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SENATE
S. No. 186

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Thirty years into the HIV pandemic, the Philippines find itself facing a growing HIV incidence. Previously a “low and slow” country, the HIV incidence in the Philippines has grown rapidly beginning mid-2000s. Prior to 2007, the HIV incidence was one new infection a day. By 2011, the country was recording seven new infections a day, making it one of the only seven countries worldwide where HIV infection continues to rise. Government epidemiologists have warned that by 2015, the total number of HIV cases in the Philippines could reach 45,000 from the reported 7,000 cases in 2011.

Ironically, domestic and international health experts have not been remiss in warning the country that it has all the necessary ingredients for an HIV epidemic: condom use is low among Filipinos; and among key populations, sexually transmitted infections and multiple sexual partnerships are common.

Yet the response to the epidemic has been marked with complacency, lack of political leadership, and reckless disregard of evidence-informed strategies and approaches that could curb and halt the spread of the virus. Modest targets for HIV and HIV-related services have not been met; and public spending on HIV prevention, treatment, care, and support has actually dwindled from P81 million in 2009 to P65 million in 2011 *despite* the alarming growth in HIV incidence.

Moreover, the governance structure designated to spearhead the HIV response is saddled with bureaucratic confusion and uneven political commitments. Every five years, through the collaborative efforts of various government agencies and civil society groups, the country adopts an HIV and AIDS Medium-Term Plan, a national roadmap on HIV and AIDS, but the

implementation of this strategic plan is impeded by recalcitrant government agencies and lack of support from the national government.

Through the MDGs and other international development instruments, the Philippine government has consistently committed to reduce HIV infection, and while it has made progress in other development indicators, it floundered in achieving its commitments on HIV. Government officials take false comfort from the fact that the HIV epidemic has not reached the general population, but various indicators show that if nothing is done immediately, it would just be a matter of time.

The emerging situation also highlights the inadequacy of the existing legal framework in addressing the HIV epidemic. The HIV and AIDS Prevention and Control Act (Republic Act No. 8504), which was enacted in 1998, was once hailed as a model legislation, but clearly the spread of HIV is outpacing the 13-year old law. The preventive interventions that it prescribes are no longer fully aligned with what years of experience and evidence on HIV prevention recommend. Its human rights language is strong, and yet it lacks enabling mechanisms to enforce its human rights provisions.

It has also failed to provide clarity on the continuing confusion around the structure governing the country's HIV response. The limitations of its prevention interventions notwithstanding, its failure to articulate clearly how government agencies should operate to respond to the global pandemic has compounded the problem. Lastly, the HIV and AIDS legal framework now conflicts with laws recently enacted, thus restricting actions that are crucial to halt the spread of the epidemic.

Reforming the legal framework on HIV and AIDS is important at this juncture. This proposed measure seeks to introduce the following reforms:

1. The restructuring of the legal framework on HIV and AIDS by harmonizing it with evidence-informed strategies and approaches on prevention, treatment, care, and support, making the HIV response flexible and relevant to the characteristic of the HIV epidemic facing the country;

2. The clarification of the roles and responsibilities of state institutions involved in the HIV and AIDS response, from government agencies to local governments, thus ensuring the effectiveness and efficiency of the structure governing the response;

3. The establishment of the National HIV and AIDS Plan, thus creating a road map on HIV and AIDS that has clear strategies, targets, operationalization framework, and funding; and

4. The strengthening of the stigma reduction mechanisms of the law, which guarantees that the country's HIV and AIDS response is premised on the respect, recognition, and promotion of human dignity.

The alarming increase in HIV infection in the Philippines requires immediate action from various State institutions, including Congress, which must address the gaps in the existing HIV and AIDS law.¹

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MIRIAM DEFENSOR SANTIAGO

¹ This bill was originally filed during the Fifteenth Congress, Second Regular Session.



SENATE
S. No. 186

BY: *Ji*

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY
3 ON HIV AND AIDS PREVENTION, TREATMENT, CARE AND SUPPORT,
4 AND ESTABLISHING THE PHILIPPINE NATIONAL HIV AND AIDS PLAN,
5 AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8504, OTHERWISE KNOWN AS
6 "THE PHILIPPINE AIDS PREVENTION AND CONTROL ACT OF 1998"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

7 SECTION 1. *Title.* – This Act shall be known as the “The Philippine HIV and AIDS
8 Policy and Plan Act of 2011.”

9 SECTION 2. *Declaration of Policy.* – The Human Immunodeficiency Virus (HIV) and
10 Acquired Immune Deficiency Syndrome (AIDS) are public health concerns that have wide-
11 ranging social, political, and economic repercussions. As such, responding to the HIV and AIDS
12 epidemic is imbued with public interest, and thus:

13 A. The State shall establish policies and programs to prevent the spread of HIV and
14 deliver treatment, care, and support services to Filipinos living with HIV in accordance with
15 evidence-based strategies and approaches that follow the principles of human rights, gender
16 equality, and meaningful participation of communities affected by the epidemic.

17 B. The State shall adopt a multi-sectoral approach in responding to the HIV epidemic
18 by ensuring that local communities, civil society organizations, and persons living with HIV are
19 part of the response to the epidemic.

20 C. The State shall remove all barriers to HIV and AIDS-related services and shall
21 eliminate the climate of stigma that surrounds the epidemic and the people directly and indirectly
22 affected by it. Therefore, it affirms that:

- 1 1. The respect, protection and promotion of human rights are the cornerstones of an
2 effective response to the HIV epidemic.
- 3 2. The meaningful inclusion and participation of persons directly and indirectly
4 affected by the epidemic, especially persons living with HIV, are crucial in
5 eliminating the virus.
- 6 3. Unless otherwise provided in this Act, the confidentiality, anonymity, and non-
7 compulsory nature of HIV testing and HIV-related testing shall always be
8 guaranteed and protected by the State.
- 9 4. Policies and practices that discriminate on the basis of perceived or actual HIV
10 status, sex, gender, sexual orientation, gender identity, age, economic status,
11 ethnicity, and disability are inimical to national interest and contrary to the rights
12 and freedoms guaranteed in the Constitution.

