


SENATE

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S.B. No. 1217

RECEIVED BY: 

Introduced by Senator Poe

Explanatory Note

This legislation is submitted with the prayer that its enactment should be made soonest, considering the following facts and latest situationer (data from the Philippine Legislators' Committee on Population and Development, July, 2013):

- In the Philippines, there are 14 cases of HIV infection reported per day.
- If not halted and reversed, the Philippine National AIDS Council (PNAC) said that the total number of HIV Cases could rise to 35,900 to 46,500 by 2015 from the current estimate of 22,800.
- Thirty years into the HIV pandemic, the Philippines found itself facing a growing HIV incidence. Previously a 'low and slow' country, the HIV incidence in the Philippines has grown rapidly beginning mid-2000s.

Ironically, domestic and international HIV experts have not been sparse in warning the country that it has all the necessary ingredients for an HIV epidemic.

Yet the response to the epidemic has been marked with complacency, lack of political leadership, and the 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 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, thru 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 implementing 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 and extraordinarily floundered in achieving its commitments on HIV. Government officials take false comfort from the fact 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;
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.



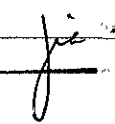
GRACE POE



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AN ACT

STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HUMAN IMMUNODEFICIENCY VIRUS AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (HIV-AIDS) PREVENTION, TREATMENT, CARE AND SUPPORT, ESTABLISHING THE PHILIPPINE NATIONAL HIV-AIDS PLAN, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8504, OTHERWISE KNOWN AS "THE PHILIPPINE AIDS PREVENTION AND CONTROL ACT OF 1998", AND FOR OTHER PURPOSES

Section 1. Title. - This Act shall be known as the "The National Comprehensive HIV and AIDS Prevention, Treatment, Care and Support Policy and Plan Act of 2013".

Section 2. Declaration of policies. - The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV and AIDS) is a public health concern that has wide-ranging social, political, and economic repercussions. As such, responding to the HIV and AIDS epidemic is imbued with public interest, and thus the State commits itself to the fight against the epidemic. To prevent the spread of the virus and mitigate any related social, psychological, and economic consequences:

- A. The State shall 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. The State shall adopt a multisectoral approach in responding to the HIV epidemic by ensuring that local communities, civil society groups, and persons living with HIV are part of the response to the epidemic.
- C. The State shall remove all barriers to HIV and AIDS-related services and shall eliminate the climate of stigma that surrounds the epidemic and the people directly and indirectly affected by it. Therefore, it affirms that:
 1. The respect, protection and promotion of human rights are the cornerstone of an effective response to the HIV epidemic.
 2. The meaningful inclusion and participation of persons directly and indirectly affected by the epidemic, especially persons living with HIV, is crucial in eliminating the virus.
 3. Unless otherwise provided in this Act, the confidentiality, anonymity, and non-compulsory nature of HIV testing and HIV-related testing shall always be guaranteed and protected by the State.
 4. Policies and practices that discriminate on the basis of perceived or actual HIV status, sex, gender, sexual orientation, gender identity, age, economic status, ethnicity, and disability are inimical to national interest and contrary to the rights and freedoms guaranteed in the Constitution, and the State shall eliminate these acts of discrimination.

Section 3. Definition of terms. - As used in this Act, the following terms shall be defined as follows:

