Pennsylvania Governor Signs "Irresponsible" Law to Criminalize HIV, STIs

The Pennsylvania law increases penalties for spitting on a police officer and committing actions that could transmit HIV, hepatitis B and other communicable diseases.

November 17, 2022 By Trent Straube

Despite opposition from numerous local and national public health advocacy groups, Pennsylvania Governor Tom Wolf, a Democrat, ignored established science and signed into law a bill that further criminalizes people with HIV, hepatitis B and other communicable diseases. The bill has passed the state legislature with bipartisan support.

Specifically, the law, House Bill 103 (HB 103), enhances penalties and creates felonies, mostly for people living with a communicable disease. What's more, the law doesn't require proof that a transmission occurred. According to HIV advocacy group Positive Women's Network–USA (PWN-USA), the law contains two main elements:

- The law creates new offenses for exposing a police officer to saliva, blood, urine or other bodily fluid, making it a first-degree misdemeanor punishable by up to five years in prison and $10,000 fine. If the defendant has a communicable disease, such as HIV and hepatitis B, the offense is upgraded to a third-degree felony, punishable by up to seven years in prison and a $15,000 fine.

- The law also creates a second-degree felony offense for people who knew or "should have known" they had a reportable, communicable disease and their actions could have transmitted a communicable disease. This offense is punishable by up to 10 years in prison and up to $25,000 in fines.

"Police already have special protections that punish people more when officers are assaulted,"

PWN-USA wrote on October 27 in a call to action urging the governor to veto the bill. The advocates added that the bill "would further expand police power to arrest those who come into contact with law enforcement, disproportionately harming Black and brown people, queer and trans people and low-income communities—communities already subject to over-policing, police brutality and police surveillance. Creating yet another new crime against police is duplicative and will invite 'charge stacking' (an unfair practice in which police or prosecutors charge a defendant with multiple crimes for the same behavior so the penalties 'stack' on top of each other)."

In a November 4 statement, Advocates for Youth, a nonprofit that champions the reproductive and sexual health of youth, described the law as "irresponsible" and "discriminatory." The group added that it is "deeply disturbed by the recent passage of HB 103. This bill seeks to protect police officers by creating two new, unnecessary felony offenses and subjects people with communicable diseases, such as HIV, all forms of hepatitis, influenza, chickenpox and COVID-19, to harsher penalties under the law…. The consequences of this law will be severe."

Other HIV and public health advocacy groups agree. The Elizabeth Taylor AIDS Foundation, the Sero Project, the Hepatitis B Foundation, the AIDS Law Project of Pennsylvania and others issued a joint statement against the bill as it went before the governor. The statement read in part:

> If passed, the penalty enhancement in HB 103 would ignore established science and conflict with guidance from medical and public health professionals: Upgrading the offense to target people living with HIV or hepatitis B is based on outdated and unscientific fears about disease transmission. In more than 40 years of studying HIV and hepatitis B, the Centers for Disease Control conclusively established that neither HIV nor hepatitis B can be transmitted through saliva. The CDC does not consider urine or feces a risk for HIV transmission. The American Academy of HIV Medicine opposes this enhancement, citing concern that this "will end up actually undermining Pennsylvania's progress in working to end the HIV epidemic in the state."
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> As the penalty enhancement of HB 103 doesn't require proof that transmission occurred, or even any risk of transmission, charges could be filed solely on a falsely perceived or negligible risk of harm.
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> If passed, the penalty enhancement in HB 103 would disregard local and national strategies on ending the HIV and viral hepatitis epidemics: Upgrading the offense just because someone is living with HIV or hepatitis B disregards America's efforts to end the HIV and viral hepatitis epidemics as well as "End the Epidemic" plans in Philadelphia and Pittsburgh. The federal HIV National Strategic Plan identifies decriminalizing HIV as a means to reduce the stigma and discrimination fueling the epidemic: "HIV-specific criminal laws perpetuate HIV-related stigma and discrimination…. Such efforts must ensure that all state and federal criminal laws and policies regarding HIV transmission and prevention are scientifically based and reflect well-tested and effective public health strategies, and that legislators, prosecutors, and people in

law enforcement have an accurate understanding of HIV transmission risks."

In ignoring the above advice, Governor Wolf is at odds not only with established science but also with a growing movement to modernize HIV laws and decriminalize HIV. Illinois and California, for example, have repealed their HIV crime laws.

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