13 SECTION 3. *Definition of Terms.* - As used in this Act, the following terms shall be
14 defined as follows:

15 A. *Acquired Immune Deficiency Syndrome (AIDS)* refers to a condition where a
16 body's immune system is reduced due to HIV infection, making an individual susceptible to
17 opportunistic infections.

18 B. *Anti-retroviral Treatment* refers to the treatment that stops or suppresses a
19 retrovirus like HIV.

20 C. *Civil Society Organizations (CSO's)* refer to a group or groups of non-
21 governmental and non-commercial individuals or legal entities that are engaged in
22 uncoerced collective action around shared interests, purposes and values.

23 D. *Compulsory HIV Testing* refers to HIV testing imposed upon an individual
24 characterized by lack of consent, use of force or intimidation, the use of testing as a prerequisite
25 for employment or other purposes, and other circumstances when informed choice is absent.

26 E. *Discrimination* refers to any action taken to distinguish, exclude, restrict or show
27 preference based on any ground such as sex, gender, age, sexual orientation, gender identity,
28 economic status, disability, and ethnicity, whether actual or perceived, and which has the

1 purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons
2 similarly situated, of all rights and freedoms.

3 F. *Evolving Capacities of Children* refers to Article 5 of the Convention on the
4 Rights of the Child which states that the direction and guidance, provided by parents or others
5 with responsibility for the child, must take into account the capacities of the child to exercise
6 rights on his or her own behalf. Children require varying degrees of protection, participation and
7 opportunity for autonomous decision-making in different contexts and across different areas of
8 decision-making.

9 G. *Gender Identity* refers to a person's internal and individual experience of gender
10 that may or may not correspond with the sex assigned at birth, including the person's sense of the
11 body, which may involve, if freely chosen, modification of bodily appearance or function by
12 medical, surgical and other means, and other experience of gender, among them, dress, speech,
13 and mannerism.

14 H. *Harm Reduction* refers to evidence-based policies, programs and approaches that
15 aim to reduce the harmful consequences on health, social relations, and economic conditions that
16 are associated with the use of psychoactive substances.

17 I. *HIV and AIDS Counselor* refers to any individual trained by an institution or
18 organization accredited by the Philippine National AIDS Council (PNAC) to conduct training on
19 counseling on HIV and AIDS, HIV prevention, and human rights and stigma reduction.

20 J. *HIV Counseling* refers to the provision of information on HIV and AIDS, how it
21 is spread and how it may be prevented, risk-reduction approaches, and information on
22 treatment, care and support for persons living with HIV, which is conducted before and after
23 HIV testing.

24 K. *HIV Testing* refers to any facility-based or mobile medical procedure that is
25 conducted to determine the presence or absence of HIV in one's body. It is confidential,
26 voluntary, accompanied by counseling prior to, and after the test, and only conducted with
27 informed consent.

28 L. *HIV-Related Testing* refers to any laboratory testing or procedure in relation to
29 one's status.

- 1 M. *HIV Testing Facility* refers to any DOH-accredited in-site or mobile testing
2 center, hospital, clinic, laboratory and other facility that has the capacity to conduct voluntary
3 HIV counseling and HIV testing.
- 4 N. *Human Immunodeficiency Virus (HIV)* refers to the virus that causes AIDS.
- 5 O. *Key Affected Populations at Higher Risk of HIV Exposure or Key Populations*
6 refer to those persons whose behavior make them more likely to be exposed to HIV or to
7 transmit the virus, as determined by PNAC. The term includes children below the age of
8 eighteen (18), youth and adults living with HIV; men who have sex with men; transgender
9 persons; people who inject drugs; and people who sell sex.
- 10 P. *Opportunistic Infection (OI)* refers to illnesses caused by various organisms,
11 many of which do not cause disease in persons with healthy immune system.
- 12 Q. *Person Living with HIV* refers to any individual diagnosed to be infected with
13 HIV.
- 14 R. *Sexually Transmitted Infections (STI)* refer to infections that are spread through
15 the transfer of organisms from one person to another through sexual contact.
- 16 S. *Sexual Orientation* refers to a person's sexual and emotional attraction to, or
17 intimate and sexual relationship with, individuals of different, the same, or both sexes.
- 18 T. *Social Protection* refers to a set of policies and programs designed to reduce
19 poverty and vulnerability by promoting efficient labor markets, diminishing people's exposure to
20 risks, and enhancing their capacity to protect themselves against hazards and interruptions/loss of
21 income.
- 22 U. *Stigma* refers to the dynamic devaluation and dehumanization of an individual in
23 the eyes of others. In some cultures or settings, this may be based on attributes that are arbitrarily
24 defined by others as discreditable or unworthy. Stigma results in discrimination when acted
25 upon.
- 26 V. *Treatment Hubs* refer to private and public hospitals or medical establishments
27 accredited by the Department of Health (DOH) to have the capacity and facility to provide anti-
28 retroviral treatment.

1 W. *Voluntary HIV Testing* refers to HIV testing done on an individual who, after
2 having undergone pre-HIV counseling, willingly submits himself or herself to such test.

3 X. *Vulnerable Communities* refer to communities and groups who are suffering from
4 vulnerabilities such as unequal opportunities, social exclusion, poverty, unemployment, and
5 other similar social, economic, cultural and political conditions, making them more susceptible
6 to HIV infection and to developing AIDS.

