



FEDERAL REPUBLIC OF NIGERIA
NATIONAL ASSEMBLY

HARMONIZED CONFERENCE REPORT

ON

HIV AND AIDS ANTI-DISCRIMINATION
BILL 2014

MAY, 2014

REPORT OF THE CONFERENCE COMMITTEE ON THE HIV AND AIDS ANTI-DISCRIMINATION BILL 2014 HELD ON WEDNESDAY, 28TH MAY, 2014 AT MEETING ROOM 224 SENATE WING, NATIONAL ASSEMBLY.

1.0 INTRODUCTION:

The HIV and AIDS Anti Discrimination Bill was passed by both the House of Representatives and the Senate with some differences.

In view of this, a conference Committee was constituted to harmonized the differences in the Bill.

2.0 THE CONFEREES:

- | | | |
|-----|--------------------------|---------------------------|
| 1. | Sen. Ifeanyi A. Okowa | Chairman (Health, Senate) |
| 2. | Hon. Joseph Haruna Kigbu | Chairman (House, ATM) |
| 3. | Sen. Chris Ngige | Member |
| 4. | Sen. Babayo Gamawa | ” |
| 5. | Sen. Sahabi Ya’u Alhaji | ” |
| 6. | Sen. Sefiu Kaka | ” |
| 7. | Sen. Gyang N.S, Pwajok | ” |
| 8. | Hon. Babatunde Jimoh | ” |
| 9. | Hon. Blessing Nsiegbe | ” |
| 10. | Hon. Oluchi Ibeji | ” |
| 11. | Hon. Abbas Tajudeen | ” |
| 12. | Hon. Abdul Mshelia | ” |

3.0 METHODOLOGY:

The Committee met in conference on Wednesday 28 May, 2014 and harmonized the differences in the Bill.

The Committee discovered that some clauses were at variance in the two versions of the Bill, and resolved as follows:-

1. Long Title – the House version adopted
2. Commencement – Senate version adopted
3. Part I - Senate version adopted
4. (a) Clause 1 – House version adopted
(b) Clause 1(b) – House version adopted
(c) Clause 1(c), (d), (e) and (f) - Senate version adopted.
5. Clause 2 – House version adopted
6. Part II – Senate version adopted
7. Clause 3 – Senate version adopted
8. Clause 4 – Senate version adopted
9. Clause 5 (1), (2), (2a), (2b), (3a),(3b), (4) – Senate version adopted
10. Clause 6, 6b,6e, 6f, 6g,6i,6j – Senate version adopted
11. Clause 7 – Senate version adopted
12. Clause 8 – Senate version adopted
13. Clause 9 – Senate version adopted

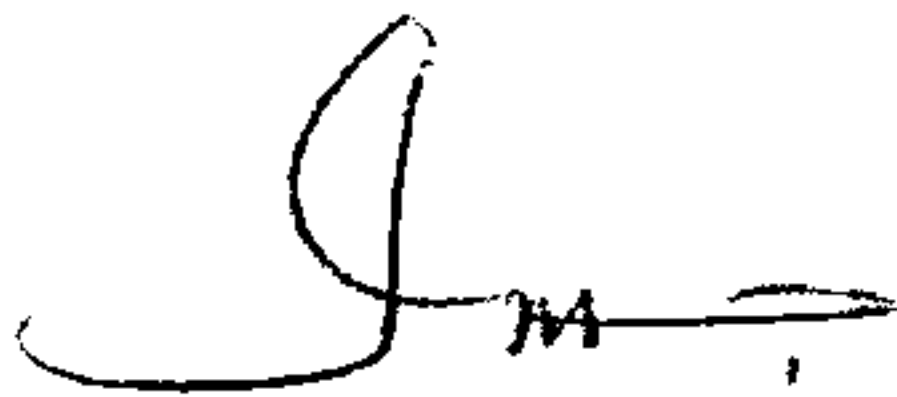
14. Clause 10(1), 10(1a), 10(1b), 10(2a),10(2b), 10(2c) and 10(3) – Senate version adopted
15. Clause 11 – Senate version adopted
16. Clause 12(2) – Senate version adopted
17. Clause 13 – Senate version adopted
18. Clause 14(1) – House version adopted
Clause 14(2), 14(3), 14(5) – Senate version adopted
19. Clause 15 – House version adopted
20. Clause 16(1b) – Senate version adopted
20. Clause 17(3), 17(4)- Senate version adopted
21. Clause 19 – Senate version adopted
22. Clause 21(1) – House version adopted
Clause 21(4b), 21(5) – Senate version adopted
23. Clause 22 (a), 22(b), 22(2) - Senate version adopted
24. Clause 23 – Senate version adopted
25. Clause 24 – Senate version adopted
26. Clause 25 - Senate version adopted
27. Clause26 - Senate version adopted
28. Clause27 - Senate version adopted
29. Clause 28 - Senate version adopted
30. Clause 29 - Senate version adopted
31. Clause 30 - Senate version adopted

32. Clause 31 - Senate version adopted
33. Explanatory note - Senate version adopted

4.0 RECOMMENDATION

The Conference Committee, having been duly constituted by both chambers of the National Assembly, and having followed all the necessary legislative procedures in arriving at its resolutions, wishes to recommend as follows:

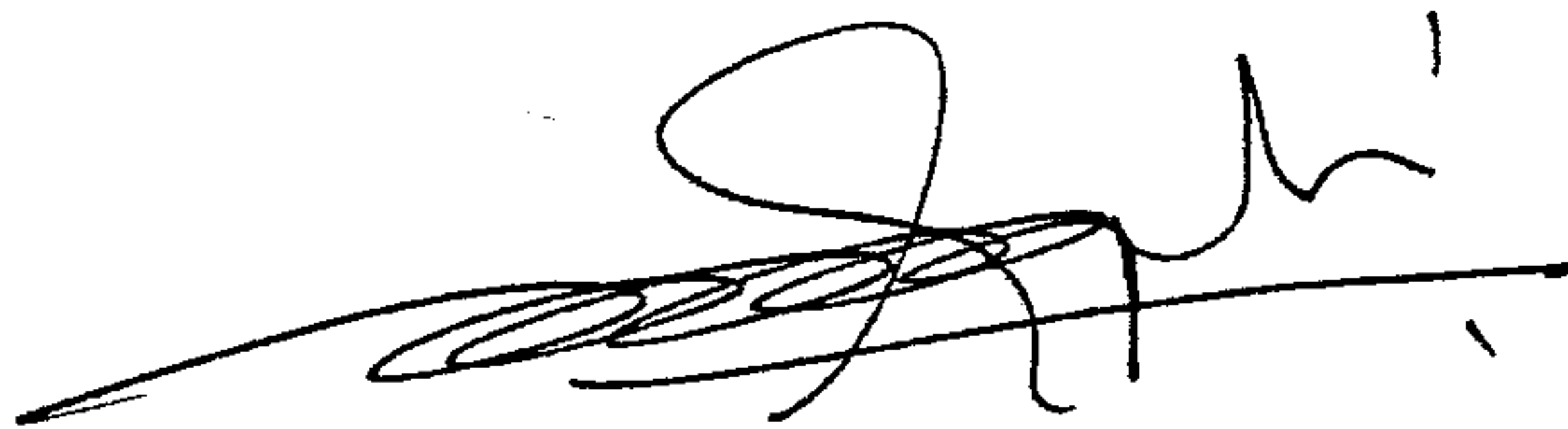
“THAT THIS REPORT OF THE CONFERENCE COMMITTEE ON A BILL FOR AN ACT TO MAKE PROVISIONS FOR THE PREVENTION OF HIV AND AIDS-BASED DISCRIMINATION AND TO PROTECT THE FUNDAMENTAL RIGHTS AND DIGNITY OF PEOPLE LIVING WITH AND AFFECTED BY HIV AND AIDS AND OTHER RELATED MATTERS, 2014 be received and adopted”.



