

## Background

Senate Bill No. 284<sup>1</sup>, primarily sponsored by Senators David Parks, Chris Brooks, Pat Spearman, and Assemblyman Tyrone Thompson, and with support from nine co-sponsors was passed during Nevada's 80<sup>th</sup> (2019) Legislative session with bipartisan support. On May 17, 2020, Governor Steve Sisolak signed SB 284 onto law to create the Advisory Task Force on Human Immunodeficiency Virus (HIV) Exposure Modernization appointed by Governor Sisolak.

## Task Force Members

The following individuals were appointed by Governor Sisolak to be part of the Advisory Task Force: André Wade, Chair; Senator Dallas Harris, Co-Chair; Senator David Parks; Steven B. Amend, Esq.; Vince Collins; Ruben Murillo; Stephan Page; Octavio Posada; and Quentin Savwoir. The Task Force received support from Nevada's Division of Public and Behavioral Health's staff. The Task Force was commissioned to conduct a comprehensive examination during the 2019-2020 legislative interim of the statutes and regulations in the State of Nevada related to the criminalization of exposing a person to HIV. This bill also requires the Task Force to submit a report of its findings and recommendations to Governor Sisolak and the Legislative Counsel Bureau not later than September 1, 2020.

## Nevada Revised Statutes

HIV criminalization is the use of state statutes that either criminalize what would otherwise be legal conduct or by increasing the penalties for illegal conduct based upon an individual's HIV statutes.<sup>2</sup> In Nevada, neither the intent to expose another person to HIV nor actual transmission is a required element of the crime; the current statutes only require "intentionally, knowingly, or willfully engaging in conduct in a manner that is intended or likely to transmit the disease to another person."<sup>3</sup> Conduct "likely to transmit" HIV is not defined.<sup>4</sup> Similarly, In Nevada, it is a Class B felony, punishable by two to ten years in prison and/or a fine of up to \$10,000 for a PLHIV to engage in licensed or unlicensed sex work after receiving notice of their HIV status.<sup>5</sup> At this time, HIV is the only communicable disease explicitly named in Nevada's criminal statutes. Other communicable diseases like Hepatitis B and C, are implicitly named in the Public Health and Safety Statutes, but not in criminal statutes.

With some laws enacted more than 20 years ago, it is necessary to modernize these outdated statutes to bring them current to scientific advances in the understanding of transmission and treatment of HIV. The drafting of SB 284 adheres to similar efforts in other U.S. states to decriminalize HIV exposure. Several peer-review studies<sup>6</sup> and increasing evidence shows that HIV-specific laws do not reduce the risk of contracting HIV; on the contrary, these laws reduce the willingness for those affected the most by these laws to get tested.<sup>7</sup> Furthermore, research

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<sup>1</sup> <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6502/Text>

<sup>2</sup> See Brad Sears, Shoshana K. Goldberg, Christy Mallory, Williams Institute, *The Criminalization of HIV and Hepatitis B and C in Missouri: An Analysis of Enforcement Data From 1990 to 2019* 7 (2020)

<sup>3</sup> [NEV. REV. STAT. § 201.205](#)

<sup>4</sup> [HIV Criminalization in the United States: A source on State and Federal HIV Criminal Law and Practice. Nevada.](#)

<sup>5</sup> [NEV. REV. STAT. § 201.358](#)

<sup>6</sup> Lehman, J.S., Carr, M.H., Nichol, A.J. *et al.* Prevalence and Public Health Implications of State Laws that Criminalize Potential HIV Exposure in the United States. *AIDS Behavior* 18, 997–1006 (2014). <https://doi.org/10.1007/s10461-014-0724-0>

<sup>7</sup> *Id.*

shows that the impact of efficient prevention and treatment of HIV is now better understood: Antiretroviral Treatment (ART) reduces the likelihood of HIV treatment by up to 96%, and Pre-exposure prophylaxis (PrEP) has shown to have effectiveness with preventing HIV transmission.<sup>8</sup>

### **SB 284 AS ENACTED INTO LAW**

Below are three items assigned to the Task Force from **Section 1** of SB 284, as passed into law discussed in more detail within this report.

(6) The Task Force shall solicit input from persons and nongovernmental agencies with expertise in matters relevant to the Task Force in carrying out its duties pursuant to this section, including, without limitation, persons, organizations and communities that are directly affected by the current statutes and regulations of this State that criminalize exposure to HIV or mandate HIV testing or disclosure as part of any civil or criminal law or are likely to be affected by any law or policy recommended by the Task Force.

(10) The Task Force shall:

- a. Identify, review and evaluate the current statutes and regulations of this State that criminalize exposure to HIV intending to identify recommendations for modernizing those statutes and regulations and addressing discrimination with respect to people living with HIV/AIDS.

(11) The Task Force may make recommendations concerning any matter relating to the review and evaluation pursuant to subsection 10, including, without limitation, recommendations concerning proposed legislation, proposed regulations, and policies.

### **Acknowledgments**

The efforts of the Advisory Task Force on Human Immunodeficiency Virus (HIV) Exposure Modernization are a continuation of the tireless work of local community champions and organizations at the forefront of modernizing HIV laws in Nevada.

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<sup>8</sup> Id.