



## ***U.S. Immigration and Travel Bar for people living with HIV: Discriminatory and bad for public health***

The United States remains one of only 13 countries in the world to bar short-term visitors from entering simply because they are HIV-positive.<sup>1</sup> The International AIDS Conference, the largest and most historic scientific and policy meeting of global HIV/AIDS scientists, policymakers and advocates, is unable to host the event in the U.S. as a result of the bar.

These policies violate the human rights of immigrants and travelers as enumerated by recognized international treaties and conventions; perpetuate stigma and discrimination; and bar people living with HIV/AIDS from full civic participation. Highly skilled workers who have full health insurance through their employers cannot seek legal permanent residence in the United States if they have tested positive for HIV, unless they have a very close relative who is an American citizen or lawful permanent resident. Further, the ban undermines the global fight against HIV/AIDS by blocking access to treatment, and returning people to countries where HIV care is limited or wholly unavailable. This complicates the already challenging regimens of HIV treatment and the development of treatment-resistant strains of HIV.

### **Background**

For the last 20 years, U.S. policy has banned HIV-positive non-citizens from entering the U.S. and barred those already living here from attaining most types of legal status. The result has been AIDS-related fatalities abroad, as individuals are unable to access life-saving medications, or are targeted for violence based on HIV status and real or presumed sexual orientation. The ban also undermines public health within the U.S., as immigrants, prospective immigrants, and visitors are either actively deterred from seeking HIV testing and treatment, or avoid contact with providers out of fear of putting their immigration status in permanent limbo.

The HIV bar was enacted at a time when homosexuality was still grounds for inadmissibility to the U.S. As it still stands, the policy endangers every HIV-positive immigrant and traveler to the U.S. It holds uniquely dire consequences for lesbian, gay, bisexual and transgender (LGBT) people and those perceived to be LGBT. If they are deported from the U.S., their positive status may out them in their countries of origin where HIV is equated with homosexuality and homosexuality in turn marks them for violence. Furthermore, people with HIV who manage to get a waiver for short

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<sup>1</sup> The other 12 countries are Iraq, China, Saudi Arabia, Libya, Sudan, Qatar, Brunei, Oman, Moldova, Russia, Armenia, and South Korea.

term travel to the U.S. have their passports stamped with an indicator that they have HIV and are thus branded at every port of entry on the globe.

### **How Congress can do the right thing**

The HIV bar was born of fear and intolerance, and fails even by its own logic. GMHC views this policy as a violation of human rights and a threat to public health inside and outside the U.S. Congress can right this wrong. This has been done before: tuberculosis and leprosy were removed as ground for exclusion decades ago. Epilepsy was deleted as ground for exclusion in 1965 because medical advances brought this condition under control with medication. HIV too is treatable and for most infected individuals undergoing treatment, it is now a manageable, chronic illness.

To reverse this unjustified policy, GMHC supports passes of the “HIV Nondiscrimination in Travel and Immigration Act of 2007” (H.R. 3337 /S.2486). This bill was introduced in the House by Representative Barbara Lee (D-CA) in August 2007 and by Senators John Kerry (D-MA) and Gordon Smith (R-OR) in December 2007. The bill would amend the Immigration and Nationality Act by striking a provision that renders individuals with HIV inadmissible to the United States as visitors or immigrants. If passed, this bill would leave the determination of whether or not HIV constitutes a “communicable disease of public health significance,” in the hands of the Department of Health and Human Services, the agency which makes this decision for all other medical conditions.

**Pass the HIV Nondiscrimination in Travel and Immigration Act of 2007.  
Twenty years of a bad policy is long enough.**



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