Senator Ifeanyi A. Okowa
Chairman, Senate
Chairman, Conference Committee



Danladi Angulu
Clerk, Senate Committee

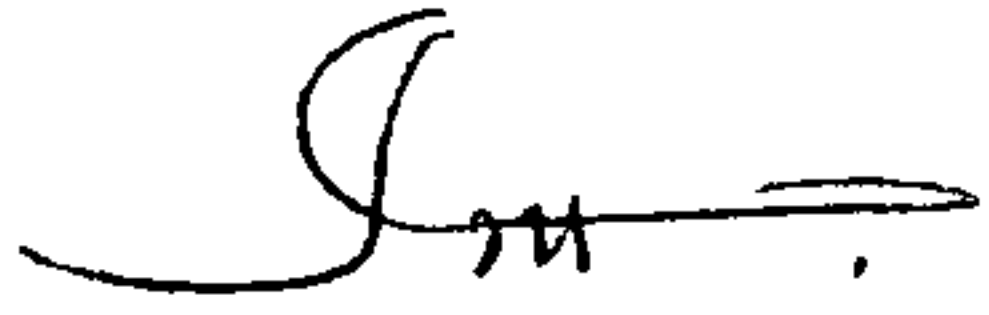


Hon. Joseph Haruna Kigbu
Chairman, House

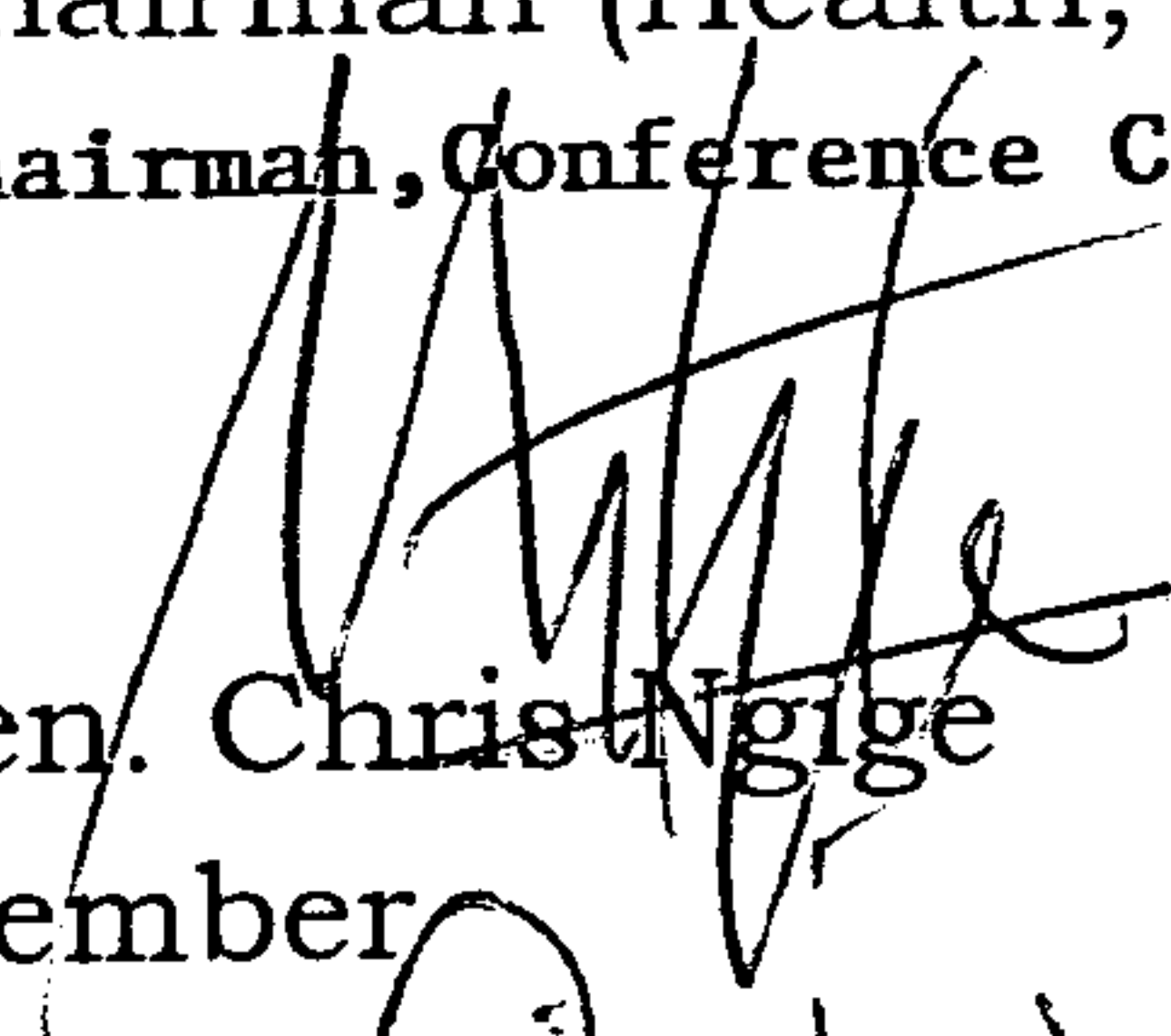


Musa Aliyu
Clerk, House Committee

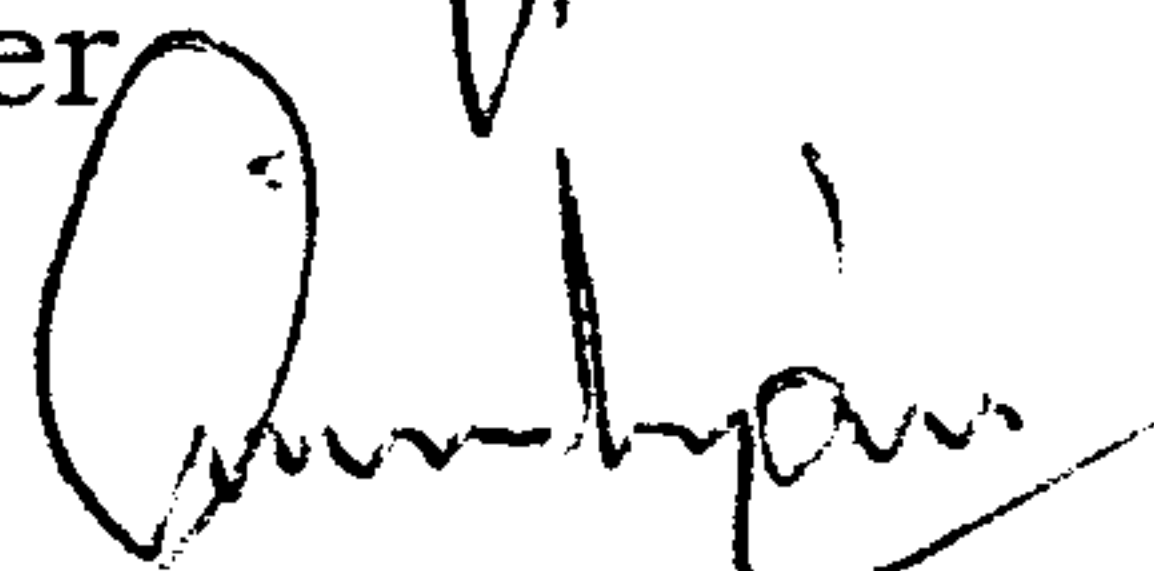
5.0 ENDORSEMENT:



