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SENATE

S. No. 1178

RECEIVED BY: 

Introduced by Senator Antonio "SONNY" F. Trillanes IV

Explanatory Note

Republic Act 8504 or the "Philippine Aids Prevention and Control Act" was enacted in 1998. It seeks to promote public awareness about the causes, modes of transmission, consequences, means of prevention and control of HIV/AIDS through a comprehensive nationwide educational and information campaign organized and conducted by the State. It is the State's response in order to control the spread of HIV infections among Filipinos.

15 years after its enactment, cases of HIV infections continue to increase. In fact, based on the records of the National Epidemiology Center of the Department of Health, In January 2013, there were 380 new HIV positive individuals confirmed by the STD/AIDS Cooperative Central Laboratory (SACCL) and reported to the HIV and AIDS Registry. This was 79% higher compared to the same period last year¹. Another alarming data was reflected in the report made in June 2013 wherein a total of 388 new cases of HIV infection were discovered nationwide in April of this year alone².

The alarming incidence of increase in cases of HIV infection in our country raises question on whether or not RA 8504 has been effective in raising awareness of Filipinos with regard the spread of HIV/ AIDS. It is therefore clear that there is a need to amend RA 8504 in order to strengthen the law and achieve its purpose of halting the prevalence of HIV/ AIDS in the country.

This bill seeks to introduce the following reforms to RA 8504: a) the restructuring of the legal framework on HIV and AIDS; b) the delineation of roles and responsibilities of state institutions involved in HIV and AIDS response; c) the establishment of the National HIV and AIDS Plan, and; d) the strengthening of the stigma reduction mechanisms of the law.

In view of the foregoing, early passage of this bill is earnestly sought.


ANTONIO "SONNY" F. TRILLANES IV
Senator

¹ Philippine HIV/ AIDS Registry, January 2013. (http://aidsdatahub.org/dmdocuments/NEC_HIV_Jan-AIDSreg2013.pdf)


² Data retrleved on <http://www.philstar.com/headlines/2013/06/02/949178/388-new-hiv-cases-discovered-april>.



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AN ACT

STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HIV AND AIDS PREVENTION, TREATMENT, CARE AND SUPPORT AND ESTABLISHING THE PHILIPPINE NATIONAL HIV AND AIDS PROGRAM, REVISING FOR THE PURPOSE REPUBLIC ACT NO. 8504, OTHERWISE KNOWN AS THE "PHILIPPINE AIDS PREVENTION AND CONTROL ACT OF 1998", AND APPROPRIATING FUNDS THEREFOR

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

ARTICLE I

TITLE, POLICY, OBJECTIVES, TERMS AND PRACTICE

SECTION 1. *Short Title.* - This Act shall be known as "The Revised Philippine HIV and AIDS Policy and Program Act of 2013".

SEC. 2. *Declaration of Policies.* - The Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) are public health concerns that have wide-ranging social, political and economic repercussions. Responding to the HIV and AIDS epidemic is therefore imbued with public interest, and accordingly, the State shall:

(a) Establish policies and programs to prevent the spread of HIV and deliver treatment, care and support services to Filipinos living With HIV in accordance with evidence-based strategies and approaches that follow the principles of human rights, gender equality and meaningful participation of communities affected by the epidemic;

(b) Adapt a multisectoral approach in responding to the HIV epidemic by ensuring that local communities, civil society organizations and persons living with HIV are involved in the process;

(c) Remove all barriers to HIV and AIDS-related services by eliminating the climate of stigma that surrounds the epidemic and the people directly and indirectly affected by it.

Respect for, protection of and promotion of human rights are the cornerstones of an effective response to the HIV epidemic. The meaningful inclusion and participation of persons

1 directly and indirectly affected by the epidemic, especially persons living with HI V, are crucial
2 in eliminating the virus. Thus, unless otherwise provided in this Act, the confidentiality,
3 anonymity and noncompulsory nature of HIV testing and HIV -related testing shall always be
4 guaranteed and protected by the State.

5 Policies and practices that discriminate on the basis of perceived or actual HIV status,
6 sex, gender, sexual orientation, gender identity, age, economic status, ethnicity, hamper the
7 enjoyment of basic human rights and freedoms guaranteed in the Constitution and are deemed
8 inimical to national interest.

9
10 **SEC. 3. *Definition Terms.*** - As used in this Act, the following terms shall be defined as
11 follows:

12 (a) *Acquired Immune Deficiency Syndrome (AIDS)* refers to a condition where a body's
13 immune system is reduced due to HIV infection, making an individual susceptible to
14 opportunistic infections;

15 (b) *Anti-retroviral treatment* refers to the treatment that stops or suppresses a retrovirus
16 like HIV;

17 (c) *Civil society organizations (CSOs)* refer to a group or groups of nongovernmental and
18 noncommercial individuals or legal entities that are engaged in uncoerced collective action
19 around shared interests, purposes and values;

20 (d) *Compulsory HIV testing* refers to HIV testing imposed upon an individual
21 characterized by lack of consent, use of force or intimidation, the use of testing as a prerequisite
22 for employment or other purposes, and other circumstances when informed choice is absent;