- A. ***Acquired Immune Deficiency Syndrome (AIDS)*** - refers to a condition where a body's immune system is reduced due to HIV infection, making an individual susceptible to opportunistic infections.
- B. ***Anti-retroviral treatment*** - refers to the treatment that stops or suppresses a retrovirus like HIV.
- C. ***Compulsory HIV testing*** - refers to HIV testing imposed upon an individual characterized by lack of consent, use of force or intimidation, the use of testing as a prerequisite for employment or other purposes, and other circumstances when informed choice is absent.
- D. ***Discrimination*** - refers to any action taken to distinguish, exclude, restrict or show preference based on any ground such as sex, gender, age, sexual orientation, gender identity, economic status, disability, and ethnicity, whether actual or perceived, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons of an equal footing of all rights and freedoms.
- E. ***Gender identity*** - refers to a person's internal and individual experience of gender that may or may not correspond with the sex assigned at birth, including the person's sense of the body, which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical and other means, and other experience of gender, among them dress, speech, and mannerism.
- F. ***Harm Reduction*** - refers to evidence-based policies, programs and approaches that aim to reduce the harmful consequences on health, social relations, and economic conditions that are associated with the use of psychoactive substances.
- G. ***HIV and AIDS counselor*** - refers to any individual trained by an institution or organization accredited by the Philippine National AIDS Council to conduct training on counseling on HIV and AIDS, HIV prevention, and human rights and stigma reduction.
- H. ***HIV counseling*** - refers to the provision of information on HIV and AIDS, how it is spread and how it may be prevented, risk-reduction approaches, and information on treatment, care and support for persons living with HIV, which is conducted before and after HIV testing.
- I. ***HIV testing*** - refers to any facility-based or mobile medical procedure that is conducted to determine the presence or absence of HIV in one's body.
- J. ***HIV-related testing*** - refers to any laboratory testing or procedure in relation to one's HIV status.
- K. ***HIV testing facility*** - refers to any DOH-accredited in-site or mobile testing center, hospital, clinic, laboratory and other facility that has the capacity to conduct HIV counseling and HIV testing.
- L. ***Human Immunodeficiency Virus (HIV)*** - refers to the virus that causes AIDS.
- M. ***Key affected populations at higher risk of HIV exposure or 'key populations'*** - refers to segments of the population who are most likely to be exposed to HIV or to transmit the virus, as determined by PNAC.
- N. ***Person living with HIV*** - refers to any individual diagnosed to be infected with HIV.
- O. ***Sexually transmitted infection (STI)*** - refers to infections that are spread through the transfer of organisms from one person to another through sexual contact.
- P. ***Sexual orientation*** - refers to a person's sexual and emotional attraction to, or intimate and sexual relationship with, individuals of different, the same, or both sexes.

- Q. **Stigma** - refers to the dynamic devaluation and dehumanization of an individual in the eyes of others. In some cultures or settings, this may be based on attributes that are arbitrarily defined by others as discreditable or unworthy. Stigma results in discrimination when acted upon.
- R. **Opportunistic infection (OI)** – refers to illnesses caused by various organisms, many of which do not cause disease in persons with healthy immune system.
- S. **Treatment hubs** - refers to private and public hospitals or medical establishments accredited by the Department of Health to have the capacity and facility to provide anti-retroviral treatment.
- T. **Voluntary HIV Testing** - refers to HIV testing done on an individual who, after having undergone pre-HIV counseling, willingly submits himself or herself to such test.
- U. **Vulnerable communities** - refers to communities and groups who are suffering from vulnerabilities such as unequal opportunities, social exclusion, poverty, unemployment, and other similar social, economic, cultural and political conditions, making them more susceptible to HIV infection and to developing AIDS.
- V. **Work place** - refers to the office, premises and work site where workers are habitually employed and shall include the office or place where the workers with no fixed or definite work site regularly report for assignment in the course of their employment.

Section 4. HIV Prevention. - The government shall promote and adopt a range of measures and interventions, in partnership with civil society organizations, that aims to prevent, halt, or control the spread of HIV, especially among key populations and vulnerable communities. These measures shall likewise promote the rights, welfare, and participation of persons living with HIV and those affected by HIV.

- A. **Evidence-informed, gender sensitive, age-appropriate, and human rights-based preventive measures** – The preventive programs shall be based on up-to-date evidence and scientific strategies and shall be age-appropriate. The government shall therefore actively promote safer sex behavior, especially among key populations; safer practices that reduce risk of HIV infection; access to treatment; consistent sexual abstinence and sexual fidelity, and; the consistent and correct condom use.
- B. **HIV and AIDS Education as a right to health and information** – HIV and AIDS education and information dissemination shall form part of the right to health. The knowledge and capabilities of all public health practitioners, workers and personnel shall be enhanced to include skills for proper information dissemination and education on HIV and AIDS. It shall likewise be considered a civic duty of health providers in the private sector to make available to the public such information necessary to control the spread of HIV and AIDS and to correct common misconceptions about the disease. The training of health workers shall include discussions on HIV-related ethical issues such as confidentiality, informed consent and the duty to provide treatment.
- C. **HIV and AIDS Education and Information.** - The State shall educate the public, especially the key populations and vulnerable communities, on HIV and AIDS and other sexually transmitted infections, with the goal of reducing risky behavior, lowering vulnerabilities, and promoting the human rights of persons living with HIV.
 1. **HIV and AIDS Education for key populations and vulnerable communities.** - To ensure that HIV services reach key populations, the State, through the Philippine National AIDS Council and in collaboration with HIV and AIDS civil society organizations, shall support HIV and AIDS education programs, such as peer education and outreach activities that target key populations and vulnerable communities. The Philippine National AIDS Council shall likewise craft the guidelines for peer education and outreach activities.
 2. **Age-appropriate HIV and AIDS Education in Schools.** – Using the official information and data from the Philippine National AIDS Council, the Department of Education (DepEd), the Commission on Higher Education (CHED), and the Technical Education