7 Y. *Work Place* refers to the office, premises and work site where workers are
8 habitually employed and shall include the office or place where the workers, with no fixed or
9 definite work site, regularly report for assignment in the course of their employment.

10 SECTION 4. *Philippine National AIDS Council.* – The Philippine National AIDS
11 Council (PNAC) hereinafter referred to as the Council as established under Section 43 of R.A.
12 8504 shall be reconstituted and strengthened to ensure the implementation of the country’s
13 response to the HIV and AIDS epidemic. The Council shall be the central implementing,
14 coordinating, advisory, planning and policy-making body for Philippine National HIV and AIDS
15 Plan. It shall be an agency attached to the Department of Health.

16 SECTION 5. *Functions of the PNAC.* - The Council shall perform the following functions:

17 A. Develop the National HIV and AIDS Plan in collaboration with relevant
18 government agencies and civil society organizations ;

19 B. Ensure the operationalization and implementation of the National HIV and AIDS
20 Plan;

21 C. Coordinate with government agencies that are mandated to implement the
22 provisions of this Act;

23 D. Develop, enforce, and/or ensure the implementation of the guidelines and policies
24 that are stipulated in this Act, including other policies that may be necessary to implement the
25 National HIV and AIDS Plan;

26 E. Monitor the progress of the epidemic;

1 F. Monitor the implementation of the National HIV and AIDS Plan, undertake mid-
2 term assessments, and evaluate its impact;

3 G. Strengthen the collaboration between government agencies and civil society
4 organizations involved in the implementation of the National HIV and AIDS Plan, including the
5 delivery of HIV and AIDS related services;

6 H. Organize itself to enhance the efficiency of the multi-agency and multi-sectoral
7 structure;

8 I. Mobilize domestic and international sources of fund to finance the National HIV
9 and AIDS Plan;

10 J. Coordinate and cooperate with foreign and international organizations regarding
11 funding, data collection, research, and prevention and treatment modalities on HIV and AIDS;
12 and

13 K. Recommend policy reforms to Congress, DOH and other government agencies to
14 strengthen the country's response to the epidemic.

15 SECTION 6. *Membership and Composition.* – A. The Council shall be composed of
16 twenty-six (26) members as follows:

17 1. Secretary of Health;

18 2. Secretary of Education;

19 3. Chairperson of the Commission on Higher Education;

20 4. Director-General of the Technical Education and Skills Development
21 Authority;

22 5. Secretary of Labor and Employment;

23 6. Secretary of Social Welfare and Development;

24 7. Secretary of Interior and Local Government;

25 8. Secretary of Justice;

26 9. Director-General of the National Economic and Development Authority;

27 10. Secretary of Tourism;

28 11. Secretary of Budget and Management;

- 1 12. Secretary of Foreign Affairs;
- 2 13. Head of the Philippine Information Agency;
- 3 14. President of the League of Governors;
- 4 15. President of the League of City Mayors;
- 5 16. Chairperson of the Committee on Health of the Senate;
- 6 17. Chairperson of the Committee on Health of the House of Representatives;
- 7 18. Two (2) representatives from organizations of medical/health professionals;
- 8 19. Six (6) representatives from non-government organizations involved in HIV and
- 9 AIDS prevention and control efforts or activities; and
- 10 20. A representative of an organization of persons living with HIV.

11 B. The Members of the Council may designate their permanent alternate, who shall
12 have a rank not lower than an Undersecretary, or its equivalent, not later than thirty (30) days
13 from the enactment of this Act.

14 C. The presence of the Chairperson or the Vice Chairperson of the Council, and at
15 least seven (7) other Council members and/or permanent alternates shall constitute a quorum to
16 do business, and a majority vote of those present shall be sufficient to pass resolutions or render
17 decisions.

18 D. To the greatest extent possible, appointment to the Council must ensure sufficient
19 and discernible representation from the fields of medicine, education, health care, law, labor,
20 ethics and social services.

21 E. All members of the Council shall serve in an ex-officio capacity, except for the
22 representatives of the Senate and the House of Representatives, who shall be appointed by the
23 Senate President and the House Speaker, respectively.

24 F. The Secretary of Health shall be the permanent Chairperson of the Council.
25 However, the Vice-Chairperson shall be elected from among the members, and shall serve for a
26 term of two (2) years.

27 G. Members representing medical or health professional groups and the six (6) non-
28 government organizations, shall serve for a term of two (2) years, renewable upon
29 recommendation of the Council for a maximum of two (2) consecutive terms.

1 SECTION 7. *Secretariat.* - The PNAC shall be supported by a secretariat consisting of
2 personnel with permanent appointment, technical expertise and capability. It shall be headed by
3 an Executive Director who shall be under the direct supervision of the Chairperson of the
4 Council.

5 The secretariat shall perform the following functions:

- 6 1. Coordinate and manage the day-to-day affair of the Council;
- 7 2. Coordinate the formulation, monitoring, and evaluation of the National HIV and
8 AIDS Plan, programs and policies;
- 9 3. Provide technical assistance, support, and advisory services to the Council and its
10 external partners;
- 11 4. Assist the Council in identifying and building internal and external networks and
12 partnerships;
- 13 5. Coordinate and support the efforts of the Council and its members to mobilize
14 resources;
- 15 6. Serve as the clearing house and repository of HIV and AIDS-related information;
- 16 7. Disseminate updated, accurate, relevant, and comprehensive information about
17 the epidemic to Council members, policy makers, and the media;
- 18 8. Provide administrative support to the Council; and
- 19 9. Perform other functions as may be provided the Council.