Sen. Ifeanyi A. Okowa
Chairman (Health, Senate)
Chairman, Conference Committee



Sen. Chris Ngige
Member



Sen. Sahabi Ya'u Alhaji
Member

Sen. Gyang N.S, Pwajok
Member



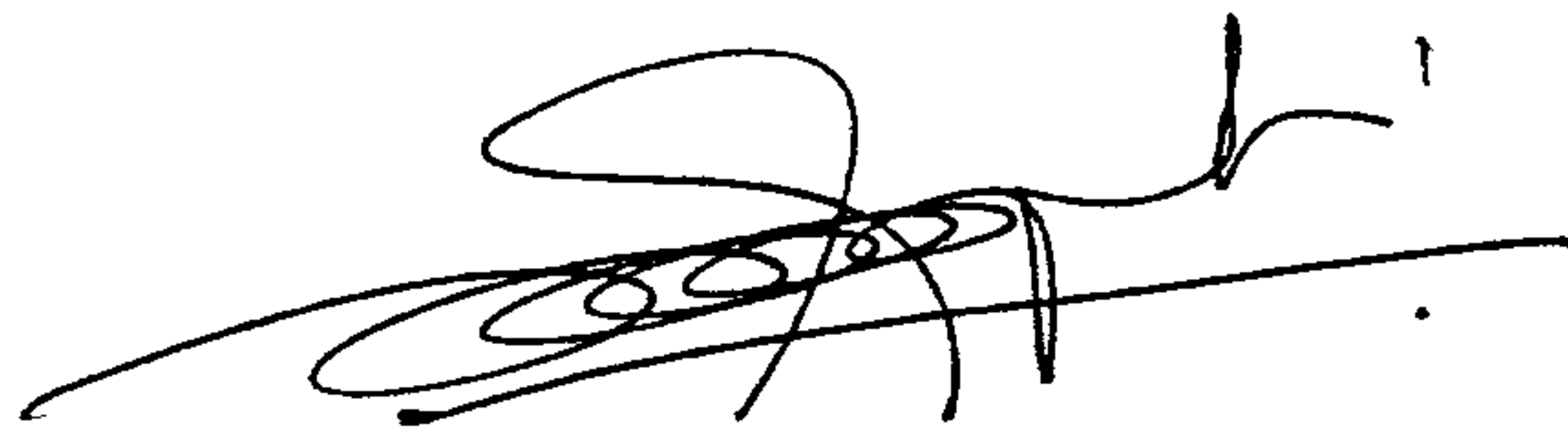
Hon. Blessing Nsiegbe
Member



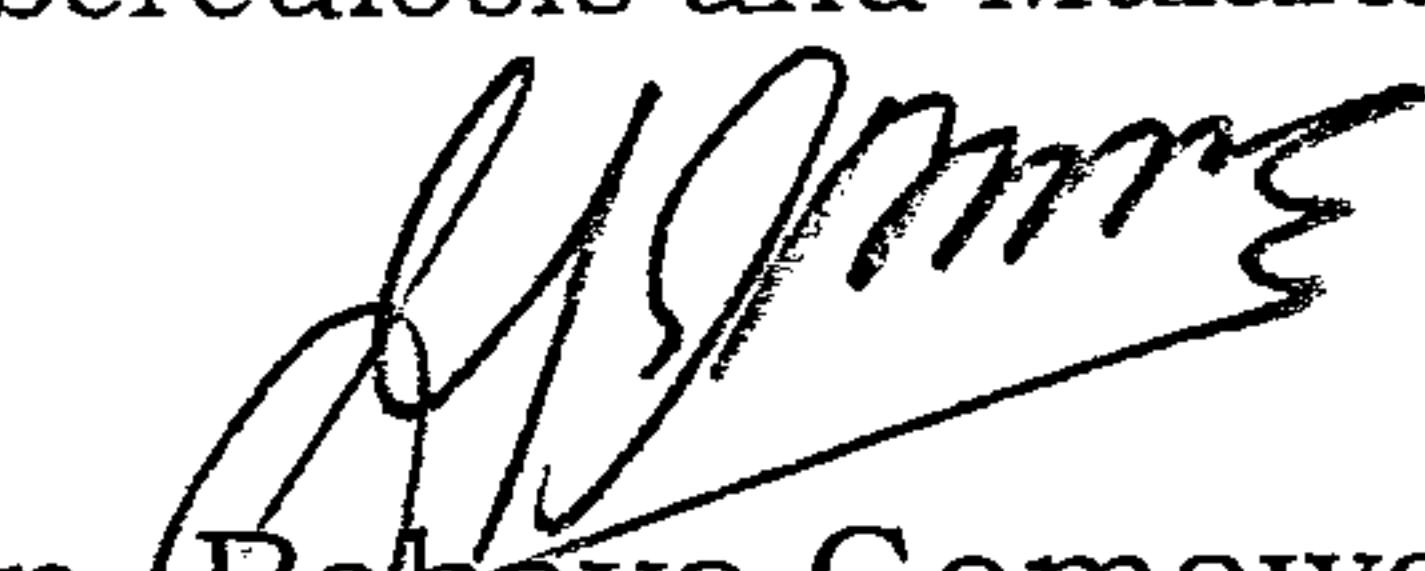
Hon. Abbas Tajudeen
Member



Danladi Angulu
Committee Clerk (Senate, Health)



Hon. Joseph Haruna Kigbu
Chairman (House, HIV/AIDS,
Tuberculosis and Malaria Control)

