

RESOLUTION NO. 17-4916

A RESOLUTION IN SUPPORT OF SB 239  
(WIENER) INFECTIOUS AND COMMUNICABLE  
DISEASES: HIV AND AIDS: CRIMINAL PENALTIES.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES  
HEREBY RESOLVE AS FOLLOWS:

WHEREAS, under current California law, it is considered a felony to knowingly expose another person to HIV, even if unprotected sexual intercourse was consensual. The punishment for engaging in unprotected sex is up to 8 years in State prison; and

WHEREAS, SB 239 (Wiener) proposes to repeal current HIV exposure criminalization laws and to treat exposure to HIV as other serious communicable diseases are treated under the law; and

WHEREAS, SB 239 brings California statutes up to date with the current understanding of HIV prevention, treatment and transmission; and

WHEREAS, SB 239 repeals Section 120291 of the Health & Safety Code, which makes it a felony to intentionally expose another person to HIV, even if unprotected sex between two adults was consensual; and

WHEREAS, SB 239 will add Section 120290 to the Health & Safety Code, making it a misdemeanor to intentionally expose another person to a serious communicable disease, provided that all of the following circumstances are met: 1) the person is aware of her/his HIV status, 2) the person acts with the specific intent of transmitting a serious communicable disease to another person, 3) the defendant engages in conduct that poses a substantial risk of transmission to that person, and 4) the defendant transmits that infectious or communicable disease to the other person; and

WHEREAS, according to Equality California and Californians for HIV Criminalization Reform, "over the past 25 years, laws were passed in California that criminalized otherwise legal behaviors or added penalties to existing crimes for people living with HIV; and

WHEREAS, a 2015 report by the Williams Institute and the California HIV/AIDS Research Program called "HIV Criminalization in California: Penal Implications for People Living with HIV/AIDS" found that, overall, 800 people have come into contact with the California criminal justice system from 1988 to 2014 due to arrests or prosecutions under current exposure laws; and

WHEREAS, according to another study by the Williams Institute, 98% of convictions did not require proof of intent to transmit HIV and 93% of convictions that did not require proof of conduct that is likely to transmit the virus; In addition, none of the HIV transmission laws in California require actual transmission; and

WHEREAS, a review of past records showed that in Los Angeles County, 643 incidents have been reported. The charging rate for HIV-specific crimes is 39%, slightly higher than the 33% statewide; the percentage for a non HIV-specific crime is 28%, slightly higher than 23% statewide; 34% of cases resulted in no charges (lower than 45% statewide); and

WHEREAS, according to an analysis conducted by researchers at the Williams Institute, three incidents took place in West Hollywood, between 1999 and 2003, and all three were men of color who had previous arrests under felony solicitation, none of these individuals were charged; and

WHEREAS, SB 239 will have a significant impact on residents of West Hollywood. According to a 2016 report by the Los Angeles County Department of Public Health, Division of HIV and STD Programs, 2,522 residents are living with HIV in West Hollywood. In addition, it is estimated that approximately 70 West Hollywood residents are newly diagnosed with HIV each year; and

NOW THEREFORE BE IT RESOLVED that the City Council of the City of West Hollywood supports SB 239 (Wiener) Infectious and Communicable Diseases: HIV and AIDS: Criminal Penalties.


PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 6<sup>th</sup> day of March, 2017 by the following vote:

AYES:	Councilmember:	D'Amico, Duran, Horvath, Mayor Pro Tempore Heilman, and Mayor Meister.
NOES:	Councilmember:	None.
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None.



LAUREN MEISTER, MAYOR

ATTEST:

  
WONNE QUARKER, CITY CLERK