20 SECTION 8. *HIV Prevention.* - The government shall promote and adopt a range of
21 measures and interventions, in partnership with civil society organizations, that aims to prevent,
22 halt, or control the spread of HIV, especially among key populations and vulnerable
23 communities. These measures shall likewise promote the rights, welfare, and participation of
24 persons living with HIV and the affected children, young people, families and partners of
25 persons living with HIV.

26 A. *Evidence-Informed, Gender Sensitive, Age-Appropriate, and Human Rights-*
27 *Based Preventive Measures* – The preventive programs shall be based on up-to-date evidence
28 and scientific strategies and shall be age-appropriate. The government shall therefore actively

1 promote safer sex behavior, especially among key populations; safer practices that reduce risk of
2 HIV infection; access to treatment; consistent sexual abstinence and sexual fidelity; and, the
3 consistent and correct condom use.

4 B. *HIV and AIDS Education As a Right to Health and Information* – HIV and AIDS
5 education and information dissemination shall form part of the right to health. The knowledge
6 and capabilities of all public health practitioners, workers and personnel shall be enhanced to
7 include skills for proper information dissemination and education on HIV and AIDS. It shall
8 likewise be considered a civic duty of health providers in the private sector to make available to
9 the public such information necessary to control the spread of HIV and AIDS and to correct
10 common misconceptions about the disease. The training of health workers shall include
11 discussions on HIV-related ethical issues such as confidentiality, informed consent and the duty
12 to provide treatment.

13 C. *HIV and AIDS Education and Information.* - The State shall educate the public,
14 especially the key populations and vulnerable communities, on HIV and AIDS and other
15 sexually transmitted infections, with the goal of reducing risky behavior, lowering
16 vulnerabilities, and promoting the human rights of persons living with HIV.

17 1. *HIV and AIDS Education for Key Populations and Vulnerable Communities.* - To
18 ensure that HIV services reach key populations, the State, through the PNAC and
19 in collaboration with HIV and AIDS civil society organizations, shall support and
20 provide funding for HIV and AIDS education programs, such as peer education
21 and outreach activities that target key populations and vulnerable communities.
22 The PNAC shall likewise craft the guidelines for peer education and outreach
23 activities.

24 2. *Age-Appropriate HIV and AIDS Education in Schools.* – Using the official
25 information and data from the PNAC, the Department of Education (DepEd), the
26 Commission on Higher Education (CHED), and the Technical Education and
27 Skills Development Authority (TESDA) shall integrate basic and age-appropriate
28 instruction on the causes, modes of transmission and ways of preventing the
29 spread of HIV and AIDS and other sexually transmitted infections in subjects

1 taught in public and private schools at intermediate grades, secondary and tertiary
2 levels, including non-formal and indigenous learning systems.

3 The modules that shall be developed to implement this provision shall be
4 done in coordination with the PNAC and stakeholders in the education sector.
5 Referral mechanisms, including but not limited to, the DSWD Referral System,
6 shall be included in the modules for key populations and vulnerable communities.

7 All teachers and instructors of the modules shall be required to undergo
8 seminars or trainings on HIV and AIDS prevention that shall be supervised by the
9 PNAC in coordination with concerned agencies.

- 10 3. *HIV and AIDS Education in the Workplace.* - All public and private employees,
11 workers, managers, and supervisors, including members of the Armed Forces of
12 the Philippines (AFP) and the Philippine National Police (PNP), shall be provided
13 with standardized basic information and instruction on HIV and AIDS, including
14 topics on confidentiality in the workplace and reduction or elimination of stigma
15 and discrimination.

16 In coordination with the PNAC, the Civil Service Commission (CSC) for
17 the public sector and the Department of Labor and Employment (DOLE) for the
18 private sector shall implement this provision. The CSC and the DOLE shall
19 ensure that the HIV and AIDS education program in the workplace is industry or
20 sector-appropriate and shall ensure the full participation of employers and
21 workers in designing the content of the program. Referral mechanisms for key
22 populations and vulnerable communities shall also be developed and instituted by
23 the CSC and the DOLE in coordination with the PNAC.

- 24 4. *HIV and AIDS Education for Filipinos Going Abroad.* -- In coordination with the
25 PNAC, the Department of Foreign Affairs (DFA) and the DOLE shall ensure
26 that all overseas Filipino workers, including diplomatic, military, trade, labor
27 officials, personnel and their families to be assigned overseas, shall undergo or
28 attend a seminar on HIV and AIDS and shall be provided with information on

1 how to access on-site HIV-related services and facilities before certification for
2 overseas assignment.

- 3 5. *HIV and AIDS Education in Communities* - Through the Local HIV and AIDS
4 Council (LAC) or the Local Health Board and in coordination with the PNAC,
5 local governments shall conduct public awareness campaigns on HIV and AIDS
6 and shall educate local communities, through various channels, on evidence-
7 based, gender-sensitive, age-appropriate and human rights-oriented prevention
8 tools to stop the spread of HIV. For these purposes, the LGUs are hereby
9 authorized to utilize the Gender and Development (GAD) Funds for HIV and
10 AIDS education in communities.

11 In coordination with the Department of Social Welfare and Development,
12 local governments shall also conduct age-appropriate HIV and AIDS education
13 for out-of-school youths.

- 14 6. *Information for Tourists and Transients* - Educational materials on the cause,
15 modes of transmission, prevention, and consequences of HIV infection shall be
16 adequately provided at all international ports of entry and exit. The Department of
17 Tourism, the DFA, and the Bureau of Immigration, in coordination with the
18 PNAC and with stakeholders in the tourism industry, shall implement this
19 provision.