and Skills Development Authority (TESDA) shall integrate basic and age-appropriate instruction on the causes, modes of transmission and ways of preventing the spread of HIV and AIDS and other sexually transmitted infections in subjects taught in public and private schools at intermediate grades, and secondary and tertiary levels, including non-formal and indigenous learning systems.

The modules that shall be developed to implement this provision shall be done in coordination with the Philippine National AIDS Council and stakeholders in the education sector. Referral mechanisms shall be included in the modules for key populations and vulnerable communities.

All teachers and instructors of the modules shall be required to undergo seminars or trainings on HIV and AIDS prevention that shall be supervised by the Philippine National AIDS Council in coordination with the relevant agency.

3. ***HIV and AIDS education in the workplace.*** - All public and private employees, workers, managers, and supervisors, including members of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), shall be provided with standardized basic information and instruction on HIV and AIDS, including topics on confidentiality in the workplace and stigma and discrimination.

In coordination with the Philippine National AIDS Council, the Civil Service Commission for the public sector and the Department of Labor and Employment for the private sector shall implement this provision. The Civil Service Commission and the Department of Labor and Employment shall ensure that the HIV and AIDS education program in the workplace is industry or sector-appropriate and shall ensure the full participation of employers and workers in designing the content of the program. Referral mechanisms for key populations and vulnerable communities shall also be developed and instituted by the Civil Service Commission and the Department of Labor and Employment in coordination with the Philippine National AIDS Council.

4. ***HIV and AIDS education for Filipinos going abroad.*** - In coordination with the Philippine National AIDS Council, the Department of Foreign Affairs and the Department of Labor and Employment shall ensure that all overseas Filipino workers, including diplomatic, military, trade, and labor officials and personnel to be assigned overseas, shall undergo or attend a seminar on HIV and AIDS and shall be provided with information on how to access on-site HIV-related services and facilities before certification for overseas assignment.

5. ***HIV and AIDS education in communities*** - Through the Local HIV and AIDS Council (LAC) or the Local Health Board and in coordination with the Philippine National AIDS Council, local governments shall conduct public awareness campaigns on HIV and AIDS and shall educate local communities, through various channels, on evidence-based, gender-sensitive, age-appropriate and human rights-oriented prevention tools to stop the spread of HIV.

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

6. ***Information for tourists and transients*** - Educational materials on the cause, modes of transmission, prevention, and consequences of HIV infection shall be adequately provided at all international ports of entry and exit. The Department of Tourism, the Department of Foreign Affairs, and the Bureau of Immigration, in coordination with the Philippine National AIDS Council and with stakeholders in the tourism industry, shall implement this provision.