23 (e) *Discrimination* refers to any action taken to distinguish, exclude, restrict or show
24 preference based on any ground such as sex, gender, age, sexual orientation, gender identity,
25 economic status, disability and ethnicity, whether actual or perceived, and which has the purpose
26 or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons
27 similarly situated, of all rights and freedoms;

28 (f) *Evolving capacities of children* refer to the concept enshrined in Article V of the
29 Convention on the Rights of the Child recognizing the developmental changes and the
30 corresponding progress in cognitive abilities and capacity for self-determination undergone by
31 children as they grow up thus requiring parents and others charged with responsibility for the
32 child to provide varying degrees of protection and to allow their participation in opportunities for
33 autonomous decision-making in different contexts and across different areas of decision-making;

34 (g) *Gender identity* refers to a person's internal and individual experience of gender that
35 mayor may not correspond with the sex assigned at birth, including the person's sense of the
36 body, which may involve, if freely chosen, modification of bodily appearance or function by
37 medical, surgical and other means, and other experience of gender, among them, dress, speech
38 and mannerism;

1 (h) *Harm reduction* refers to evidence-based policies, programs and approaches that aim
2 to reduce the harmful consequences on health, social relations and economic conditions that are
3 associated with the use of psychoactive substances;

4 (i) *HIV and AIDS counselor* refers to any individual trained by an institution or
5 organization accredited by the Philippine National AIDS Council (PNAC) to conduct training or
6 counseling on HIV and AIDS, HIV prevention, and human rights and stigma reduction;

7 (j) *HIV counseling* refers to the provision of information on HIV and AIDS, how it is
8 spread and how it may be prevented, risk-reduction approaches, and information on treatment,
9 care and support for persons living with HIV, which is conducted before and after HIV testing;

10 (k) *HIV testing* refers to any facility-based or mobile medical procedure that is conducted
11 to determine the presence or absence of HIV in a person's body, is confidential, voluntary in
12 nature and must be accompanied by counseling prior to, and after the testing, and conducted only
13 with the informed consent of the person;

14 (l) *HIV-related testing* refers to any laboratory testing or procedure done on an individual
15 whether the person is HIV positive or negative;

16 (m) *HIV testing facility* refers to any DOH-accredited in site or mobile testing center,
17 hospital, clinic, laboratory and other facility that has the capacity to conduct voluntary HIV
18 counseling and HIV testing;

19 (n) *Human Immunodeficiency Virus (HIV)* refers to the virus that causes AIDS;

20 (o) *Key affected populations at higher risk of HIV exposure or "key populations"* refer to
21 those persons whose behavior make them more likely to be exposed to HIV or to transmit the
22 virus, as determined by the PNAC. The term includes children below the age of eighteen (18),
23 youth and adults living with HIV; men who have sex with men; transgender persons; people who
24 inject drugs, and people who sell sexual services or favors;

25 (p) *Nonmandatory HIV anti-body testing* refers to a healthcare provider initiating HIV
26 anti-body testing to a person practicing high-risk behavior or vulnerable to HIV after conducting
27 HIV pretest counseling. The person may elect to decline or defer testing such that consent is
28 conditional;

29 (q) *Opportunistic infection (OI)* refers to illnesses caused by various organisms, many of
30 which do not cause disease in persons with healthy immune systems;

31 (r) *Person living with HIV* refers to any individual diagnosed to be infected with HIV;

32 (s) *Sexually Transmitted Infections (STI)* refer to infections that are spread through the
33 transfer of organisms from one person to another through sexual contact;

34 (t) *Sexual orientation* refers to a person's sexual and emotional attraction to, or intimate
35 and sexual relationship with, individuals of different, the same, or both sexes;

36 (u) *Social protection* refers to a set of policies and programs designed to reduce poverty
37 and vulnerability by promoting efficient labor markets, diminishing people's exposure to risks,

1 and enhancing their capacity to protect themselves against hazards and interruptions/loss of
2 income;

3 (v) *Stigma* refers to the dynamic devaluation and dehumanization of an individual in the
4 eyes of others which may be based on attributes that are arbitrarily defined by others as
5 discreditable or unworthy and which results in discrimination when acted upon;

6 (w) *Treatment hubs* refer to private and public hospitals or medical establishments
7 accredited by the Department of Health (DOH) to have the capacity and facility to provide anti-
8 retroviral treatment;

9 (x) *Voluntary HIV testing* refers to HIV testing done on an individual who, after having
10 undergone pre-HIV counseling, willingly submits oneself to such test;

11 (y) *Vulnerable communities* refer to communities and groups who are suffering from
12 vulnerabilities such as unequal opportunities, social exclusion, poverty, unemployment, and
13 other similar social, economic, cultural and political conditions, making them more susceptible
14 to HIV infection and to developing AIDS, and;

15 (z) *Work place* refers to the office, premises and work site where workers are habitually
16 employed and shall include the office or place where workers, with no fixed or definite work
17 site, regularly report for assignment in the course of their employment.