20 D. *HIV Counseling and HIV Testing*. - The State shall ensure that HIV testing is
21 voluntary and confidential. All HIV testing facilities shall be required to provide free HIV
22 counseling to individuals who wish to avail of HIV testing, which counseling shall likewise be
23 confidential. To implement this provision:

- 24 1. The DOH shall accredit public and private HIV testing facilities based on their
25 capacity to deliver testing services, including HIV counseling. Only DOH-
26 accredited HIV testing facilities shall be allowed to conduct HIV testing.
- 27 2. The PNAC shall develop the guidelines for the conduct of HIV counseling and
28 HIV testing, including mobile HIV counseling and testing, by testing facilities.
29 The guidelines shall ensure, among others, that HIV testing is voluntary and

1 confidential and that HIV counseling is available at all times and provided by
2 qualified persons and DOH-accredited providers.

3 3. The PNAC shall accredit institutions or organizations that train HIV and AIDS
4 counselors.

5 4. The PNAC shall set the standards for HIV counseling and shall work closely with
6 HIV and AIDS civil society organizations that train HIV and AIDS counselors
7 and peer educators.

8 E. *Positive Prevention* – The PNAC, in coordination with the DOH, local
9 government units, and other relevant government agencies, shall support preventive measures
10 that shall focus on the positive roles of persons living with HIV. Such preventive measures
11 cover, among others, (i) the creation of rights-based and community-led behavior change
12 programs that seek to encourage HIV risk reduction behavior among persons living with HIV;
13 (ii) the establishment and enforcement of rights-based mechanisms to encourage newly tested
14 HIV-positive individuals to conduct sexual contact tracing and to promote HIV status disclosure
15 to sexual partners; (iii) the establishment of standard precautionary measures in public and
16 private health facilities; (iv) the accessibility of anti-retroviral treatment, management of
17 opportunistic infections, and health services related to sexually transmitted infections; and (v) the
18 mobilization of communities of persons living with HIV, especially for public awareness
19 campaigns and stigma reduction activities, in initiatives to prevent the spread of the virus. The
20 enforcement of this provision shall not lead to the discrimination or violation of the rights of
21 persons living with HIV.

22 F. *Harm Reduction* - The DILG and the DOH shall establish a human rights and
23 evidence-based HIV prevention policy and program for people who use and inject drugs.

24 G. *Preventing Mother-to-Child HIV Transmission* - The DOH shall establish a
25 program to prevent mother-to-child HIV transmission that shall be integrated in its maternal and
26 child health services.

27 H. *Standard Precaution*. – The DOH shall establish guidelines on donation of blood,
28 tissue or organ, surgical and other similar procedures based on the following principles:

1 1. No laboratory or institution shall accept a donation of tissue or organ, whether
2 such donation is gratuitous or onerous, unless a sample from the donor has been
3 tested negative for HIV. All donated blood shall also be subjected to HIV testing.
4 HIV positive blood shall be disposed of properly and immediately. A second
5 testing may be demanded as a matter of right by the blood, tissue, or organ
6 recipient or his immediate relatives before transfusion or transplant, except during
7 emergency cases.

8 Donations of blood, tissue, or organ tested positive for HIV may be
9 accepted for research purposes only, and subject to strict sanitary disposal
10 requirements.

11 2. The DOH, in consultation with concerned professional organizations and hospital
12 associations, shall issue guidelines on precautions against HIV transmission
13 during surgical, dental, embalming, tattooing or similar procedures and guidelines
14 on the handling and disposition of cadavers, body fluids or wastes of persons
15 known or believed to be HIV positive. The necessary protective equipment such
16 as gloves, goggles and gowns shall be made available to all physicians and health
17 care providers and similarly exposed personnel at all times.

18 SECTION 9. *Treatment, Care and Support.* -

19 A. *National HIV and AIDS Treatment Program.* - The DOH shall establish a
20 program to provide free and accessible anti-retroviral treatment to Filipinos living with HIV and
21 AIDS. Free medication for opportunistic infections shall also be provided to persons living with
22 HIV who are enrolled in the program. It shall establish or accredit public and private treatment
23 hubs and shall have the authority to develop guidelines on the provision of anti-retrovirals.

24 B. *Health Insurance.* - The Philippine National Health Insurance Corporation
25 (PHILHEALTH) shall develop an insurance package for persons living with HIV that shall
26 include coverage for in-patient and out-patient medical and diagnostic services, including
27 medication and treatment. The PHILHEALTH shall enforce confidentiality in the provision of
28 these packages to persons living with HIV.

1 No person living with HIV shall be denied of private health and life insurance coverage
2 on the basis of the person's HIV status. The Insurance Commission shall enforce this provision
3 and shall develop the necessary policies to ensure compliance.

4 C. *Economic Empowerment and Support* - No person living with HIV shall be
5 deprived of any employment, livelihood, micro-finance, self-help, and cooperative programs for
6 reason of their HIV status. The DOLE, and the DSWD, in coordination with the TESDA and
7 with local government units, shall develop programs to ensure economic empowerment and
8 provide economic support to persons living with HIV.

9 D. *Care and Support for Persons Living with HIV*. - The DSWD shall develop care
10 and support programs for persons living with HIV, which shall include peer-led counseling and
11 support, social protection, welfare assistance, and mechanisms for case management. These
12 programs shall include care and support for the affected children, families and partners of
13 persons living with HIV.

14 E. *Care and Support for Overseas Workers Living with HIV*. - The Overseas
15 Workers Welfare Administration, in coordination with the DSWD and the DFA, shall develop a
16 program to provide a stigma-free comprehensive reintegration, care and support program,
17 including economic, social and medical support, for overseas workers who have been repatriated
18 or are about to be repatriated due to their HIV status.

