

AS INTRODUCED IN THE RAJYA SABHA
ON THE 27TH AUGUST, 2010

Bill No. LII of 2010

THE COMPULSORY PRE-MARITAL HIV TEST AND OTHER
MEASURES BILL, 2010

A

BILL

*to provide for compulsory HIV test for the couples intending to be married and also for
establishing the AIDS Controlling Authority to provide counselling and other necessary
measures to prevent AIDS and for matters connected
therewith and incidental thereto.*

BE it enacted by the Parliament in the Sixty-first Year of the Republic of India as
follows:—

1. (1) This Act may be called the Compulsory Pre-Marital HIV Test and Other Measures
Act, 2010.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification
in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires—

- (a) "AIDS" means Acquired Immuno Deficiency Syndrome in a person resulting from HIV infection;
- (b) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;
- (c) "Authority" means the AIDS Controlling Authority for prevention of AIDS constituted under section 5;
- (d) "certificate" means a pre-marital health certificate issued after conducting HIV test;
- (e) "Certified Health Centres" means health institutions including laboratories/clinics certified to carry out test for detection of HIV;
- (f) "HIV" means Human Immuno Deficiency Virus;
- (g) "HIV infection" means the presence of HIV antibodies or antigens in the body of a person detected on the basis of specialized test;
- (h) "HIV infected person or AIDS patient" means any person certified by any recognized health institution as a carrier of HIV or infected by AIDS;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "Test" means a serological procedure followed for detection of HIV antibodies or antigens in the body of a person.

Compulsory
HIV Test for
Marrying
Couples.

3. (1) The Central Government shall, as soon as possible, after commencement of this Act, by notification in the Official Gazette, announce compulsory pre-marital test for couples intending to be married.

(2) The test under sub-section (1) shall be done only by the certified health centres in such manner as may be prescribed.

(3) The certified health centres shall, within such time as may be specified, issue a certificate in such form and in such manner as may be prescribed to the couples who have been tested declaring their status of health about HIV infection.

Penalty.

4. whoever contravenes the provisions of this Act and the rules made thereunder shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to fifty thousand rupees.

Health
Centres to be
Established by
Govt.

5. The appropriate Governments shall, within their territorial limits, establish such number of health centres, as may be prescribed for carrying out the provisions contained in sub-sections (2) and (3) of section 3.

Establishment
of AIDS
Controlling
Authority.

6. (1) The Central Government shall by notification in the Official Gazette constitute an Authority to be known as the AIDS Controlling Authority in the Centre for prevention of AIDS and taking other necessary measures.

(2) The authority shall consist of the following members, namely:—

(i) The Union Minister of Health, who shall be the *ex-officio* Chairman of the authority;

(ii) three members of Parliament, two from the Lok Sabha and one from the Rajya Sabha, who shall be elected by the respective Houses of Parliament as members of the authority for a period of three years;

(iii) five members to be nominated by the appropriate Government from different non-governmental organization (NGO) having specialized knowledge in the field of prevention, control and research in AIDS;

(iv) five medical specialists to be appointed by the Central Government having profound knowledge, expertise in the field of AIDS in such manner as may be prescribed;

(v) the Secretary to the Union Health Ministry who shall be the *ex-officio* Secretary of the Authority.

(3) The head office of the Authority shall be at Delhi.

(4) The Authority may establish as many offices in States and UT as may be necessary for its efficient functions.

(5) Without prejudice to the generality of the provision contained in sub-section (1), the authority shall be in co-ordination with Central and State Governments responsible to;

(i) create awareness among people to prevent AIDS by involving print and electronic media;

(ii) involve Non-Government Organisations (NGOs), social workers, social groups and religious leaders in AIDS prevention and control programmes;

(iii) prepare health volunteers for rural areas and engage them to educate people about implications of AIDS;

(iv) encourage people particularly those intending to be married for pre-marriage counselling;

(v) determine accurate procedures for testing HIV by health centres in consultation with medical specialists;

(vi) ensure that no tampering with the certificate issued by the health centres is done at any level;

(vii) arrange post marital counselling programmes from time to time for married couples;

(viii) provide free counselling and test facilities to the poor;

(ix) provide medical and social support to the HIV infected persons;

(x) take massive preventive and treatment measures for high risk groups, such as, doctors, nurses, technicians and intravenous drug users;

(xi) carry out, survey for detecting AIDS cases.

7. (1) The Authority shall prepare an annual report giving an account of its activities carried out during the previous year and shall submit it to the Central Government within such time and in such manner as may be prescribed.

Annual Report of the Authority.

(2) The Central Government shall as soon as may be possible but not later than such period as may be prescribed, cause laying of the report submitted under sub-section (1) before both the Houses of Parliament.

8. The Central Government shall by due appropriation made by the Parliament in this regard make available adequate funds for the purposes of this Act.

9. The Act shall be in addition to and not in derogation of any other law for the time being in force.

Act to be in addition to other laws.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

AIDS today has gripped the whole world in its deadly paws. India is not an exception and, in fact, the number of persons infected by HIV is escalating at an alarming speed. According to one estimate, twenty-five million people are expected to be AIDS victims by 2010 in the country. And with the number increasing the disease has taken shape of an epidemic having devastating effect on the lives of the affected people. Of the total population, around half are adults falling in the sexually active age group. Around 3.9 per cent of the total HIV infected persons in the country are females and 3.5 per cent are children which is a major cause of concern. AIDS, is known as someone else's disease because in majority of cases, it is transmitted by the infected to the innocent victim. Besides, there remains fear of stigma and social rejection for a person who comes in contact with the disease or tested positive as it is largely known as sexually transmitted disease. It has been found that women get infected by their male partners and children get the disease through their parents. Similarly, high risk group such as doctors, nurses, technicians and commercial sex workers are more prone to catch the virus.

There have been many AIDS prevention and control programmes in the country but sadly there is no legislation so far to contain spread of this deadly disease. It is felt that at some stage, say before marriage, if couples intending to be wedded are compulsorily required to get themselves tested for HIV, severity of the menace can be checked to a larger extent. A legislation is, therefore, need of the hour to give effect to this proposal.

Hence this Bill.

JANARDHAN WAGHMARE

FINANCIAL MEMORANDUM

Clauses 5 and 6 of the Bill propose for the establishment of Health Centers and AIDS Controlling Authority by the appropriate Government. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. It will relate to matters of details only. The delegation of legislative power is of normal character.

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(Dr. Janardhan Waghmare, M.P.)