

**PUERTO RICO 1995 SESSION LAWS
12TH LEGISLATURE**

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Act No. 52

H.B. No. 1203

ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

AN ACT to prohibit certain type of discrimination against a person who has been diagnosed as HIV positive or who suffers from the Acquired Immunodeficiency Syndrome (AIDS) and to impose penalties.

STATEMENT OF MOTIVES

The Human Immunodeficiency Virus or HIV, as commonly known, is the virus that causes the Acquired Immunodeficiency Syndrome (AIDS). The cases of persons who are HIV positive constitute the greatest group of persons affected. These are the persons to whom the general public mistakenly refers to as those who have "AIDS" or who suffer from "AIDS", although they are only HIV positive and may or may not develop a case of Acquired Immunodeficiency Syndrome.

The first case of AIDS was "reported" in 1981. Each year the number of cases has dramatically increased. In Puerto Rico, the increase of "reported" cases has placed us third among the States and territories of the United States, in the incidence of persons with AIDS. Currently, this disease has become a priority in the world's public health. In spite of the efforts of official agencies and community entities, the lack of proper information has encouraged discriminatory attitudes and situations against the persons who suffer the disease or who look like they have acquired it, which are reflected through layoffs and deprivation of services.

The Puerto Rican legislator, responsibly, has always approved measures addressed to watch over those who are defenseless before other sectors. With the desire of overcoming this discriminatory attitude, this Legislature prohibits all kinds of discrimination against the persons who have been diagnosed as HIV positive, or who suffer from the Acquired Immunodeficiency Syndrome.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

<< PR ST T. 1 § 521 >>

Section 1.--Title.--

This Act shall be known as "An Act for the Prohibition of all Kinds of Discrimination against persons who have been diagnosed as HIV positive, or for the fact that the person suffers from the Acquired Immunodeficiency Syndrome (AIDS).

<< PR ST T. 1 § 521a >>

Section 2.--Statement of Principles.--

It is the public policy of the Commonwealth of Puerto Rico, to ensure every person, that they shall not be discriminated against because they have been diagnosed as HIV positive, or because they suffer from the Acquired Immunodeficiency Syndrome (AIDS). In the case of juridical persons or family groups, they shall not be discriminated against because they have in their registry or among their clients, persons who are HIV positive or who suffer from the Acquired Immunodeficiency Syndrome (AIDS).

<< PR ST T. 1 § 521b >>

Section 3.--Definitions.--

The following terms shall have the meaning stated hereinbelow:

- (1) "Person"--means every natural or juridical person, and any private or public institution.
- (2) "Public or Private Institution"--means every association, society, federation, institute and entity, including all natural or juridical persons, as well as the Commonwealth government, any agency, instrumentality or public corporation of Puerto Rico, its Municipalities and Municipal Consortiums that give, offer or render any service, program or activity.
- (3) "Human Immunodeficiency Virus"--known by its acronym HIV, is the virus that causes the Acquired Immunodeficiency Syndrome.
- (4) "Acquired Immunodeficiency Syndrome"--For the purposes of this act, all those who suffer the disease are those who meet the criteria established by the Centers for Disease Control to be defined as AIDS cases.

<< PR ST T. 1 § 521c >>

Section 4.--Prohibited Actions and Annulled Agreements.--

No person, by him/herself or through any other, shall impede, obstruct limit or exclude another person who has been diagnosed as HIV positive or who suffers from AIDS, from participating, taking part or enjoying organized programs

or activities sponsored, operated, managed or directed by public or private institutions.

Any agreement shall be nulle ab initio which results in discrimination against, or that requires another person to discriminate against a person who has been diagnosed as HIV positive, or who suffers from the Acquired Immunodeficiency Syndrome, in the acquisition or alienation of any good or service, or the conditions of the same, or in the exercise or alienation of a real or obligatory leasehold, or in the granting of a contract, or in the clauses imposed therein, or in the conditions for its issuing.

<< PR ST T. 1 § 521d >>

Section 5.--Real or Personal Property.--

a) no real right or lease-holder, or with the right to cede possession of real or personal property, shall refuse to transfer said leasehold, or of its option, as the case may be, to any person who has been diagnosed as HIV positive or who suffers from the Acquired Immunodeficiency Syndrome.

b) no person shall discriminate against, or establish different conditions, in the terms or conditions of a transaction for the acquisition of the ownership or control, or for the financing of any type of transaction on real or personal property, nor may he/she discriminate against a person for the mere fact of having been diagnosed as HIV positive or for suffering from the Acquired Immunodeficiency Syndrome, when granting financing.