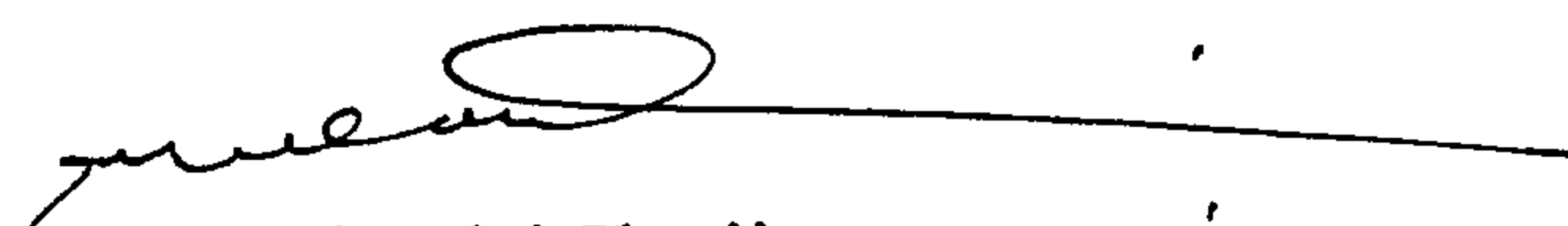


Sen. Babayo Gamawa
Member

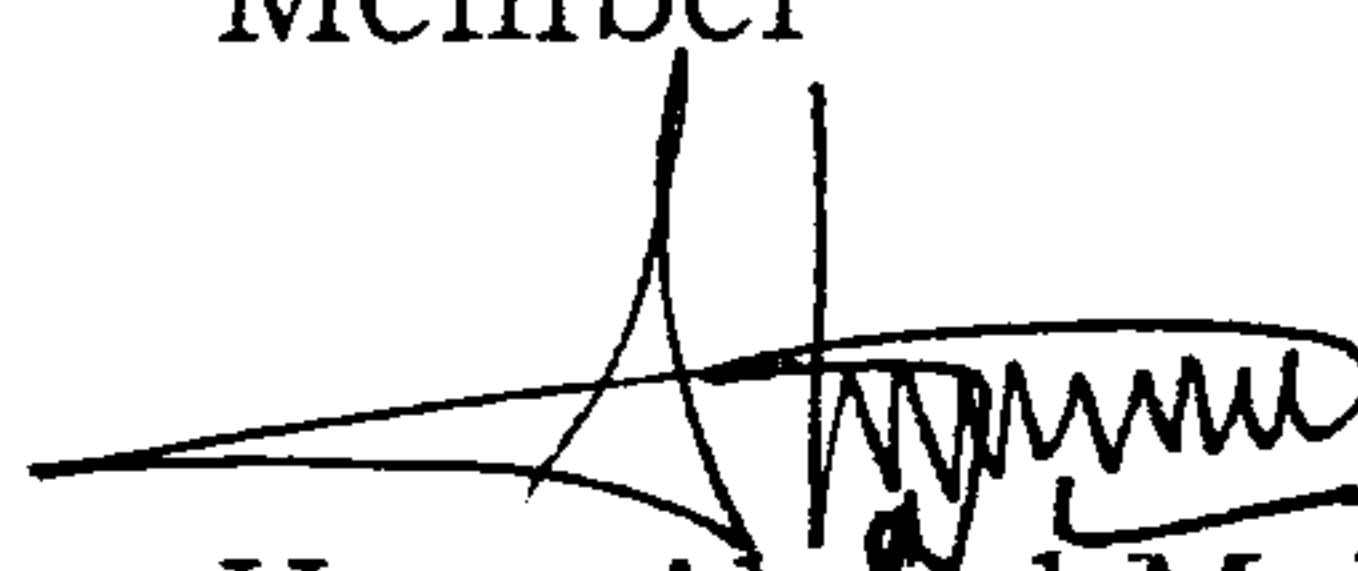


Sen. Sefiu Kaka
Member

Hon. Babatunde Jimoh
Member



Hon. Oluchi Ibeji
Member



Hon. Abdul Mshelia
Member



Musa Aliyu

Committee Clerk (House, HIV/AIDS,
Tuberculosis and Malaria Control)

Dated this 28th Day of May, 2014

CONFERENCE COMMITTEE REPORT ON HIV AND AIDS ANTI DISCRIMINATION BILL, 2014

	SENATE VERSION	HOUSE VERSION	CONFERENCE CM'TT REC	REMARKS
TITLE	A BILL FOR AN ACT TO MAKE PROVISIONS FOR THE PREVENTION OF HIV-RELATED STIGMA AND DISCRIMINATION AND TO PROTECT THE HUMAN RIGHTS AND DIGNITY OF PEOPLE LIVING WITH OR AFFECTED BY HIV AND AIDS AND OTHER RELATED MATTERS	A BILL FOR AN ACT TO MAKE PROVISIONS FOR THE PREVENTION OF HIV AND AIDS-BASED DISCRIMINATION AND TO PROTECT THE FUNDAMENTAL RIGHTS AND DIGNITY OF PEOPLE LIVING WITH AND PEOPLE AFFECTED BY HIV AND AIDS AND OTHER RELATED MATTERS, 2013 (HB. 240)	House Version Adopted	
	BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:	ENACTED by the National Assembly of the Federal Republic of Nigeria	Senate Version Adopted	
CLAUSES	PART I – OBJECTIVES	PART I — PURPOSE OF THE BILL, ITS OBJECTIVE AND APPLICATION	Senate Version Adopted	
1	The objective of the Bill is to ensure that the rights and dignity of people living with and affected by HIV and AIDS is protected by	1.The purpose of this Bill is to protect the rights and dignity of people living with and affected by HIV and AIDS by —	House Version Adopted	
	(a) Eliminating all forms of discrimination based on HIV status;	(a) eliminating all forms of discrimination based on HIV status;	Same	
	(b) Creating a supportive environment so that people living with HIV are able to continue working and living for as long as they are medically and physically fit to do so, with reasonable accommodation if necessary.	(b) creating a supportive environment so that people living with HIV and AIDS are able to continue working under normal conditions for as long as they are medically fit to do so;	House Version Adopted	
	(c) Promoting appropriate and effective ways of managing HIV in the workplace, community, institutions and other fields of human endeavour;	(c) promoting appropriate and effective ways of managing HIV in the workplace and other fields of human endeavour;	Senate Version Adopted	

	(d) Creating a safe and enabling working and learning environment for all persons;		Senate Version Adopted	
	(e) Creating a balance between the rights and responsibilities of all persons in the society; and	(d) creating a balance between the rights and responsibilities of all parties at the workplace; and giving effect to the human rights guarantees contained in Chapter 4 of the Constitution of the Federal Republic of Nigeria and international and regional human rights and labour instruments.	Senate Version Adopted	
	(f) Giving effect to human rights guaranteed in Chapter 4 of the 1999 Constitution of the Federal Republic of Nigeria as Amended and obligations under international and regional human rights and other instruments.		Senate Version Adopted	
			House Version Adopted	
		APPLICATION		
2		2. (1) This Bill applies to all persons living with and affected by HIV and AIDS in Nigeria.	House Version Adopted	
		(2) This Bill applies to all employers of labour and employees in the public and private sectors including the Nigerian Armed Forces, the Nigerian Police, State Security Services, other Para-military organizations, schools, hospitals and places of worship.	House Version Adopted	
	PART II – PROTECTION OF THE RIGHTS OF PEOPLE LIVING WITH OR AFFECTED BY HIV OR AIDS FROM DISCRIMINATION ON THE BASIS OF	PART II – PROTECTION OF THE RIGHTS OF PEOPLE LIVING WITH AND AFFECTED BY HIV AND AIDS FROM DISCRIMINATION ON THE	Senate Version Adopted	

	THEIR HIV STATUS	BASIS OF THE HIV STATUS		
3	(1) People living with or affected by HIV or AIDS have a right to freedom from discrimination on the basis of their real or perceived HIV status concerning access to and continued employment, conditions of employment, employment benefits, comprehensive health services, education, use of public facilities and other social services, provided by the employer, individual, community, government or any other establishment.	3. (1) People living with and affected by HIV and AIDS have a right to freedom from discrimination on the basis of their HIV status concerning access to and continued employment, conditions of employment, employment benefits, comprehensive health services, education and other social services.	Senate Version Adopted	
	(2) Individual, communities, institutions, employers and employees have a mutual responsibility to prevent HIV-related stigma and discrimination in the society.	(2) Both employers and employees have a mutual responsibility to prevent discrimination on the basis of HIV and AIDS in the workplace.	Senate Version Adopted	
	(3) No culture, practice or tradition shall encourage practices that expose people to the risk of HIV infection.		Senate Version Adopted	
4	(1) Every individual, community, institutions and employer shall take steps to protect the human rights of people living with or affected by HIV or AIDS by eliminating HIV-related discriminations in all settings, including employment, health and educational institutions , policies and practices.	4. (1) Every employer shall take steps to protect the human rights of people living with and affected by HIV and AIDS by eliminating HIV and AIDS-based discrimination in all employment policies and practices.	Senate Version Adopted	
	(2) Every individual, community and employer, shall take steps to promote equality of opportunity and treatment and non-discrimination on the basis of real or perceived HIV status and HIV-	(2) Every employer shall take steps to promote equality and non-discrimination on the basis of HIV status and other related diseases.	Senate Version Adopted	

