

116TH CONGRESS 2D SESSION

H. R. 8168

To require the guidance of the Food and Drug Administration on reducing the risk of human immunodeficiency virus (HIV), hepatitis A, and hepatitis B transmission by blood and blood products (including the donor history questionnaire) to be based on an individual risk assessment of sexual behaviors upon which all donors are evaluated equally, without regard to sexual orientation or gender identity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 4, 2020

Mrs. Demings (for herself and Mr. Quigley) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require the guidance of the Food and Drug Administration on reducing the risk of human immunodeficiency virus (HIV), hepatitis A, and hepatitis B transmission by blood and blood products (including the donor history questionnaire) to be based on an individual risk assessment of sexual behaviors upon which all donors are evaluated equally, without regard to sexual orientation or gender identity, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,

1 SECTION 1. SHORT TITLE.

2	This Act may be cited as the "Science in Blood Dona-
3	tion Act of 2020".
4	SEC. 2. REQUIRING GUIDANCE ON REDUCING RISK OF HIV,
5	HEPATITIS A, AND HEPATITIS B TRANS-
6	MISSION BY BLOOD PRODUCTS TO BE BASED
7	ON AN INDIVIDUAL RISK ASSESSMENT.
8	(a) In General.—The Secretary of Health and
9	Human Services acting through the Commissioner of Food
10	and Drugs (in this section referred to as the "Secretary")
11	shall—
12	(1) not later than 45 days after the date of en-
13	actment of this Act, revise and publish the guidance
14	of the Food and Drug Administration on reducing
15	the risk of human immunodeficiency virus, hepatitis
16	A, and hepatitis B transmission by blood and blood
17	products so as to eliminate—
18	(A) the recommendation to defer for 3
19	months from the most recent sexual contact, a
20	man who has had sex with another man during
21	the past 3 months; and
22	(B) the recommendation to defer for 3
23	months from the most recent sexual contact, a
24	female who has had sex during the past 3
25	months with a man who has had sex with an-
26	other man in the past 3 months:

1	(2) not later than 45 days after the date of en-
2	actment of this Act, initiate a process—
3	(A) to update such guidance—
4	(i) in conformity with paragraph (1);
5	and
6	(ii) so as to ensure that such guid-
7	ance, including the corresponding donor
8	deferral recommendations, are based on an
9	individual risk assessment of sexual behav-
10	iors upon which all donors are evaluated
11	equally, without regard to sexual orienta-
12	tion or gender identity; and
13	(B) to update the donor history question-
14	naire consistent with the updates under sub-
15	paragraph (A); and
16	(3) not later than 18 months after the date of
17	enactment of this Act—
18	(A) complete the process initiated pursuant
19	to paragraph (2); and
20	(B) publish the updated guidance and
21	donor history questionnaire.
22	(b) Special Rule.—Throughout the period during
23	which the Secretary is revising guidance pursuant to sub-
24	section (a)(1), the recommendations described in subpara-

1	graphs (A) and (B) of subsections (a)(1) are deemed to
2	be eliminated with respect to any individual who—
3	(1) is a human subject in research;
4	(2) is being routinely tested for human im-
5	munodeficiency virus, hepatitis A, and hepatitis B as
6	part of such research; and
7	(3) is not found, pursuant to such testing, to be
8	positive for human immunodeficiency virus, hepatitis
9	A, or hepatitis B.
10	(c) Progress Report.—The Secretary shall—
11	(1) not later than each of 6 and 12 months
12	after the date of enactment of this Act, submit a re-
13	port to the appropriate congressional committees on
14	the progress made pursuant to the process under
15	subsection $(a)(2)$; and
16	(2) not later than 18 months after the date of
17	enactment of this Act, submit a final report to the
18	appropriate congressional committees on the updated
19	guidance and donor history questionnaire.