

**Bay Area Lawyers for Individual Freedom (BALIF)  
Statement of Support for Senate Bill 239**

**February 21, 2017 – San Francisco, California**

BALIF strongly supports Senate Bill 239 (SB 239) and commends BALIF member Scott Wiener for introducing this very important legislation to repeal laws that criminalize and stigmatize those living with HIV. SB 239 seeks to eliminate criminal statutes that, in certain cases, allow people living with HIV to be prosecuted for having unprotected sex and sentenced to up to 8 years in prison.

According to a [2015 report](#) by the Williams Institute, HIV criminalization disproportionately affects women and people of color. Forty-three percent of those criminalized under California's HIV-specific criminal laws are women, despite comprising only 13 percent of people living with HIV in the state. Blacks and Latinos made up two-thirds of the people who encountered the criminal justice system based on their HIV status, despite comprising only about half of people living with HIV in California.

These laws are an artifact of a different era. During the 1980's and 90's, California passed these discriminatory criminal laws and singled out people with HIV for harsher punishment than people with other communicable diseases. Not only are these laws discriminatory, they are not based in science and are extremely detrimental to HIV prevention goals.

Today's HIV treatments are highly effective in preventing the transmission of HIV, essentially reducing the chances of transmission to virtually nil. For many years now, there has been growing evidence of the benefits of HIV treatment as a prevention method. In 2011 a landmark study showed early initiation of antiretroviral treatment in people living with HIV with a CD4 count between 350 and 550, reduced HIV transmission to HIV-negative partners by 96%. Quite a few follow-up studies since have also reported significant reductions in HIV transmission, resulting in new infections being averted. In 2014, a study called [PARTNER](#) did not find a single HIV transmission in 16,400 occasions of sex between gay men and 28,000 between heterosexuals where the HIV-positive partner had a viral load below 200 copies/ml. In 2015, a similar study exclusively of gay male couples, [Opposites Attract](#), also found no transmissions from partners with an undetectable viral load.

This has led to the idea that treatment as prevention could be used as part of a 'test and treat' strategy - increasing testing and treatment coverage to decrease community viral load and reduce the rate of new HIV infections. However, current California law discourages people from getting tested because mere knowledge of a positive HIV status could subject a person to criminal liability for engaging in unprotected sex. Without the knowledge of one's status through testing, people do not seek treatment, thereby placing their and others' health at greater risk.

BALIF joins the organizational cosponsors of this bill (ACLU of California, APLA Health, Black AIDS Institute, Equality California, Lambda Legal and Positive Women's Network – USA) and the many other organizations including the Los Angeles LGBT Center, the Los Angeles HIV Law and Policy Project, Transgender Law Center, Mexican American Legal Defense and Education Fund (MALDEF), the Free Speech Coalition, Sex Workers Outreach Project (SWOP) and Erotic Service Providers Legal, Education, and Research

Project (ESPLERP), in our support of this bill. It is time to remove these discriminatory, stigmatizing and counterproductive laws from the books and focus on a 'test and treat' strategy to eradicate HIV. There have never been any benefits to these archaic laws, but given the current science, there is no justification for any law that discourages people from getting tested and treated.