18

19 **SEC. 4. *Philippine National AIDS Council.*** – The Philippine National AIDS Council
20 (PNAC), hereinafter referred to as the Council, established under Section 43 of Republic Act No.
21 8504, otherwise known as the “Philippine AIDS Prevention and Control Act of 1998”, shall be
22 reconstituted and strengthened to ensure the implementation of the country’s response to the HIV
23 and AIDS epidemic. The Council shall be the central policy-making, planning, implementing,
24 coordinating and advisory body for Philippine National HIV and AIDS Program. It shall be an
25 agency attached to the DOH.

26

27 **SEC. 5. *Functions of the PNAC.*** – The Council shall perform the following functions:

28 (a) Develop the National HIV and AIDS Program in collaboration with relevant
29 government agencies and CSOs;

30 (b) Ensure the operationalization and implementation of the National HIV and AIDS
31 Program;

32 (c) Coordinate with government agencies that are mandated to implement the provisions
33 of this Act;

34 (d) Develop, enforce, and/or ensure the implementation of the guidelines and policies that
35 are stipulated in this Act, including other policies that may be necessary to implement the
36 National HIV and AIDS Program;

37 (e) Monitor the progress of the epidemic;

1 (f) Monitor the implementation of the National HIV and AIDS Program, undertake mid-
2 term assessments and evaluate its impact;

3 (g) Strengthen the collaboration between government agencies and CSOs involved in the
4 implementation of the National HIV and AIDS Program, including the delivery of HIV and
5 AIDS-related services;

6 (h) Organize itself to enhance the efficiency of the multiagency and multisectoral
7 structure;

8 (i) Mobilize domestic and international sources of fund to finance the National HIV and
9 AIDS Program;

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, the DOH and other government agencies to
14 strengthen the country's response to the epidemic.

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

18 (1) The Secretary of the DOH;

19 (2) The Secretary of the Department of Education (DepED);

20 (3) The Chairperson of the Commission on Higher Education (CHED);

21 (4) The Director-General of the Technical Education and Skills Development Authority
22 (TESDA);

23 (5) The Secretary of the Department of Labor and Employment (DOLE);

24 (6) The Secretary of the Department of Social Welfare and Development (DSWD);

25 (7) The Secretary of the Department of the Interior and Local Government (DILG);

26 (8) The Secretary of the Department of Justice (DOJ);

27 (9) The Director-General of the National Economic and Development Authority;

28 (10) The Secretary of the Department of Tourism (DOT);

29 (11) The Secretary of the Department of Budget and Management;

30 (12) The Secretary of the Department of Foreign Affairs (DFA);

31 (13) The Head of the Philippine Information Agency;

32 (14) The President of the League of Governors;

33 (15) The President of the League of City Mayors;

34 (16) The Chairperson of the Committee on Health of the Senate;

35 (17) The Chairperson of the Committee on Health of the House of Representatives;

36 (18) Two (2) representatives from organizations of medical/health professionals;

37 (19) Six (6) representatives from nongovernment organizations (NGOs) involved in HIV
38 and AIDS prevention and control efforts or activities; and

1 (20)A representative of an organization of persons living with HIV.

2 (b) The heads of government agencies may be represented by an official from their
3 respective agencies with a rank not lower than an Undersecretary;

4 (c) The presence of the Chairperson or the Vice Chairperson of the Council, and at least
5 seven (7) other Council members and/or permanent alternates shall constitute a quorum to do
6 business, and a majority vote of those present shall be sufficient to pass resolutions or render
7 decisions;

8 (d) To the greatest extent possible, appointment to the Council must ensure sufficient and
9 discernible representation from the fields of medicine, education, healthcare, law, labor, ethics
10 and social services;

11 (e) Except for the ex officio members, the other members of the Council shall be
12 appointed by the President of the Philippines;

13 (f) The members of the Council shall be appointed not later than thirty (30) days after the
14 date of the enactment of this Act;

15 (g) The Secretary of Health shall be the permanent Chairperson of the Council. However,
16 the Vice Chairperson shall be elected from among the members and shall serve for a term of two
17 (2) years, and;

18 (h) Members representing medical or health professional groups and the six (6) NGOs
19 shall serve for a term of two (2) years, renewable upon recommendation of the Council for a
20 maximum of two (2) consecutive terms.

21
22 **SEC. 7. Secretariat.** – The PNAC shall be supported by a secretariat consisting of
23 personnel with the necessary technical expertise and capability who shall be conferred permanent
24 appointments, subject to civil service rules and regulations. It shall be headed by an Executive
25 Director who shall be under the direct supervision of the Chairperson of the Council.

