

# Bill Summary

## The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Bill, 2014

- The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Bill, 2014 was introduced in the Rajya Sabha on February 11, 2014 by the Minister for Health and Family Welfare, Mr. Ghulam Nabi Azad. The Bill seeks to prevent and control the spread of HIV and AIDS, prohibits discrimination against persons with HIV and AIDS, provides for informed consent and confidentiality with regard to their treatment, places obligations on establishments to safeguard their rights, and creates mechanisms for redressing their complaints.
- **Prohibition of discrimination against HIV positive persons:** The Bill lists the various grounds on which discrimination against HIV positive persons and those living with them is prohibited. These include the denial, termination, discontinuation or unfair treatment with regard to: (i) employment, (ii) educational establishments, (iii) health care services, (iv) residing or renting property, (v) standing for public or private office, and (vi) provision of insurance (unless based on actuarial studies). The requirement for HIV testing as a pre-requisite for obtaining employment or accessing health care or education is also prohibited.
- Every HIV infected or affected person below the age of 18 years has the right to reside in a shared household and enjoy the facilities of the household. The Bill also prohibits any individual from publishing information or advocating feelings of hatred against HIV positive persons and those living with them.
- **Informed consent and disclosure of HIV status:** The Bill requires that no HIV test, medical treatment, or research will be conducted on a person without his informed consent. No person shall be compelled to disclose his HIV status except with his informed consent, and if required by a court order.
- Informed consent for an HIV test will not be required in case of screening by any licensed blood bank, a court order, medical research, and epidemiological purposes where the HIV test is anonymous and not meant to determine the HIV status of a person. Establishments keeping records of information of HIV positive persons shall adopt data protection measures.
- **Role of the central and state governments:** The central and state governments shall take measures to: (i) prevent the spread of HIV or AIDS, (ii) provide anti-retroviral therapy and infection management for persons with HIV or AIDS, (iii) facilitate their access to welfare schemes especially for women and children, (iv) formulate HIV or AIDS education communication programmes that are age appropriate, gender sensitive, and non stigmatizing, and (v) lay guidelines for the care and treatment of children with HIV or AIDS. Every person in the care and custody of the state shall have right to HIV prevention, testing, treatment and counselling services.
- **Role of the Ombudsman:** An ombudsman shall be appointed by each state government to inquire into complaints related to the violation of the Act and the provision of health care services. The Ombudsman shall submit a report to the state government every six months stating the number and nature of complaints received, the actions taken and orders passed.
- **Guardianship:** A person between the age of 12 to 18 years who has sufficient maturity in understanding and managing the affairs of his HIV or AIDS affected family shall be competent to act as a guardian of another sibling below 18 years of age. The guardianship will be apply in matters relating to admission to educational establishments, operating bank accounts, managing property, care and treatment, amongst others.
- **Court proceedings:** Cases relating to HIV positive persons shall be disposed off by the court on a priority basis. In any legal proceeding, if an HIV infected or affected person is a party, the court may pass orders that the proceedings be conducted (a) by suppressing the identity of the person, (b) in camera, and (c) to restrain any person from publishing information that discloses the identity of the applicant. When passing any order with regard to a maintenance application filed by an HIV infected or affected person, the court

shall take into account the medical expenses incurred by the applicant.

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