19 SECTION 10. *Stigma Reduction and Human Rights*. - The country's HIV and AIDS
20 response shall be anchored on the principles of human rights and human dignity, and shall be
21 aligned with the following internationally recognized human rights instruments and standards:

22 A. *Stigma-Free HIV and AIDS Services* - The PNAC, in cooperation with public and
23 private HIV and AIDS service providers and civil society organizations and in collaboration with
24 the Commission on Human Rights, shall ensure the delivery of stigma-free HIV and AIDS
25 services by government and private HIV and AIDS service providers.

26 B. *Prohibition on Compulsory HIV Testing* - As a policy, the State shall encourage
27 voluntary HIV testing. However, written consent from the person taking the test must be
28 obtained before HIV testing. If the person is below fifteen (15) years of age or is mentally

1 incapacitated, such consent shall be obtained from the child's parents, legal guardian, or
2 whenever applicable, from the licensed social worker, licensed health service providers, or a
3 DOH-accredited health service provider assigned to provide health services to the child.

4 In keeping with the principle of "*evolving the capacities of the child*" as defined in
5 Section 3-F of this Act, HIV testing and counseling shall be made available to a child under the
6 following conditions:

- 7 1. The child, who is above the age of fifteen (15) years but below eighteen (18)
8 years, expresses intention to submit to HIV testing and counseling and other
9 related services;
- 10 2. Reasonable efforts were undertaken to locate, provide counseling to, and to obtain
11 the consent of, the parents, but the parents are absent or cannot be located, or
12 otherwise refuse to give their consent;
- 13 3. Only after proper counseling conducted by a social worker, health care provider
14 or other health care professional, accredited by the DOH or DSWD; and
- 15 4. The licensed social worker, health care provider or other health care professional
16 determines that the child is "*at higher risk of HIV exposure,*" as this term is
17 defined in Section 3 (O) of this Act, and that the conduct of the testing and
18 counseling is in the child's best interest and welfare.

19 *C. Testing of Organ Donation* - Lawful consent to HIV testing of a donated human body,
20 organ, tissue or blood shall be considered as having been given when:

- 21 1. A person volunteers or freely agrees to donate his or her blood, organ, or tissue
22 for transfusion, transplantation, or research;
- 23 2. A person has executed a legacy in accordance with Sec. 3 of Republic Act No.
24 7170, also known as the "Organ Donation Act of 1991";
- 25 3. A donation is executed in accordance with Sec. 4 of Republic Act No. 7170.

26 *D. Compulsory HIV Testing* - Compulsory HIV testing is allowed only in the
27 following instances:

- 1 1. a person is charged with any of the offenses punishable under Articles 264, 266,
2 335 and 338 of the Revised Penal Code, as amended by Republic Act No. 8353,
3 otherwise known as the Anti-Rape Law of 1997;
- 4 2. a person is charged with an offense under any law imposing the death penalty;
- 5 3. the determination of HIV status is necessary to resolve the relevant issues under
6 the Family Code;
- 7 4. to comply with the provisions of Republic Act No. 7170;
- 8 5. to comply with the provisions of Republic Act No. 7719, otherwise known as the
9 “National Blood Services Act.”
- 10 E. *Redress Mechanism.* - The Department of Justice and the Commission on Human
11 Rights, in coordination with PNAC, shall develop redress mechanisms for persons living with
12 HIV to ensure that their civil, political, economic and social rights are protected.
- 13 F. *Acts of Discrimination.* - The following discriminatory acts shall be prohibited:
 - 14 1. Rejection of job application, termination of employment, or other discriminatory
15 policies in hiring, provision of employment and other related benefits, promotion
16 or assignment of an individual solely or partially on the basis of actual, perceived,
17 or suspected HIV status;
 - 18 2. Refusal of admission, expulsion, segregation, imposition of harsher disciplinary
19 actions, or denial of services or benefits, of a student or prospective student solely
20 or partially on the basis of actual, perceived or suspected HIV status;
 - 21 3. Restrictions on travel within the Philippines, refusal of lawful entry to the
22 Philippine territory, deportation from the Philippines, or the quarantine or
23 enforced isolation of travelers solely or partially actual, perceived or suspected
24 HIV status;
 - 25 4. Restrictions on housing or lodging solely or partially on the basis of actual,
26 perceived or suspected HIV status;
 - 27 5. Prohibitions on the right to seek an elective or appointive public office solely or
28 partially on the basis of actual, perceived or suspected HIV status;

- 1 6. Exclusion from health, accident, or life insurance, credit and loan services,
2 including the extension of such loan or insurance facilities, of an individual solely
3 or partially on the basis of actual, perceived or suspected HIV status: *Provided*,
4 that the person living with HIV has not misrepresented the fact to the insurance
5 company or loan or credit service provider upon application;
- 6 7. Denial of health services, or be charged with higher fee, on the basis of actual,
7 perceived or suspected HIV status;
- 8 8. Denial of burial services for a deceased person who had HIV and AIDS or who
9 was known, suspected or perceived to be HIV positive; and
- 10 9. Other similar or analogous discriminatory acts.

11 SECTION 11. *Immunity for HIV Educators, Licensed Social Workers, and other HIV and*
12 *AIDS Service Providers.* - Any person involved in the provision of HIV and AIDS services
13 including peer educators shall be immune from suit, arrest, or prosecution, and from civil,
14 criminal or administrative liability, on the basis of their delivery of such services in Section 6
15 hereof, or in relation to the legitimate exercise of protective custody of children, whenever
16 applicable. The Department of Justice (DOJ), the DILG and the PNP, in coordination with the
17 PNAC, shall develop the mechanism for the implementation of this provision.

