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**TESTIMONY ON 15-H 5245,  
RELATING TO CRIMINAL TRANSMISSION OF HIV  
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This bill would make it a felony for a person with HIV to knowingly engage in sexual activity or other conduct without first informing the third party of his or her HIV status, or in some instances, regardless of whether such information is provided. The ACLU opposes this bill as unnecessary, inappropriate and ultimately counter-productive.

Among other things, H 5245 applies to consensual sexual intercourse, forcible intercourse, and prostitution, and imposes a maximum sentence of fifteen years for individuals living with HIV who engage in such activities. The bill is unnecessary because to the extent H 5245 applies to forcible sexual conduct or prostitution, those offenses are already prohibited under Rhode Island criminal law. There is no need for additional criminal penalties that single out people living with HIV.

And it is utterly inappropriate because it applies to consensual sexual intercourse without regard for the actual risk of transmission, including regardless of whether protection is used. It also fails to take into account circumstances that might make disclosure unsafe – such as in the context of domestic violence.

Moreover, H 5245 does not require *intent* to transmit HIV to another as an element of the crime, and it would thus apply when someone has intimate contact with another with absolutely no intent to transmit HIV, uses protection to prevent such transmission, and transmission does not occur.

H 5245 is counterproductive because it is bad public health policy. The CDC estimates that approximately one quarter of those individuals living with HIV in the United States do not know that they have HIV. Criminalizing exposure to HIV through sexual intercourse could well lead some people to decline testing, because liability only occurs if the individual knows that he or she has HIV. By creating these incentives to avoid HIV testing, this legislation cuts against current public health practices.

In addition, H 5245 may contribute to an erroneous sense of security among people who are (or think they are) HIV-negative, because some may expect that the existence of increased penalties for people with HIV reduces their risk of contracting HIV. This could undermine the important public health message that everyone should take measures to reduce or avoid behavior that could increase their risk of HIV transmission.

For this reason, many public health agencies, including the World Health Organization, the American Medical Association, the HIV Medicine Association, the Association of Nurses in AIDS Care, the National Alliance of State and Territorial AIDS Directors, and the Presidential Advisory Council on HIV/AIDS (PACHA), have all spoken out against misguided efforts like H 5245 to combat HIV infection through criminal law.

Finally, HIV-specific criminal laws and penalties contribute to the stigma surrounding HIV/AIDS by labeling people living with the disease as potential criminals and a threat to the general public. And, because H 5245 criminalizes conduct with no risk of transmission, it also risks spreading misinformation about how HIV is transmitted and creating further stigma and discrimination against people living with HIV.

For all these reasons, the ACLU urges the committee's opposition to this