26 The Secretariat shall perform the following functions:

27 (a) Coordinate and manage the day-to-day affair of the Council;

28 (b) Assist in the formulation, monitoring and evaluation of the National HIV and AIDS
29 Programs and policies;

30 (c) Provide technical assistance, support and advisory services to the Council and its
31 external partners;

32 (d) Assist the Council in identifying and building internal and external networks and
33 partnerships;

34 (e) Coordinate and support the efforts of the Council and its members to mobilize
35 resources;

36 (f) Serve as the clearing house and repository of HIV and AIDS-related information;

37 (g) Disseminate updated, accurate, relevant and comprehensive information about the
38 epidemic to Council members, policy makers and the media;

- 1 (h) Provide administrative support to the Council, and;
2 (i) Perform other functions as may be provided by the Council.
3

4 **SEC. 8. HIV Prevention.** – The government shall promote and adopt a range of measures
5 and interventions, in partnership with CSOs, that aim to prevent, halt or control the spread of
6 HIV, especially among key populations and vulnerable communities. These measures shall
7 likewise promote the rights, welfare and participation of persons living with HIV and the
8 affected children, young people, families and partners of persons living with HIV.

9 (a) Evidence-Informed, Gender-Sensitive, Age-Appropriate and Human Rights-Based
10 Preventive Measures. – The HIV and AIDS preventive programs shall be based on up-to-
11 date evidence and scientific strategies and shall be age-appropriate. The government shall
12 therefore actively promote safer sex behavior, especially among key populations; safer
13 practices that reduce risk of HIV infection; access to treatment; consistent sexual
14 abstinence and sexual fidelity; and the consistent and correct use of condom.

15 (b) HIV and AIDS Education as a Right to Health and Information. – HIV and AIDS
16 education and information dissemination shall form part of the right to health. The
17 knowledge and capabilities of all public health practitioners, workers and personnel shall
18 be enhanced to include skills for proper information dissemination and education on HIV
19 and AIDS. It shall likewise be considered a civic duty of health providers in the private
20 sector to make available to the public such information necessary to control the spread of
21 HIV and AIDS and to correct common misconceptions about the disease. The training of
22 health workers shall include discussions on HIV-related ethical issues such as
23 confidentiality, informed consent and the duty to provide treatment.

24 (c) HIV and AIDS Education and Information. – The State shall educate the public,
25 especially the key populations and vulnerable communities, on HIV and AIDS and other
26 sexually transmitted infections, with the goal of reducing risky behavior, lowering
27 vulnerabilities, and promoting the human rights of persons living with HIV.

28 (1) HIV and AIDS Education for Key Populations and Vulnerable Communities. – To
29 ensure that HIV services reach key populations, the State, through the PNAC and in
30 collaboration with HIV and AIDS CSOs, shall support and provide funding for HIV and
31 AIDS education programs, such as peer education and outreach activities that target key
32 populations and vulnerable communities. The PNAC shall likewise craft the guidelines
33 for peer education and outreach activities.

34 (2) Age-Appropriate HIV and AIDS Education in Schools. – Using official information
35 and data from the PNAC, the DepED, the CHED and the TESDA shall integrate basic
36 and age-appropriate instruction on the causes, modes of transmission and ways of
37 preventing the spread of HIV and AIDS and other sexually transmitted infections in

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

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

7 All teachers and instructors to be assigned to handle these learning modules shall be
8 required to undergo seminars or trainings on HIV and AIDS prevention that shall be supervised
9 by the 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 the
12 Philippines (AFP) and the Philippine National Police (PNP), shall be provided with
13 standardized basic information and instruction on HIV and AIDS, including topics on
14 confidentiality in the workplace and reduction or elimination of stigma and
15 discrimination.

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

23 (4) HIV and AIDS Education for Filipinos Going Abroad. – In coordination with the
24 PNAC, the DFA and the DOLE shall ensure that all overseas Filipino workers, including
25 diplomatic, military, trade, labor officials, personnel and their families to be assigned
26 overseas, shall undergo or attend a seminar on HIV and AIDS and shall be provided with
27 information on how to access on-site HIV related services and facilities before
28 certification for overseas assignment.

29 (5) HIV and AIDS Education in Communities. – Through the Local HIV and AIDS
30 Council (LAC) or the Local Health Board and in coordination with the PNAC, local
31 governments shall conduct public awareness campaigns on HIV and AIDS and shall
32 educate local communities, through various channels, on evidence-based, gender-
33 sensitive, age-appropriate and human rights-oriented prevention tools to stop the spread
34 of HIV. For these purposes, the local government units (LGUs) are hereby authorized to
35 utilize the Gender and Development (GAD) Funds for HIV and AIDS education in
36 communities.

37 In coordination with the DSWD, local governments shall also conduct age-appropriate
38 HIV and AIDS education for out-of-school youths.

1 (6) Information for Tourists and Transients. – Educational materials on the cause, modes
2 of transmission, prevention and consequences of HIV infection shall be adequately
3 provided at all international ports of entry and exit. The DOT, the DFA and the Bureau of
4 Immigration, in coordination with the PNAC and with stakeholders in the tourism
5 industry, shall implement this provision.