18 SECTION 12. *Confidentiality.* - The State shall guarantee the confidentiality and privacy
19 of any individual who has been tested for HIV, has been exposed to HIV, has HIV infection or
20 HIV and AIDS-related illnesses, or has been treated for HIV-related illnesses.

21 A. *Confidential HIV and AIDS Information* - Unless otherwise provided in Section 8
22 (C) of this Act, it shall be unlawful to disclose, without written consent, information that a
23 person:

- 24 1. had an HIV-related test;
- 25 2. has HIV infection, HIV-related illnesses, or AIDS; or
- 26 3. has been exposed to HIV.

1 The prohibition shall apply to any person, natural or juridical, whose work or function
2 involves the implementation of this Act or the delivery of HIV-related services, including those
3 who handle or has access to personal data or information in the workplace, and who, pursuant to
4 the receipt of the required written consent from the subject of confidential HIV and AIDS
5 information, has subsequently been granted access to the same confidential information.

6 It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed
7 materials, announcer or producer in case of television and radio broadcasting, producer and
8 director of the film in case of the movie industry, to disclose the name, picture, or any
9 information that would reasonably identify any person living with HIV or AIDS, or any
10 confidential HIV and AIDS information, without the prior written consent of their subject.

11 B. *Release of HIV Testing and HIV-Related Test Result.* - The result of any HIV
12 testing and HIV-related testing shall be released only to the individual who submitted to the test,
13 or to his or her spouse, if applicable. If the person is a minor, an orphan, or is mentally
14 incapacitated, the result may be released to either of his or her parents, legal guardian, or a duly
15 assigned social worker, whichever is applicable.

16 C. *Exemptions.* - Confidential HIV and AIDS information may be released without
17 written consent on the following grounds:

- 18 1. When complying with the reportorial requirements of the national active and
19 passive surveillance system of the DOH: *Provided*, That the information related to
20 a person's identity shall remain confidential;
- 21 2. When informing other health workers directly involved in the treatment or care of
22 a person living with HIV: *Provided*, That such workers shall be required to
23 maintain duty of shared medical confidentiality.
- 24 3. When responding to a subpoena duces tecum and subpoena ad testificandum
25 issued by a Court with jurisdiction over a legal proceeding where the main issue is
26 the HIV status of an individual: *Provided*, That the confidential medical record,
27 after having been verified for accuracy by the head of the office or department,
28 shall be properly sealed by its lawful custodian, hand delivered to the Court, and

1 personally opened by the judge: *Provided, further,* That the judicial proceedings
2 shall be held in executive session.

3 D. *Disclosure to Sexual Partners.* - Any person who tested positive for HIV is
4 obliged to disclose his or her status and health condition to his or her spouse or sexual partner
5 prior to engaging in penetrative sex or any potential exposure to HIV. A person living with HIV
6 may opt to seek help from medical professionals, health workers, or peer educators to disclose to
7 his or her partner about his or her condition.

8 E. *Civil Liability and Criminal Liability.* - Any person who has obtained knowledge
9 of confidential HIV and AIDS information and has used such information to malign or cause
10 damage, injury, or loss to another person may face liability under Articles 19, 20, 21, and 26 of
11 the Civil Code and criminal liability under Section 15 of this Act.

12 SECTION 13. *HIV and AIDS Monitoring and Evaluation.* - The DOH shall establish a
13 comprehensive HIV and AIDS monitoring and evaluation program that shall serve the following
14 purposes:

15 A. Determine and monitor the magnitude and progression of HIV and AIDS in the
16 Philippines to help the national response determine the efficacy and adequacy of HIV prevention
17 and treatment programs;

18 B. Receive, collate, process, and evaluate all HIV and AIDS-related medical reports
19 from all hospitals, clinics, laboratories and testing centers, including HIV-related deaths and all
20 relevant data from public and private hospitals, various databanks or information systems:
21 *Provided,* that it shall adopt a coding system that ensures anonymity and confidentiality; and

22 C. Submit an annual report to the Office of the President, Congress, and members of
23 the PNAC the findings of its monitoring and evaluation activities in compliance with this
24 mandate.

25 SECTION 14. *HIV and AIDS Plan.* - A six-year National HIV and AIDS Plan shall be
26 formulated and periodically updated by PNAC. The Plan shall comprise of the following:

27 A. the country's targets and strategies in addressing the epidemic;

1 B. the prevention, treatment, care and support, and other components of the country
2 response;

3 C. the five-year operationalization of the plan and the identification of the
4 government agencies that shall implement the plan from the national to the local levels; and

5 D. the budgetary requirements and a corollary investment plan that shall identify the
6 sources of funds for its implementation.

7 SECTION 15. *National HIV and AIDS and STI Prevention and Control Program of the*
8 *Department of Health.* - The National HIV and AIDS and STI Prevention and Control Program
9 (NASPCP) of the Department of Health, which shall be staffed by qualified medical specialist
10 and support personnel with permanent appointment, shall coordinate with PNAC for the
11 implementation of the health sector's HIV and AIDS and STI response, as identified in the
12 National HIV and AIDS Plan.

13 SECTION 16. *National HIV and AIDS and STI Prevention and Control Program of the*
14 *Department of Health.* - The National HIV and AIDS and STI Prevention and Control Program
15 (NASPCP) of the Department of Health, which shall be staffed by qualified medical specialist
16 and support personnel with permanent appointment, shall coordinate with PNAC for the
17 implementation of the health sector's HIV and AIDS and STI response, as identified in the
18 National HIV and AIDS Plan.

19 Misinformation on HIV and AIDS through false and misleading advertising and claims,
20 or the promotional marketing of drugs, devices, agents or procedures without prior approval
21 from the PNAC, and the Food and Drug Authority (FDA) and the requisite medical and
22 scientific basis, including markings and indications in drugs and devices or agents, purporting to
23 be a cure or a fail-safe prophylactic for HIV infection, shall be prohibited.