	related illness.			
5	(1) No individual, community, institution, employer or employee shall discriminate, directly or indirectly, against any person in the society on the basis of the person's HIV status or perception of same in employment, delivery of services and other benefits.	5. (1) No employer or employee may discriminate, directly or indirectly, against any person in the workplace on the basis of the person's HIV status or perception of same in employment, delivery of services and benefits.	Senate Version Adopted	
	(2) For the purpose of this Bill, it is not unlawful to:	(2) It is not discrimination for the purpose of this Bill to —	Senate Version Adopted	
	(a) take affirmative action consistent with the purpose of this Bill; or	(a) take affirmative action consistent with the purpose of this Bill; or	Senate Version Adopted	
	(b) distinguish, exclude or prefer any person on the basis of an inherent requirement of a job or any other services.	(b) distinguish, exclude or prefer any person on the basis of an inherent requirement of a job.	Senate Version Adopted	
	(3) Affirmative action in accordance with the purpose of this Bill shall include measures designed to —	(3) Affirmative action in accordance with the purpose of this Bill shall include measures designed to —	Same	
	(a) ensure that people living with or affected by HIV or AIDS enjoy equality of opportunities and treatment in relation to employment and occupation.	(a) ensure that suitably qualified people living with and affected by HIV and AIDS have equal employment opportunities;	Senate Version Adopted	
	(b) identify and eliminate barriers which adversely affect people living with and affected by HIV or AIDS; and	(b) identify and eliminate employment barriers which adversely affect people living with and affected by HIV and AIDS; and	Senate Version Adopted	
	(c) further diversity (including gender diversity) in the society based on equal dignity and respect for all people.	(c) further diversity (including gender diversity) in the workplace based on equal dignity and respect for all people.	Same	

	(4) Nothing in this section shall require an individual, community, employer or employee to engage in any act or omission concerning policies and or practices that would establish a barrier to the continued enjoyment of personal and or constitutionally guaranteed rights on the basis of their real or perceived HIV status.	(4) Nothing in this section shall require an employer to take any decision concerning employment policy or practice that would establish a barrier to the continued employment or advancement of employees on the basis of their HIV status.	Senate Version Adopted	
6	It shall be an offence to discriminate against any person on the basis of their real or perceived HIV status by –	6. It shall be an offence to discriminate against any person on grounds of actual or perceived HIV status by —	Senate Version Adopted	
	(a) denying or removing from such person, any treatment, medication or any supporting and enabling facility for their functioning in the society;	(a) denying or removing from such person, any treatment, medication or any supporting and enabling facility for their functioning in the society;	Same	
	(b) refusal to accept and offer treatment by a qualified medical personnel, except in such cases when the special care or facilities specifically required for treatment of HIV/AIDS does not exist in such a health facility;		Senate Version Adopted	
	(c) failure to remove, eliminate or ameliorate any obstacle that unfairly limits or restricts such a person from enjoying equal opportunities or failing to take steps to reasonably accommodate the needs of such a person;	(b) failure to remove, eliminate or ameliorate any obstacle that unfairly limits or restricts such a person from enjoying equal opportunities or failing to take steps to reasonably accommodate the needs of such a person;	Same	
	(d) refusal to admit into school or not allowing them to continue in an educational institution;	(c) refusal to admit into school or not allowing them to continue In an educational institution;	Same	
	(e) denial of access to and use of religious or worship areas and services;		Senate Version Adopted	

		(2) In the determination of what is "reasonable accommodation", the employer, the Minister or the Court shall be mindful of the gender dimensions of social roles in particular, the burden of care placed on women in society.	Rejected	
8	(a) Prior to accessing any public/private delivered services, employment and any other opportunities , no individual, institutions or bodies shall require a person to disclose his or her HIV status or the status of any other person, by asking questions, orally or in writing, directly or indirectly.	8. Prior to employment, no employer shall require a job applicant to disclose his or her HIV status by asking questions, orally or in writing, directly or indirectly.	Senate Version Adopted	
	(b) Notwithstanding the provisions of this section, Any partner in a marriage or co-habiting relationship has the right to be informed of his/her partner's HIV status in a situation where he/she considers himself/herself at risk of being infected by a partner.		Senate Version Adopted	
9	(1) No employer, institution, body or individual shall require an HIV test as a precondition to an offer of employment, access to public/private services or opportunities , except where it is shown, on the certification of two competent medical authorities (working independently) to the court, that failure to take such a test constitutes a clear and present danger of HIV transmission to others.	9. (1) No employer shall require an HIV test as a precondition to the offer of employment, except where it is shown, on the certification of two competent medical authorities at the tertiary level to the court, that failure to take such a test constitutes a clear and present danger of AIDS virus transmission to others:	Senate Version Adopted	

		Provided that such certification shall have been obtained before the job is advertised and the requirement of HIV testing is included in the advertisement for the job.		
	(2) No educational institution shall require HIV testing as part of its routine medical testing requirements for admission or accreditation of learners.		Senate Version Adopted	
	(3) For the purpose of subsection 1 of this section, the compilation of the list of competent medical authorities shall be the responsibility of the Ministry of Health .	(2) For the purpose of subsection (1) of this section, the Minister shall compile a list of medical authorities.	Senate Version Adopted	
	(4) HIV testing under this section shall be carried out with the informed and full consent of the person concerned, in accordance with national guidelines on confidentiality and counseling .	(3) HIV testing under this section shall be carried out with the informed and full consent of the person considered for employment.	Senate Version Adopted	
	(5) Nothing in sub-section 1 of this section shall prevent the medical testing of persons for fitness for work and any other responsibility as a precondition for an offer of employment and any other responsibility as provided in any existing law.	(4) Nothing in subsection (1) of this section shall prevent the medical testing of persons for fitness for work as a precondition to the offer of employment as provided in any existing law.	Senate Version Adopted	
10	(1) An employer or relevant body may provide HIV testing in compliance with the National HIV Counseling and Testing Guidelines to any person who has requested a test in the following circumstances –	10. (1) An employer may provide HIV testing in compliance with the National Voluntary Counseling and Testing Guidelines to an employee who has requested a test in the following circumstances –	Senate Version Adopted	
	(a) as part of a health care service		Senate Version Adopted	

	(b) in the event of an occupational accident or other incidents carrying a risk of exposure to blood or other body fluids;	(a) in the event of an occupational accident carrying a risk of exposure to blood or other body fluids;	Senate Version Adopted	
	(c) for the purposes of applying for compensation following an occupational accident or other incidents involving a risk of exposure to blood or other body fluids.	(b) for the purposes of applying for compensation following an occupational accident involving a risk of exposure to blood or other body fluids	Senate Version Adopted	
	(2) The tests referred to in subsection (1) shall only take place within the following defined conditions –	(2) The tests referred to in subsection (1) shall only take place within the following defined conditions –	Same	
	(a) at the instance of an individual who voluntarily requests;		Senate Version Adopted	
	(b) within the context of a health care worker and employee-patient relationship; and		Senate Version Adopted	
	(c) with informed consent and pre- and post-test counseling provided by the employer and other relevant bodies .	(a) with informed consent and pre- and post-test counseling provided by the employer.	Senate Version Adopted	
	(3) Where a person chooses to voluntarily disclose his or her HIV status to the employer, other employees and/or other relevant bodies, this information shall not be disclosed to other persons without the written consent of the person(s) making such disclosure, provided that where such written consent is not possible, the employer or body in receipt of the disclosure shall take all necessary steps to confirm that such person wishes to disclose his or her status.	(3) Where an employee chooses to voluntarily disclose his or her status to the employer or to other employees, this information shall not be disclosed to other persons without the employee's written consent. Provided that where such written consent is not possible, the employer shall take all necessary steps to confirm that the employee wishes to disclose his or her status.	Senate Version Adopted	