6 (d) HIV Counseling and HIV Testing. – The State shall ensure that HIV testing is
7 voluntary and confidential. All HIV testing facilities shall be required to provide free
8 HIV counseling to individuals who wish to avail of HIV testing and counseling which
9 shall likewise be confidential. To implement this provision:

10 (1) The DOH shall accredit public and private HIV testing facilities based on their
11 capacity to deliver testing services, including HIV counseling. Only DOH-accredited
12 HIV testing facilities shall be allowed to conduct HIV testing;

13 (2) The PNAC shall develop the guidelines for the conduct of HIV counseling and HIV
14 testing, including mobile HIV counseling and testing, by testing facilities. The guidelines
15 shall ensure, among others, that HIV testing is voluntary and confidential and that HIV
16 counseling is available at all times and provided by qualified persons and DOH-
17 accredited providers;

18 (3) The PNAC shall accredit institutions or organizations that train HIV and AIDS
19 counsellors, and;

20 (4) The PNAC shall set the standards for HIV counseling and shall work closely with
21 HIV and AIDS CSOs that train HIV and AIDS counselors and peer educators.

22 (e) Positive Prevention. – The PNAC, in coordination with the DOH, the LGUs and other
23 relevant government agencies, shall support preventive measures that shall focus on the
24 positive roles of persons living with HIV. Such preventive measures shall cover,
25 among others:

26 (1) The creation of rights-based and community-led behavior change programs that seek
27 to encourage HIV risk reduction behaviour among persons living with HIV;

28 (2) The establishment and enforcement of rights-based mechanisms to encourage newly
29 tested HIV-positive individuals to conduct sexual contact tracing and to promote HIV
30 status disclosure to sexual partners;

31 (3) The establishment of standard precautionary measures in public and private health
32 facilities;

33 (4) The accessibility of anti-retroviral treatment, management of opportunistic infections,
34 and health services related to sexually transmitted infections; and

35 (5) The mobilization of communities of persons living with HIV for public awareness
36 campaigns and stigma reduction activities. The enforcement of this provision shall not
37 lead to or result in the discrimination or violation of the rights of persons living with
38 HIV.

1 (f) Harm Reduction. – The DILG and the DOH shall establish a human rights and
2 evidence-based HIV prevention policy and program for people who use and inject drugs.

3 (g) Preventing Mother-to-Child HIV Transmission. – The DOH shall establish a program
4 to prevent mother-to-child HIV transmission that shall be integrated in its maternal and
5 child health services.

6 (h) Standard Precaution. – The DOH shall establish guidelines on donation of blood,
7 tissue or organ, surgical and other similar procedures based on the following principles:

8 (1) Donation of tissue or organs, whether gratuitous or onerous, shall be accepted by a
9 laboratory or institution only after a sample from the donee has tested negative for HIV.
10 All donated blood shall also be subjected to HIV testing. HIV positive blood shall be
11 disposed of properly and immediately. A second testing may be demanded as a matter of
12 right by the blood, tissue or organ recipient or his immediate relatives before transfusion
13 or transplant, except during emergency cases.

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

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

23
24 **SEC. 9. *Treatment, Care and Support for Persons Living with HIV and AIDS.*** – (a)
25 National HIV and AIDS Treatment Program. – The DOH shall establish a program to provide
26 free and accessible anti-retroviral treatment to all citizens living with HIV and AIDS. Free
27 medication for opportunistic infections shall also be provided to persons living with HIV who are
28 enrolled in the program. It shall likewise establish or accredit public and private treatment hubs
29 and shall have the authority to develop guidelines on the provision of anti-retrovirals.

30 (b) Health Insurance. – The Philippine National Health Insurance Corporation
31 (PhilHealth) shall develop an insurance package for persons living with HIV that shall include
32 coverage for in-patient and out-patient medical and diagnostic services, including medication and
33 treatment. The PhilHealth shall enforce confidentiality in the provision of these packages to
34 persons living with HIV.

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

1 (c) Economic Empowerment and Support. – Persons living with HIV shall not be
2 deprived of any employment, livelihood, microfinance, self-help and cooperative programs by
3 reason of their HIV status. The DOLE and the DSWD, in coordination with the TESDA and with
4 LGUs, shall develop programs to ensure economic empowerment and provide economic support
5 to persons living with HIV.

6 (d) Care and Support for Persons Living with HIV. – The DSWD shall develop care and
7 support programs for persons living with HIV, which shall include peer-led counseling and
8 support, social protection, welfare assistance and mechanisms for case management. These
9 programs shall include care and support for the affected children, families and partners of
10 persons living with HIV.

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

16
17 **SEC. 10. Stigma Reduction and Human Rights.** – The country’s response to the HIV
18 and AIDS phenomena shall be anchored on the principles of human rights and human dignity,
19 and public health concern shall be aligned with the following internationally-recognized human
20 rights instruments and standards:

21 (a) Prohibition on Compulsory HIV Testing. – As a policy, the State shall encourage
22 voluntary HIV testing. However, written consent from the person taking the test must be
23 obtained before HIV testing. If the person is below fifteen (15) years of age or is mentally
24 incapacitated, such consent shall be obtained from the child’s parents, legal guardian, or
25 whenever applicable, from the licensed social worker, licensed health service provider, or a
26 DOH-accredited health service provider assigned to provide health services to the child.