24 SECTION 17. *Prohibition on the Use of Condoms and Other Safer Sex Paraphernalia*
25 *as Basis for Raids and Similar Police Operations.* - It shall be unlawful to use the presence of
26 used or unused condoms or other safer sex paraphernalia to conduct raids or similar police
27 operations in sites and venues of HIV prevention interventions.

1 The DILG shall establish a national policy to guarantee the implementation of this
2 provision.

3 SECTION 18. *Penalties.* - The following penalties and sanctions shall be imposed for
4 the offenses enumerated in this Act:

5 A. Any person found guilty of violating Section 8 (c)1; Section 9 (b); Section 10 (b) ;
6 Section 10 (f); and Section 12 (a,b,c and e) of this Act shall suffer the penalty of imprisonment
7 for six (6) months to five (5) years and/or a fine of not less than Fifty Thousand Pesos (P50,
8 000.00) but not more than Five Hundred Thousand Pesos (P500,000.00). This is without
9 prejudice to the imposition of administrative sanctions such as fines and suspension or
10 revocation of the entity's business permit, license or accreditation or the individual's license to
11 practice his or her profession.

12 B. Any person who commits any act of discrimination as stipulated in Section 10 (f)
13 of this Act may face liability under Articles 19, 20, and 21 of the Civil Code.

14 C. Any person found guilty of violating Section 11 of this Act shall suffer the
15 penalty of imprisonment for six (6) months to five (5) years and a fine of not less than One
16 Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred Thousand Pesos
17 (P500,000.00). If the violator is a law enforcer or a public official, administrative sanctions may
18 be imposed in addition to the above penalties.

19 D. Any person found guilty of violating Section 16 of this Act shall suffer the
20 penalty of imprisonment for two (2) months to two (2) years, without prejudice to the imposition
21 of administrative sanctions such as fines and suspension or revocation of professional or business
22 license.

23 E. Any person or any law enforcer found guilty of violating Section 17 of this Act
24 shall suffer the penalty of imprisonment for one (1) year to five (5) years and a fine of not less
25 than One Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred Thousand
26 Pesos (P500,000.00). In addition, law enforcers found guilty of violating this section shall be
27 removed from public service.

1 F. Any person who knowingly or negligently causes another to get infected with
2 HIV in the course of the practice of his or her profession through unsafe and unsanitary practice
3 or procedure is liable to suffer a penalty of imprisonment for six (6) years to twelve (12) years,
4 without prejudice to the imposition of administrative sanctions such as fines and suspension or
5 revocation of the license to practice his or her profession. The permit or license of any business
6 entity and the accreditation of HIV testing centers may be cancelled or withdrawn if said
7 establishments fail to maintain such safe practices and procedures as may be required by the
8 guidelines formulated in compliance with Section 8(g-2) of this Act.

9 SECTION 19. *Duty of Employers, Heads of Government Offices, Heads of Public and*
10 *Private Schools or Training Institutions, and Local Chief Executives.* - It shall be the duty of
11 private employers, heads of the government offices, heads of private and public schools or
12 training institutions, and local chief executives over all private establishments within their
13 territorial jurisdiction, to prevent or deter acts of discrimination against persons living with HIV,
14 and to provide for procedures for the resolution, settlement, or prosecution of acts of
15 discrimination. Towards this end, the employer, head of office or local chief executive shall:

16 A. Promulgate rules and regulations prescribing the procedure for the investigation
17 of discrimination cases and the administrative sanctions therefor.

18 B. Create a permanent committee on the investigation of discrimination cases. The
19 committee shall conduct meetings to increase the knowledge and understanding of HIV and
20 AIDS, and to prevent incidents of discrimination. It shall also conduct the administrative
21 investigation of alleged cases of discrimination.

22 SECTION 20. *Congressional Oversight Committee.* - To ensure the effective
23 implementation of this Act, a Congressional Oversight Committee shall be established,
24 hereinafter referred to as the HIV and AIDS Oversight Committee, that shall be composed of
25 three members (3) from the Senate, which shall include the Chairperson of the Senate Committee
26 on Health and Demography, and three (3) members from the House of Representatives, which
27 shall include the Chairperson of the House Committee on Health. The HIV and AIDS Oversight

1 Committee shall be jointly chaired by the Chairpersons of the Senate Committee on Health and
2 Demography and the House Committee on Health.

3 SECTION 21. *Appropriations.* - The amount of no less than Four Hundred Million Pesos
4 (P400,000,000.00) shall be appropriated under the Philippine National AIDS Council in the next
5 General Appropriations Act (GAA) for the initial implementation of the National HIV and AIDS
6 Plan. The funds needed for the subsequent implementation of the National HIV and AIDS Plan
7 shall be included in the annual budget of PNAC or the implementing national government
8 agencies in the annual GAA.

9 SECTION 22. *Implementing Rules and Regulations.* - The Philippine National AIDS
10 Council shall promulgate the necessary implementing rules and regulations within sixty (60)
11 days from the effectivity of this Act.

12 SECTION 23. *Transitory Provision.* - The personnel designated by the Department of
13 Health as the Secretariat of PNAC under Section 47 of RA 8504 shall be absorbed as permanent
14 personnel to fulfill the Secretariat functions stipulated in this Act.

15 SECTION 24. *Separability Clause.* - If any provision, or part hereof is held invalid or
16 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
17 valid and subsisting.

18 SECTION 25. *Repealing Clause.* - Any law, presidential decree or issuance, executive
19 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
20 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

21 SECTION 26. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
22 publication in at least two (2) newspapers of general circulation.

Approved,