially destroying employment opportunities and relationships, and violating the person's right to privacy.
7. Individuals who are convicted after an HIV-based prosecution often must register as sex offenders even in cases involving consensual sexual activity. Their employability is destroyed, and their family relationships are fractured.
8. The United Nations, including the Joint United Nations Program on HIV/AIDS (UNAIDS), urges governments to limit criminalization to cases of intentional transmission. This requirement would limit prosecutions to situations where a person knows his or her HIV-positive status, acts with the intention to transmit HIV, and does in fact transmit it. UNAIDS also recommends that criminal law should not be applied to cases where there is no significant risk of transmission.
9. In 2010, the Federal Government released the first ever National HIV/AIDS Strategy (NHAS), which addressed HIV-specific criminal laws, stating:

While we understand the intent behind these laws, they may not have the desired effect and they may make people less willing to disclose their status by making people feel at even greater risk of discrimination. In some cases, it may be appropriate for legislators to reconsider whether existing laws continue to further the public interest and public health. In many instances, the continued existence and enforcement of these types of laws run counter to scientific evidence about routes of HIV transmission and may undermine the public health goals of promoting HIV screening and treatment. The NHAS also states that State legislatures should consider reviewing HIV-specific criminal statutes to ensure that they are consistent with current knowledge of HIV transmission and support public health approaches to preventing and treating HIV.

Stay tuned... Respectfully submitted, Beverly Senkowski, Chair