11	11. (1) No person shall, except with the written consent of the individual to whom the information relates, disclose any information relating to the HIV status of that individual, unless the disclosure is required by law.	11. (1) No person shall, except with the written consent of the employee to whom the information relates, disclose any information relating to the HIV status of any employee , unless the disclosure is required by law.	Senate Version Adopted	
	(2) For the purposes of section 12, a person/institution shall be deemed to have breached confidentiality where an individual who receives information about another individual's HIV positive status in the course of their relationship discloses such to a third party without the written consent of the HIV positive employee.	(2) For the purposes of section 11, an employer shall be deemed to have breached confidentiality where its employee who receives information about another employee's HIV positive status in the course of the employment discloses such to a third party without the written consent of the HIV positive employee.	Senate Version Adopted	
12	(1) Nothing in the foregoing sections shall preclude anonymous, unlinked surveillance or' epidemiological HIV testing provided that such is undertaken in accordance with ethical and legal principles regarding such research and the information obtained shall not be used to discriminate against individuals or groups of persons.	12. (1) Nothing in the foregoing sections shall preclude anonymous, unlinked surveillance or epidemiological HIV testing in the workplace provided that such is undertaken in accordance with ethical and legal principles regarding such research and the information obtained shall not be used to discriminate against individuals or groups of persons.	Same	
	(2) Testing will not be considered anonymous if there is a reasonable possibility that a person's name or personal identifying features can be linked to the test .	(2) Testing will not be considered anonymous if there is a reasonable possibility that a person's HIV status can be deduced from the results .	Senate Version Adopted	
13	(1) All persons living with HIV or affected by AIDS shall have the right to protection of data with respect to their health and medical records.	13. All persons living with or affected by HIV and AIDS shall have the right to privacy with respect to their health and medical records.	Senate Version Adopted	

	(2) any person who fails to comply with the provisions of this section, commits an offence and shall be liable on conviction to a fine not less than N500,000 for an individual and N1 million for an institution or for a term not exceeding two years, or to both fine and imprisonment.		Senate Version Adop
14	(1) Subject to any existing law, the HIV status of an individual shall not affect his or her eligibility for any occupational or other benefit schemes provided for employees.	14. (1) Subject to any existing law, the HIV status of an employee shall not affect his or her eligibility for any occupational or other benefit schemes provided for employees.	House Version Adop
	(2) Where under any existing law, the eligibility of a person for any occupational or other benefit scheme is conditional upon an HIV test, the conditions attaching to HIV and AIDS shall be the same as those applicable in respect of comparable chronic conditions.	(2) Where in terms of any existing law, the eligibility of a person for any occupational or other benefit scheme is conditional upon an HIV test, the conditions attaching to HIV and AIDS shall be the same as those applicable in respect of comparable chronic conditions.	Senate Version Ado
	(3) Where an employee decides not to undergo an HIV testing for the purposes of subsection (2), no inferences concerning the HIV status of the employee may be drawn from such exercise.	(3) Where an employee decides not to undergo an HIV testing for the purposes of subsection (2), no inferences concerning the HIV status of the employee may be drawn from such exercise by the employer .	Senate Version Adc

	(4) Where an employee undergoes an HIV testing for the purpose of subsection (2), the employer shall not, unless the occupational or other benefit scheme is operated by the employer, be entitled to information concerning the HIV status of the employee concerned.	(4) Where an employee undergoes an HIV testing for the purpose of subsection (2), the employer shall not, unless the occupational or other benefit scheme is operated by the employer, be entitled to information concerning the HIV status of the employee concerned.	Same	
	(5) Real or perceived HIV status shall not be a cause for termination of employment.		Senate Version Adopted	
15	Every employer has a duty, as far as is practicable, to provide a workplace with universal safety tools and this shall include ensuring that the risk of occupational exposure to HIV is minimized.	15. Every employer has a duty, as far as is practicable, to provide a safe workplace and this shall include ensuring that the risk of occupational exposure to HIV is minimised.	House Version Adopted	
16	Every employer engaged in business where there is a risk of occupational transmission of HIV within the workplace shall ensure that it adopts a safety procedure that provides –	16. Every employer engaged in business where there is a risk of occupational transmission of HIV within the workplace shall ensure that it adopts a safety procedure that provides –	Same	
	(a) appropriate training, awareness, education on the use of universal infection control measures so as to identify, deal with and reduce the risk of HIV transmission in the workplace;	(a) appropriate training, awareness, education on the use of universal infection control measures so as to identify, deal with and reduce the risk of HIV transmission in the workplace;	Same	
	(b) appropriate personal protective equipment and materials to protect employees from acquiring or transmitting HIV;	(b) appropriate equipment and materials to protect employees from the risk of exposure to HIV;	Senate Version Adopted	
	(c) the steps to be taken following an occupational accident including the appropriate management of	(c) the steps to be taken following an occupational accident including the appropriate management of occupational	Same	

	occupational exposure to HIV and other blood borne pathogens, including access to post-exposure prophylaxis;	exposure to HIV and other blood borne pathogens, including access to post-exposure prophylaxis;		
	(d) the procedures to be followed in applying for compensation for occupational infection;	(d) the procedures to be followed in applying for compensation for occupational infection;	Same	
	(e) adequate monitoring of occupational exposure to HIV to ensure that the requirements of possible compensation claims are met.	(e) adequate monitoring of occupational exposure to HIV to ensure that the requirements of possible compensation claims are met.	Same	
17	(1) Every employer shall ensure that all occupationally acquired HIV infections are reported to the Minister from the date of discovery.	17. (1) Every employer shall ensure that all occupationally acquired HIV infections are reported to the Minister from the date of discovery.	Same	
	(2) It shall be an offence for any employer to fail to comply with the provisions of subsection (1) of this section, or to knowingly or recklessly make any statement or produce any document that is false in any material particular unless such employer shows that he had taken all reasonable steps to ascertain the truth of the statement made or contained in any document so produced or to satisfy itself as to the genuineness of any such document.	(2) It shall be an offence for any employer to fail to comply with the provisions of subsection (1) of this section, or to knowingly or recklessly make any statement or produce any document that is false in any material particular unless such employer shows that he had taken all reasonable steps to ascertain the truth of the statement made or contained in any document so produced or to satisfy itself as to the genuineness of any such document.	Same	
	(3) Any employer who contravenes subsection (2) of this section shall be guilty of an offence and liable on conviction to a fine of not less than N250,000 or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.	(3) Any employer who contravenes subsection (2) of this section shall be guilty of an offence and liable on conviction to a fine of not less than N100, 000 or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.	Senate Version Adopted	