<< PR ST T. 1 § 521e >>

Section 6.--Transportation, Recreation, Goods and Services.--

It is prohibited for any person to discriminate against, impede, obstruct, limit or exclude access, admission or participation, or membership to a person who has been diagnosed as HIV positive or who suffers from the Acquired Immunodeficiency Syndrome, from the acquisition of goods and services gratuitously by purchase, as well as from being part of, or being the third beneficiary of any contract gratuitously or by purchase.

<< PR ST T. 1 § 521f >>

Section 7.--Educational Institutions.--

The public or private institutions that are dedicated to render educational services, shall not discriminate against qualified persons who have been diagnosed as HIV positive or who suffer from the Acquired Immunodeficiency Syndrome.

Persons in charge of public or private educational institutions, shall ensure that their services are offered so that there is no discrimination against them.

The Department of Education shall approve the necessary regulations for the implementation of this Act in all the public schools of Puerto Rico.

<< PR ST T. 1 § 521g >>

Section 8.--Civil and Criminal Liability.--

Any person who violates this Act, or the regulations approved thereunder, shall incur civil liability as established in Section 1.059 or 1.805 et. sec., of the Penal Code, as the case may be, and to receive the corresponding compensation, which shall not be less than five thousand (5,000) dollars.

The Court, or the Department of Consumer Affairs, in its case, shall grant the plaintiff that prevails in an action under this section, the lawyer's truly earned fees, which represent a compensation comparable to those prevailing in the exercise of the legal profession, plus the incidental expenses of the suit, such as expert's fees, photocopies, mailing expenses and others. If the plaintiff is represented by a public or private institution that offers legal services free of charge, the fees and costs shall be paid to said institutions.

<< PR ST T. 1 § 521h >>

Section 9.--Penal Liability.--

Any person shall be guilty of a misdemeanor who:

- a) having the right to do so legally or contractually, refuses to transfer any real right, or to lease or sublease of a personal property at any level, to any person or group of persons, for having been diagnosed as HIV positive, or who suffers from the Acquired Immunodeficiency Syndrome.
- b) discriminates against, or establishes different conditions, in the terms or conditions of a transaction for the acquisition of ownership or the use or for the financing of any kind of transaction on real estate, to another person, for the mere fact of having been diagnosed as a carrier of the HIV virus, or for suffering from the Acquired Immunodeficiency Syndrome.
- c) impedes, obstructs, limits or excludes the access, admission or participation of any person in the transportation services, recreation and acquisition of goods and services, for the mere fact of having been diagnosed as a carrier of the HIV virus, or for suffering from the Acquired Immunodeficiency Syndrome.
- d) discriminates against persons who are qualified for the rendering of services in an educational institution for having been diagnosed as HIV positive or for suffering from the Acquired Immunodeficiency Syndrome.

The court may impose a penalty of confinement or house arrest for a term of not more than six (6) months, or community work, restitution, or a fine not greater than five hundred (\$500.00) dollars, or any or all of them, at its discretion.

<< PR ST T. 1 § 521i >>

Section 10.--Preferred Calendar.--

In those cases that are presented under Section 8 of this Act, they shall be included in a preferred calendar and shall be handled expeditiously.

<< PR ST T. 1 § 521j >>

Section 11.--Exhaustion of Administrative Remedies.--

It shall not be necessary to exhaust the administrative remedies to initiate judicial procedures under this Act.

<< Note: PR ST T. 1 § 521 >>

Section 12.--Public Health Regulations.--

Nothing that is provided in this Act shall be understood to repeal, amend or modify any Public Health act or regulation, nor to impede the Department of Health from carrying out its mission of protecting it.

Compliance of Public Health laws and regulations, as well as the orders of the Department of Health shall constitute a defense, in any civil or criminal suit filed under this Act.

The Department of Health shall adopt the necessary regulations for the implementation of this Act.

Section 13.--Effectiveness.--

This Act shall take effect immediately after its approval.

Approved June 10, 1995.

PR LEGIS 52 (1995)

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