27 In keeping with the principle of “evolving the capacities of the child” as defined in
28 Section 3(f) of this Act, HIV testing and counseling shall be made available to a child under the
29 following conditions:

30 (1) The child, who is above the age of fifteen (15) years but below eighteen (18) years,
31 expresses the intention to submit to HIV testing and counseling and other related
32 services;

33 (2) Reasonable efforts were undertaken to locate, provide counselling to, and to obtain
34 the consent of, the parents, but the parents are absent or cannot be located, or otherwise
35 refuse to give their consent;

36 (3) Proper counseling shall be conducted by a social worker, healthcare provider or other
37 healthcare professional, accredited by the DOH or the DSWD, and;

1 (4) The licensed social worker, healthcare provider or other healthcare professional shall
2 determine that the child is “at higher risk of HIV exposure”, as defined in Section 3(o) of
3 this Act, and that the conduct of the testing and counseling is in the child’s best interest
4 and welfare.

5 (b) Compulsory HIV Testing. – Compulsory HIV testing shall be allowed only in the
6 following instances:

7 (1) A person is charged with any of the offenses punishable under Articles 264, 266, 335
8 and 338 of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise
9 known as “The Anti-Rape Law of 1997”;

10 (2) The determination of HIV status is necessary to resolve the relevant issues under the
11 Family Code;

12 (3) To comply with the provisions of Republic Act No. 7170, otherwise known as the
13 “Organ Donation Act of 1991”;

14 (4) To comply with the provisions of Republic Act No. 7719, otherwise known as the
15 “National Blood Services Act of 1994”, and;

16 (5) To comply with requirements of other countries in applying for overseas employment.

17 (c) Stigma-Free HIV and AIDS Services. – The PNAC, in cooperation with public and
18 private HIV and AIDS service providers and CSOs, and in collaboration with the Commission
19 on Human Rights (CHR), shall ensure the delivery of stigma-free HIV and AIDS services by
20 government and private HIV and AIDS service providers.

21 (d) Testing of Organ Donation. – Lawful consent to HIV testing of a donated human
22 body, organ, tissue or blood shall be considered as having been given when:

23 (1) A person volunteers or freely agrees to donate his or her blood, organ or tissue for
24 transfusion, transplantation or research;

25 (2) A person has executed a legacy in accordance with Section 3 of Republic Act No.
26 7170, and;

27 (3) A donation is executed in accordance with Section 4 of Republic Act No. 7170.

28 (e) HIV Anti-Body Testing for Pregnant Women. – A healthcare provider who offers pre-
29 natal medical care shall make a nonmandatory HIV anti-body testing available for pregnant
30 women practicing high risk behavior or are vulnerable to HIV. The DOH shall provide the
31 necessary guidelines for healthcare providers in the conduct of the screening procedure.

32 (f) Redress Mechanism. – The DOJ and the CHR, in coordination with the PNAC, shall
33 develop redress mechanisms for persons living with HIV to ensure that their civil, political,
34 economic and social rights are protected.

35 (g) Acts of Discrimination. – The following discriminatory acts shall be prohibited:

36 (1) Rejection of job application, termination of employment or other discriminatory
37 policies in hiring, provision of employment and other related benefits, promotion or

1 assignment of an individual solely or partially on the basis of actual, perceived or
2 suspected HIV status;

3 (2) Refusal of admission, expulsion, segregation, imposition of harsher disciplinary
4 actions, or denial of services or benefits, of a student or prospective student solely or
5 partially on the basis of actual, perceived or suspected HIV status;

6 (3) Restrictions on travel within the Philippines, refusal of lawful entry to the Philippine
7 territory, deportation from the Philippines, or the quarantine or enforced isolation of
8 travelers solely or partially on the basis of actual, perceived or suspected HIV status;

9 (4) Restrictions on housing or lodging solely or partially on the basis of actual, perceived
10 or suspected HIV status;

11 (5) Prohibitions on the right to seek an elective or appointive public office solely or
12 partially on the basis of actual, perceived or suspected HIV status;

13 (6) Exclusion from health, accident or life insurance, credit and loan services, including
14 the extension of such loan or insurance facilities, of an individual solely or partially on
15 the basis of actual, perceived or suspected HIV status: Provided, That the person living
16 with HIV has not misrepresented the fact to the insurance company or loan or credit
17 service provider upon application;

18 (7) Denial of health services, or be charged with higher fee, on the basis of actual,
19 perceived or suspected HIV status;

20 (8) Denial of burial services for a deceased person who had HIV and AIDS or who was
21 known, suspected or perceived to be HIV positive, and;

22 (9) Other similar or analogous discriminatory acts.
23

24 **SEC. 11. Immunity for HIV Educators, Licensed Social Workers, and Other HIV and**
25 **AIDS Service Providers.** – Any person involved in the provision of HIV and AIDS services
26 including peer educators shall be immune from suit, arrest or prosecution, and from civil,
27 criminal or administrative liability, on the basis of their delivery of such services as provided in
28 Section 8 hereof, or in relation to the legitimate exercise of protective custody of children,
29 whenever applicable. The DOJ, the DILG and the PNP, in coordination with the PNAC, shall
30 develop the mechanism for the implementation of this provision.
31

32 **SEC. 12. Confidentiality.** – The State shall guarantee the confidentiality and privacy of
33 any individual who has been tested for HIV, has been exposed to HIV, has HIV infection or HIV
34 and AIDS-related illnesses, or has been treated for HIV-related illnesses.