	(4) To protect the confidentiality of the infected employee, the report should be sent directly from employer to a designated desk officer at the office of the relevant Minister.		Senate Version Adopted	
18	An employer in whose workplace an employee becomes infected with HIV shall provide the employee with reasonable support prior to sero-conversion and during sero-conversion phases of the infection including costs of medical tests and supply of medicines and treatment for opportunistic infections.	18. An employer in whose workplace an employee becomes infected with HIV shall provide the employee with reasonable support prior to seroconversion and during seroconversion phases of the infection including costs of medical tests and supply of medicines and treatment for opportunistic infections.	Same	
19	(1) Subject to the provisions of subsection (2) of this section, an employee, client who becomes infected with HIV in the course of employment, and/or receiving a service shall be entitled to compensation: Provided that an employer /provider of service shall not be liable for HIV infection arising from an act not done for the purpose of and in connection with the employer's/ service provider's business or trade.	19. (1) Subject to the provisions of subsection (2) of this section, an employee who becomes infected with HIV in the course of employment shall be entitled to compensation: Provided that an employer shall not be liable for HIV infection arising from an act not done for the purpose of and in connection with the employer's business or trade.	Senate Version Adopted	
	(2) Notwithstanding the provisions of subsection (1) of this section, an employer/ service provider shall not be liable to pay compensation under this Bill if it is proved that the infection	(2) Notwithstanding the provisions of subsection (1) of this section, an employer shall not be liable to pay compensation under this Bill if it is proved that the infection resulted from the willful act of	Senate Version Adopted	

	resulted from the willful act of self-injury or gross negligence of the employee/client.	self-injury or gross negligence of the employee.		
	(3) An employer/service provider shall take reasonable steps to assist employee/clients with the application for compensation benefits including –	(3) An employer shall take reasonable steps to assist employees with the application for compensation benefits including-	Senate Version Adopted	
	(a) providing information to affected employees/clients on the procedures that will need to be followed in order to qualify for a compensation claim; and	(a) providing information to affected employees on the procedures that will need to be followed in order to qualify for a compensation claim; and	Senate Version Adopted	
	(b) assisting with the collection of information which will assist in proving that employees/clients were occupationally exposed to HIV infection.	(b) assisting with the collection of information which will assist in proving that employees were occupationally exposed to HIV infected blood.	Senate Version Adopted	
20	An employer shall ensure that the rights of employees living with or affected by HIV or AIDS, and the remedies available to them in the event of a breach of such rights are integrated into existing workplace grievance procedures.	20. An employer shall ensure that the rights of employees with regard to HIV and AIDS, and the remedies available to them in the event of a breach of such rights become integrated into existing workplace grievance procedures.	Same	
21	(1) An employer of labour shall, in consultation with the employees or their representatives, adopt a written Workplace Policy that is consistent with the National HIV and AIDS Workplace Policy for its working environment: PROVIDED that an organization in business as at the commencement of this Bill, shall be required to adopt such policy within twelve months of the commencement of this Bill and for an	21. An employer employing five persons or more shall, in consultation with the employees or their representatives, adopt a written Workplace Policy that is consistent with the National HIV and AIDS Workplace Policy for its working environment: Provided that an organization in business as at the commencement of this Bill, shall be required to adopt such policy within twelve months of the passage of this Bill and for an organization established after the	House Version Adopted Same	

	organization established after the commencement of this Bill, within twelve months of commencement of business.	commencement of this Bill, within twelve months of commencement of business.		
	(2) An employer shall lodge a copy of the organizations adopted HIV and AIDS Workplace Policy with the Minister within one month of its adoption for approval.	(2) An employer shall lodge a copy of the organizations adopted HIV and AIDS Workplace Policy with the Minister within one month of its adoption for approval.	Same	
	(3) Where a Co-operation Agreement between employers and employees' unions or representatives on HIV and AIDS workplace programming exists, an employer shall lodge a copy of such agreement with the Minister within one month of its adoption.	(3) Where a Co-operation Agreement between employers and employees' unions or representatives on HIV and AIDS workplace programming exists, an employer shall lodge a copy of such agreement with the Minister within one month of its adoption.	Same	
	(4) Any employer who fails to comply with the provisions of this section shall be guilty of an offence and liable on conviction –	(4) Any employer who fails to comply with the provisions of this section shall be guilty of an offence and liable on conviction –	Same	
	(a) in the case of subsection (1), to a fine of N250,000 for the first year of default and N100,000 for each subsequent year or part thereof that the offence continues;	(a) in the case of subsection (1), to a fine of ₦250,000 for the first year of default and ₦100,000 for each subsequent year or part thereof that the offence continues;	Same	

	(b) in the case of subsections (2) and (3), to a fine of N10,000 for everyday or part thereof that the offence continues.	(b)in the case of subsections (2) and (3), to a fine of N1,000 for everyday or part thereof that the offence continues.	Senate Version Adopted	
	(5) Any employer who, with intent to deceive, gives false information about the existence of a Workplace Policy or Co-operation Agreement shall be guilty of an offence and liable on conviction to a fine N500,000.		Senate Version Adopted	
	PART III – GENERAL OFFENCES	PART III — GENERAL OFFENCES	Same	
22	(1) It shall be an offence under this Bill to —	22. (1) It shall be an offence under this Bill to —	Same	
	(a) discriminate against any person or groups of persons who exercise any right under this Bill;	(a) discriminate against an employee who exercise any right under this Bill;	Senate Version Adopted	
	(b) threaten to, or prevent any person from exercising any right under this Bill;	(b) threaten to, or prevent an employee from exercising any right under this Bill;	Senate Version Adopted	
	(c) favour, or promise to favour any person in exchange for that person not exercising a right to formally report a contravention under this Bill or participate in any proceedings in terms of this Bill.	(c) favour, or promise to favour an employee in exchange for that employee not exercising a right to formally report a contravention under this Bill or participate in any proceedings in terms of this Bill.	Same	
	(2) Discrimination against any person under subsection (1) (a) includes but is not limited to, prejudicing anyone because of a past, present or anticipated	(2) Discrimination against an employee under subsection (1) includes but is not limited to, prejudicing an employee because of a past, present or anticipated disclosure	Senate Version Adopted	

	disclosure of information that he/she is lawfully entitled to or required to give in any proceedings in terms of this Bill, exercising any right conferred by this Bill or participating in any proceedings in terms of this Bill.	of information that an employee is lawfully entitled or required to give in any proceedings in terms of this Bill, exercising any right conferred by this Bill or participating in any proceedings in terms of this Bill.		
		(3) For the purpose of this section, an employee includes a former employee and an applicant for employment.	Rejected	
23	Subject to the provisions of this Bill relating to other offences, any person or institution , who contravenes any provisions of this Bill shall be guilty of an offence and liable on conviction to a fine not less than N500,000 for individuals and N2,000,000 for organizations or imprisonment for a period not less than one year or to both such fine and imprisonment. In the case of an organization, the head and/or representatives of the board of the organization shall be held liable.	23. Subject to the provisions of this Bill relating to other offences, any person, who contravenes any provisions of this Bill, shall be guilty of an offence and liable on conviction to a fine not exceeding N 200, 000 or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.	Senate Version Adopted	
	PART IV – MONITORING AND LEGAL ENFORCEMENT	PART IV — MONITORING AND LEGAL ENFORCEMENT	Same	
24	(1) It shall be the duty of the Minister of Justice to ensure compliance with, and enforce the provisions of this Bill and for that purpose; the Minister of Justice shall have the power to –	24. (1) It shall be the duty of the Minister to ensure compliance with, and enforce the provisions of this Bill and for that purpose, the Minister shall have the power to –	Senate Version Adopted	
	(a) conduct an Inquiry into any allegation of a contravention of this Bill;		Senate Version Adopted	

