

A RESOLUTION SUPPORTING REPEAL OF POLICIES THAT ENCOURAGE AND ALLOW
LEGAL HIV DISCRIMINATION AND THANKING CONGRESSMAN DAVID PRICE FOR HIS
COSPONSORSHIP OF THE REPEAL HIV DISCRIMINATION ACT OF 2015 (HR 1586)

WHEREAS, 33 states and two US territories have criminal statutes based on perceived exposure to HIV rather than actual transmission of HIV, and 11 states have HIV-specific laws that make spitting or biting a felony, even though it is not possible to transmit HIV via saliva; and

WHEREAS, 24 states require persons who are aware that they have HIV to disclose their status to sexual partners, and 14 of these 24 states also require disclosure to needle-sharing partners; and 25 states criminalize one or more behaviors that pose a low or negligible risk for HIV transmission; and

WHEREAS, HIV-specific criminal laws are classified as felonies in 28 states; and in three states, a person's exposure of another to HIV does not subject the person to criminal prosecution for that act alone but may result in a sentence enhancement, and

WHEREAS, in North Carolina, regulation of persons living with HIV is found in the health code, and violation of HIV-specific provisions of the North Carolina health code is a misdemeanor that can result in up to two years of incarceration; and

WHEREAS, the number of prosecutions, arrests, and instances in which HIV-specific criminal laws are used to induce plea agreements is unknown, because state-level prosecution and arrest data are not readily available in any national legal database and, as a result, the societal impact of these laws may be underestimated and most cases that go to trial are not reduced to written, published opinions; and

WHEREAS, state and federal criminal laws and prosecutions do not reflect the three decades of medical advances and discoveries regarding transmission of and treatment for HIV and do not take into account the benefits of effective antiretroviral medications, which reduce HIV viral load to undetectable levels and further reduce the already low risk of transmitting HIV to near zero; and

WHEREAS, the Centers for Disease Control and Prevention has stated that HIV is only transmitted through blood, semen, vaginal fluid, and breast milk and that correct and consistent male or female condom use is very effective in preventing HIV transmission; and

WHEREAS, although HIV/AIDS is a treatable, chronic medical condition, persons living with HIV have been charged under aggravated assault, attempted murder, and even bioterrorism statutes; and such cases have resulted in disproportionately long sentences as a result of prosecutors, courts, and legislators continuing to characterize the blood, semen, and saliva of persons living with HIV as a "deadly weapon," which has led to persons who are convicted for HIV exposure, nondisclosure, or transmission often being required to register as sex

offenders—even in cases of consensual sexual activity—which is detrimental to their employability and family relationships; and

WHEREAS, research findings from multiple peer-reviewed studies have shown that HIV-specific laws do not reduce risk-taking behaviors or increase disclosures by persons living with or at risk of acquiring HIV, and there is increasing evidence that these laws, in fact, reduce willingness to get tested; and

WHEREAS, these laws place persons who are aware of their HIV status at greater risk of prosecution, counteracting public health efforts to expand HIV testing and engagement in lifesaving care and treatment and placing legal responsibility for preventing transmission of HIV and other pathogens exclusively on persons diagnosed with HIV, without consideration of other pathogens that can be sexually transmitted, further undermining the public health message that all persons, regardless of HIV status, should practice behaviors that protect themselves and their partners from HIV and other sexually transmitted diseases; and

WHEREAS, the continued presence and implementation of HIV-specific laws increases stigma against persons living with HIV and perpetuates misconceptions about HIV transmission; and

WHEREAS, the United Nations (including the Joint United Nations Programme on HIV/AIDS) recommends that criminal law should not be applied to cases in which there is no significant risk of transmission and that criminalization should be limited to cases of intentional transmission, requiring a person to know his or her HIV-positive status, to act with intent to transmit HIV, and to in fact transmit HIV; and

WHEREAS, the Global Commission on HIV and the Law has called on governments, civil society, and international bodies to repeal punitive laws and enact laws that enable and facilitate effective HIV prevention, care, and treatment for all who need them, and has recommended against the enactment of laws that explicitly criminalize HIV transmission, exposure, or nondisclosure of HIV status, which they characterize as counterproductive; and

WHEREAS, in 2010, the President's National HIV/AIDS Strategy recommended that legislators consider whether existing HIV-specific laws further the public interest and public health, given that these laws run counter to scientific evidence about HIV transmission and may undermine public health goals; and proposed that state legislatures review criminal statutes to ensure that they are consistent with current knowledge and public health approaches to prevention and treatment; and

WHEREAS, in February 2013, the President's Advisory Council on AIDS passed a resolution stating that US law should be consistent with current medical and scientific knowledge and accepted human rights-based approaches to disease control and prevention and avoid imposition of unwarranted punishment based on health and disability status; and

WHEREAS, at the urging of HIV/AIDS advocates in North Carolina and members of the Carrboro Board of Aldermen, Congressman David Price signed on as a cosponsor of HR 1586, the REPEAL HIV Discrimination Act of 2015, on March 16, 2016.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. The Board of Aldermen urges Congress to enact HR 1586, the REPEAL HIV Discrimination Act of 2015, to ensure that federal and state laws, policies, and regulations concerning persons living with HIV (1) do not place unique or undue burdens on persons solely as a result of their HIV status; (2) are based on public health best practices; (3) reflect evidence-based, medically accurate, and up-to-date understanding of the routes, risks, and consequences of HIV transmission; (4) reflect understanding of effective antiretroviral therapy on HIV prevention; and (5) avoid negative impacts on public health and on affected persons, families, and communities.

SECTION 2. The Board of Aldermen thanks Congressman David Price for his cosponsorship of HR 1586 and asks that the town clerk share this resolution with Congressman Price's office.

This the 5th day of April, 2016.