35 (a) Confidential HIV and AIDS Information. – Unless otherwise provided in Section
36 12(c) of this Act, it shall be unlawful to disclose, without written consent, information that a
37 person:

38 (1) Had an HIV-related test;

1 (2) Has HIV infection, HIV-related illnesses or AIDS, or;

2 (3) Has been exposed to HIV.

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

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

13 (b) Release of HIV Testing and HIV-Related Test Result. – The result of any HIV testing
14 or HIV-related testing shall be released only to the individual who submitted to the test, or the
15 spouse, if applicable. If the patient is a minor, an orphan, or is mentally incapacitated, the result
16 may be released to either of the patient's parents, legal guardian, or a duly assigned social
17 worker, whichever is applicable.

18 (c) Exemptions. – Confidential HIV and AIDS information may be released by HIV
19 testing facilities without written consent on the following grounds:

20 (1) When complying with the reportorial requirements of the national active and passive
21 surveillance system of the DOH: Provided, That the information related to a person's
22 identity shall remain confidential;

23 (2) When informing other health workers directly involved in the treatment or care of a
24 person living with HIV: Provided, That such workers shall be required to perform the
25 duty of shared medical confidentiality; and

26 (3) When responding to a subpoena duces tecum and subpoena ad testificandum issued
27 by a Court with jurisdiction over a legal proceeding where the main issue is the HIV
28 status of an individual: Provided, That the confidential medical record, after having been
29 verified for accuracy by the head of the office or department, shall be properly sealed by
30 its lawful custodian, hand delivered to the Court, and personally opened by the judge:
31 Provided, further, That the judicial proceedings shall be held in executive session.

32 (d) Disclosure to Sexual Partners. – Any person who, after having been tested, is found to
33 be infected with the HIV virus, is obliged to disclose this health condition to the spouse or sexual
34 partner prior to engaging in penetrative sex or any potential exposure to HIV. A person living
35 with HIV may opt to seek help from medical professionals, health workers or peer educators to
36 support him in disclosing this health condition to one's partner or spouse.

1 (e) Civil Liability. – Any person who has obtained knowledge of confidential HIV and
2 AIDS information and has used such information to malign or cause damage, injury or loss to
3 another person may face liability under Articles 19, 20, 21 and 26 of the Civil Code.
4

5 **SEC. 13. *National HIV and AIDS Program.*** – A six (6)-year National HIV and AIDS
6 Program shall be formulated and periodically updated by the PNAC. The Program shall comprise
7 of the following:

8 (a) The country's targets and strategies in addressing the epidemic;

9 (b) The prevention, treatment, care and support, and other components of the country
10 response;

11 (c) The five (5)-year operationalization of the Program and the identification of the
12 government agencies that shall implement the Program from the national to the local
13 levels, and;

14 (d) The budgetary requirements and a corollary investment plan that shall identify the
15 sources of funds for its implementation.
16

17 **SEC. 14. *National HIV and AIDS and STI Prevention and Control Program of the***
18 ***DOH.*** – The National HIV and AIDS and STI Prevention and Control Program (NASPCP) of the
19 DOH, which shall be staffed by qualified medical specialists and support personnel with
20 permanent appointments, shall coordinate with the PNAC for the implementation of the health
21 sector's HIV and AIDS and STI response, as identified in the National HIV and AIDS Program.
22

23 **SEC. 15. *HIV and AIDS Monitoring and Evaluation.*** – The DOH shall establish a
24 comprehensive HIV and AIDS monitoring and evaluation program that shall serve the following
25 purposes:

26 (a) Determine and monitor the magnitude and progression of HIV and AIDS in the
27 Philippines to help the national response determine the efficacy and adequacy of HIV prevention
28 and treatment programs;

29 (b) Receive, collate, process and evaluate all HIV and AIDS-related medical reports from
30 all hospitals, clinics, laboratories and testing centers, including HIV-related deaths and all
31 relevant data from public and private hospitals, various databanks or information systems:
32 Provided, That it shall adopt a coding system that ensures anonymity and confidentiality, and;

33 (c) Submit an annual report to the Office of the President, Congress and members of the
34 PNAC the findings of its monitoring and evaluation activities in compliance with this mandate.
35

36 **SEC. 16. *Misinformation on HIV and AIDS as a Prohibited Act.*** – Misinformation on
37 HIV and AIDS through false and misleading advertising and claims, or the promotional
38 marketing of drugs, devices, agents or procedures without prior approval from the PNAC, and

1 the Food and Drug Administration (FDA) and the requisite medical and scientific basis,
2 including markings and indications in drugs and devices or agents, purporting to be a cure or a
3 fail-safe prophylactic for HIV infection, shall be prohibited.