	(b) make necessary recommendations to an institution or individual pursuant to an inquiry carried out under paragraph (a) of this section; and	(a) make necessary recommendations to an employer pursuant to an inquiry carried out under paragraph (a) of this section; and	Senate Version Adopted	
	(c) commence criminal proceedings against anyone in a court of competent jurisdiction.		Senate Version Adopted	
	(2) A person who has been affected by a contravention of this Bill or who has knowledge of a contravention of this Bill shall have the right to petition the Minister of Justice .	(2) An employee who has been affected by a contravention of this Bill or an employee who has knowledge of a contravention of this Bill shall have the right to petition the Minister.	Senate Version Adopted	
	(3) Subject to the provisions of section 25 of this Bill, the Minister of Justice shall cause an Inquiry to be instituted into the said contravention within two weeks of receiving the petition.	(3) Subject to the provisions of section 23 of this Bill, the Minister shall cause an inquiry to be instituted into the said contravention within two weeks of receiving the petition.	Senate Version Adopted	
	(4) The procedure for an Inquiry into a contravention under subsection (1) shall be specified in Regulations made under this Bill by the Minister of Justice after consultation with all affected parties' representatives provided that such Regulations shall be adopted within twelve months of the commencement of this Bill.	(4) The procedure for an inquiry into a contravention under subsection (1) shall be specified in regulations made under this Bill by the Minister after consultation with workers and employers' representative bodies provided that such regulations shall be adopted within three months of the commencement of this Bill.	Senate Version Adopted	
25	(1) Where at the conclusion of the Inquiry, it is shown that there has been a contravention, the Minister of Justice may make a recommendation to the contravening individual or institution stating –	25. Where at the conclusion of the inquiry, it is shown that there has been a contravention, the Minister may make a recommendation to the employer stating –	Senate Version Adopted	

	(a) steps that must be taken to redress the contravention, which steps may include but shall not be limited to-	(a) steps the employer must take to redress the contravention, which steps may include but shall not be limited to —	Senate Version Adopted	
	(i) hiring or admitting the person adversely affected;	(i) hiring of the person adversely affected;	Senate Version Adopted	
	(ii) Reinstatement or reabsorbing of the affected person ;	(ii) reinstatement or rehiring of the employee;	Senate Version Adopted	
	(iii) restoration of benefits, entitlements or rights denied as a result of such contravention;	(iii) restoration of benefits or entitlement denied as a result of contravention;	Senate Version Adopted	
	(iv) payment of compensation or damages to the person(s) affected by the contravention;	(iv) payment of compensation or damages to the employee affected by the contravention;	Senate Version Adopted	
	(b) the period within which those steps must be taken; and		Senate Version Adopted	
	(c) alternative recourse to be taken where the contravening person or institution refuses, fails or neglects, to implement recommendations. Provided that nothing in this section shall preclude the Minister of Justice from exercising power to commence criminal prosecution against the contravening person or institution under subsection (1) (c) .	(b) alternative recourse to be taken where employer refuses, fails or neglects, to implement recommendations: Provided that nothing in this section shall preclude the Minister from exercising power to commence criminal prosecution against the employer .	Senate Version Adopted	
26	(1) Nothing in the foregoing sections of this Bill shall limit the personal right of an individual or group affected directly by a contravention of this Bill to bring a civil action in court against any person or institution provided that who so elects	26. (1) Nothing in the foregoing sections of this Bill shall limit the personal right of an employee who has been affected directly by a contravention of this Bill to bring a civil action in court against any person or employee provided that an employee who	Senate Version Adopted	

	shall communicate his/her decision to the Minister of Justice in writing alongside the petition.								
	(2) Where an individual or group exercises the right to commence a civil suit under subsection (1) above and notifies the Minister of Justice accordingly, the Minister of Justice shall not conduct an inquiry under section 23.								
27	Notwithstanding the express provisions of this Bill relating to the imposition of criminal sanctions, where the court decides that an individual or group has been unfairly discriminated against, the Court may make any appropriate order that is just and equitable in the circumstances including –								
	(a) payment of compensation to the affected person or group;								
	(b) payment of damages to the affected person or group;								
	(c) an order directing the individual or institution to take steps to prevent discrimination or other contraventions occurring in the future in respect of others;								
	(d) an order directing the deregistration of a corporate body and/or withdrawal of an individual professional license.								
28	Nothing in this Bill shall preclude a person living with HIV or affected by AIDS from seeking redress against any person or institution for any breach of his or her								
	so elects shall communicate his or her decision to the Minister in writing alongside the petition.								
	(2) Where an employee exercises the right to bring a civil action under subsection (1) above and notifies the Minister accordingly, the Minister shall not conduct an inquiry under section 25.								
	27. Notwithstanding the express provisions of this Bill relating to the imposition of criminal sanctions, where the court decides that an employee has been unfairly discriminated against, the Court may make any appropriate order that is just and equitable in the circumstances including –								
	(a) payment of compensation to the employee;								
	(b) payment of damages to the employee;								
	(c) an order directing the employer to take steps to prevent discrimination or other contraventions occurring in the future in respect of other employees;								
	(d) an order directing the deregistration of an employer which is a body corporate.								
	28. Nothing in this Bill shall preclude a person living with or a person affected by HIV or AIDS from seeking redress against any person for any breach of his or her								
	Senate Version Adopted								
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constitutional rights in accordance with the provisions of section 42 of the 1999 Constitution of the Federal Republic of Nigeria as amended.					
29	Any individual or body corporate shall be liable for the acts of its officers or contravening the provisions of this Bill, provided that nothing in this section shall exclude such officers from personal liability for their acts.	29. An employer that is a body corporate or unincorporated shall be liable for the acts of its officers contravening the provisions of this Bill, provided that nothing in this section shall exclude such officers from personal liability for their acts.	Senate Version Adopted		
30	In this Bill, unless the context otherwise provides – “Admission” means an act of allowing to enter, act or condition of being received or accepted in a position, institution, facility, profession, occupation, office or appointment; “AIDS” means Acquired Immune Deficiency Syndrome ; “adverse action” includes, but is not limited to termination, refusal to hire or admit, rehire, promote, or any other discrimination in the terms or conditions of employment, admission, service provision, policies or practices based on an individual’s real or perceived HIV status; “Correctional Facilities” a penal institution, prison, remand homes,	30. In this Bill, unless the context otherwise requires – “adverse action” includes, but is not limited to termination, refusal to hire, rehire, or promote, or other discrimination in the terms or conditions of employment, admission, service provision, policies or practices based on an employee’s HIV status;	Senate Version Adopted Senate Version Adopted Senate Version Adopted Senate Version Adopted	Senate Version Adopted	

detention camps "Court" means a court of competent jurisdiction; "Discrimination" means discrimination as defined in section 42 of the 1999 constitution of the Federal Republic of Nigeria as amended and the International Human Rights Instruments; "Employee" includes any person, other than an independent contractor, his representative and agent	(a) who works for another person or for the state and who receives, or is entitled to receive any remuneration; and has entered into or works under a contract (whether expressed, implied, oral or written) with an employer, whether the contract is for manual labour, clerical work or for the discharge of administrative, executive, technical or professional functions including armed forces and uniformed services, and whether such contract is a contract of service or a contract personally to execute any work or labour; "employer" means a person or association of persons, bodies corporate or unincorporated employing one or more
"discrimination" means discrimination as defined in the International Labour Organization's Convention, "employee" includes any person, other than an independent contractor, his representative and agent-	(a) who works for another person or for the state and who receives, or is entitled to receive any remuneration; and has entered into or works under a contract (whether expressed, implied, oral or written) with an employer, whether the contract is for manual labour, clerical work or for the discharge of administrative, executive, technical or professional functions and whether such contract is a contract of service or a contract personally to execute any work or labour; "employer" means a person or association of persons, bodies corporate or unincorporated employing one or more
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