4
5 **SEC. 17. Prohibition on the Use of Condoms and Other Safer Sex Paraphernalia as**
6 **Basis for Raids and Similar Police Operations.** – It shall be unlawful to use the presence of used
7 or unused condoms or other safer sex paraphernalia to conduct raids or similar police operations
8 in sites and venues of HIV prevention interventions.

9 The DILG shall establish a national policy to guarantee the implementation of this
10 provision.

11
12 **SEC. 18. Penalties.** – The following penalties and sanctions shall be
13 imposed for the offenses enumerated in this Act:

14 (a) Any person found guilty of violating Section 9(b); Section 10(b); Section 10(g); and
15 Section 12(a), (b), (c) and (e) of this Act shall suffer the penalty of imprisonment for six (6)
16 months to five (5) years and/or a fine of not less than Fifty thousand pesos (P50,000.00) but not
17 more than Five hundred thousand pesos (P500,000.00), without prejudice to the imposition of
18 administrative sanctions such as fines and suspension or revocation of the entity's business
19 permit, license or accreditation or the individual's license to practice his or her profession.

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

22 (c) Any person found guilty of violating Section 11 of this Act shall suffer the penalty of
23 imprisonment for six (6) months to five (5) years and a fine of not less than One hundred
24 thousand pesos (P100,000.00) but not more than Five hundred thousand pesos (P500,000.00):
25 Provided, That if the violator is a law enforcer or a public official, administrative sanctions may
26 be imposed in addition to the above penalties.

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

31 (e) Any person or any law enforcer found guilty of violating Section 17 of this Act shall
32 suffer the penalty of imprisonment for one (1) year to five (5) years and a fine of not less than
33 One hundred thousand pesos (P100,000.00) but not more than Five hundred thousand pesos
34 (P500,000.00). Law enforcers found guilty of violating this section shall be removed from public
35 service.

36 (f) Any person who knowingly or negligently causes another to get infected with HIV in
37 the course of the practice of one's profession through unsafe and unsanitary practice or
38 procedure is liable to suffer a penalty of imprisonment for six (6) years to twelve (12) years,

1 without prejudice to the imposition of administrative sanctions such as fines and suspension or
2 revocation of the license to practice one's profession. The permit or license of any business
3 entity and the accreditation of HIV testing centers may be cancelled or withdrawn if said
4 establishments fail to maintain such safe practices and procedures as may be required by the
5 guidelines formulated in compliance with Section 8(h)(2) of this Act.

6 The penalties collected pursuant to this section shall be deposited in the National
7 Treasury as income of the general fund.

8
9 **SEC. 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 government offices, heads of private and public schools or training
12 institutions, and local chief executives over all private establishments within their territorial
13 jurisdiction, to prevent or deter acts of discrimination against persons living with HIV, and to
14 provide for procedures for the resolution, settlement or prosecution of acts of discrimination.
15 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 of
17 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
23 **SEC. 20. *Congressional Oversight Committee.*** – To ensure the effective implementation
24 of this Act, a Congressional Oversight Committee shall be established, hereinafter referred to as
25 the HIV and AIDS Oversight Committee, that shall be composed of three (3) members from the
26 Senate, who shall include the Chairperson of the Senate Committee on Health and
27 Demography, and three (3) members from the House of Representatives, who shall include the
28 Chairperson of the House Committee on Health. The HIV and AIDS Oversight Committee shall
29 be jointly chaired by the Chairpersons of the Senate Committee on Health and Demography and
30 the House Committee on Health.

31 The oversight committee shall exist for a period not exceeding three (3) years from the
32 effectivity of this Act, after which the oversight functions shall be undertaken by the Committee
33 on Health and Demography of the Senate of the Philippines and the Committee on Health of the
34 House of Representatives.

35
36 **SEC. 21. *Appropriations.*** – The initial amount necessary to implement the provisions of
37 this Act shall be charged against the current year's appropriation of the PNAC under the DOH.

1 Thereafter, such sums as may be necessary for the continued implementation of this Act shall be
2 included in the annual General Appropriations Act.

3

4 **SEC. 22. *Implementing Rules and Regulations.*** – The PNAC shall promulgate the
5 necessary implementing rules and regulations within sixty (60) days from the effectivity of this
6 Act.

7

8 **SEC. 23. *Transitory Provision.*** – The personnel designated by the DOH as the
9 Secretariat of the PNAC under Section 47 of Republic Act No. 8504 shall be absorbed as
10 permanent personnel to fulfill the Secretariat functions stipulated in this Act.

11

12 **SEC. 24. *Separability Clause.*** – Any portion or provision of this Act that may be
13 declared unconstitutional or invalid shall not have the effect of nullifying the other portions and
14 provisions hereof as long as such remaining portions or provisions can still subsist and be given
15 effect in their entirety.

16

17 **SEC. 25. *Repealing Clause.*** – Republic Act No. 8504, otherwise known as the
18 “Philippine AIDS Prevention and Control Act of 1998” and all decrees, executive orders,
19 proclamations and administrative regulations or parts thereof inconsistent herewith are hereby
20 repealed, amended or modified accordingly.

21

22 **SEC. 26. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its
23 publication in any national newspaper of general circulation.

Approved,