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

1. The Department of Health shall accredit public and private HIV testing facilities based on their capacity to deliver testing services, including HIV counseling. Only DOH-accredited HIV testing facilities shall be allowed to conduct HIV testing.
 2. The Philippine National AIDS Council shall develop the guidelines for the conduct of HIV counseling and HIV testing, including mobile HIV counseling and HIV testing, by HIV testing facilities. The guidelines shall ensure, among others, that HIV testing is voluntary and confidential and that HIV counseling is available at all times and provided by qualified persons.
 3. The Philippine National AIDS Council shall accredit institutions or organizations that train HIV and AIDS counselors.
 4. The Philippine National AIDS Council shall set the standards for HIV counseling and shall work closely with HIV and AIDS civil society groups that train HIV and AIDS counselors and peer educators. Information included in counseling services shall cover the following concepts:
 - i. HIV and AIDS;
 - ii. HIV testing as the only means to determine if one is infected with the virus;
 - iii. HIV testing as a confidential and voluntary process, and an individual may opt out of the process;
 - iv. HIV test results as confidential information;
 - v. Use of HIV test results for epidemic surveillance;
 - vi. How HIV infection is prevented;
 - vii. If test result is nonreactive for HIV, safer sex and safer practices, getting tested again in the future, and referral to relevant HIV and STI services;
 - viii. if the test result is reactive for HIV, all the information when the test result is nonreactive, including: partner notification; referrals for medical diagnostics, HIV and OI treatment, counseling, peer support, and if the individual is a pregnant woman, referrals for medication prevent mother-to-child transmission; prevention of further exposure to HIV infection; and
 - ix. Other information deemed relevant by the Philippine National AIDS Council.
- E. ***Positive Health, Dignity, and Prevention*** – The Philippine National AIDS Council, in coordination with the Department of Health, local governments, and other relevant government agencies, shall support preventive measures that shall focus on the positive roles of persons living with HIV, among them (i) the creation of rights-based and community-led behavior change programs that seek to encourage HIV risk reduction behavior among persons living with HIV; (ii) the establishment and enforcement of rights-based mechanisms to encourage newly tested sero-positive individuals to conduct sexual contact tracing and to promote sero-status disclosure to sexual partners; (iii) the establishment of universal precaution standards in public and private health facilities; (iv) the accessibility of anti-retroviral treatment, management of opportunistic infections, and health services related to sexually transmitted infections; and (v) the mobilization of communities of persons living with HIV, especially for public awareness campaigns and stigma reduction activities, in initiatives to prevent the spread of the virus. The enforcement of this provision shall not lead to the discrimination or violation of the rights of persons living with HIV.
- E. ***Harm Reduction*** - The Department of Interior and Local Government and the Department of Health shall establish a human rights and evidence-based HIV prevention policy and program for people who use drugs, particularly those who inject.
- F. ***Preventing Mother-to-Child HIV Transmission*** - The Department of Health shall establish a program to prevent mother-to-child HIV transmission that shall be integrated in its maternal and child health services. The program shall include the following:
1. HIV prevention for prospective parents and shall ensure that HIV prevention interventions for parents are integrated in government facilities that provide sexual health services and antenatal and postpartum care;

2. Provision of counseling and support for women living with HIV to help them make informed decisions about their reproductive lives;
 3. Prevention of HIV transmission from positive mothers to their infants during pregnancy, labor, delivery and breastfeeding;
 4. Integration of HIV care, treatment, and support for positive mothers and their families.
- G. **Universal Precaution.** – The Department of Health shall establish guidelines on donation of blood, tissue or organ, and surgical and similar procedures based on the following principles:

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

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

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

Section 5. Treatment, Care and Support. -

- A. **National HIV and AIDS Treatment Program.** - The Department of Health shall establish a program to make anti-retroviral treatment free and accessible to Filipinos living with HIV and AIDS who are in need of such treatment. Free medication for opportunistic infections shall also be provided to persons living with HIV who are enrolled in the program. It shall establish or accredit public and private treatment hubs and shall have the authority to develop guidelines on the provision of anti-retrovirals.
- B. **Health Insurance.** - The Philippine National Health Insurance Corporation shall develop an insurance package for persons living with HIV that shall include coverage for in-patient and out-patient medical and diagnostic services, including medication and treatment. The Philippine National Health Insurance Corporation shall enforce confidentiality in the provision of these packages to persons living with HIV.

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

- C. **Economic empowerment and support** - No person living with HIV shall be deprived of any employment, livelihood, micro-finance, self-help, and cooperative programs for reason of their HIV status. The Department of Labor and Employment and the Department of Social Welfare and Development, in coordination with the Technical Education and Skills Development Authority and with local governments, shall develop programs to ensure economic empowerment and provide economic support to persons living with HIV.
- D. **Care and support for persons living with HIV.** - The Department of Social Welfare and Development shall develop care and support programs for persons living with HIV, which shall include peer-led counseling and support, social protection, welfare assistance, and mechanisms for case management. These programs shall include care and support for the affected children, families and partners of persons living with HIV.

- E. **Care and Support for overseas workers living with HIV.** - The Overseas Workers Welfare Administration, in coordination with the Department of Social Welfare and Development and the Department of Foreign Affairs, shall develop a program to provide a stigma-free comprehensive reintegration and care and support program, including economic, social and medical support, for overseas workers who have been repatriated or are about to be repatriated due to their HIV status.
- F. **Redress Mechanism.** - The Department of Justice and the Commission on Human Rights, in coordination with the Philippine National AIDS Council, shall develop redress mechanisms for persons living with HIV to ensure that their civil, political, economic and social rights are protected.

Section 6. Stigma reduction and human rights. - The country's HIV and AIDS response shall be anchored on the principles of human rights and human dignity, and shall be aligned with the internationally recognized human rights instruments and standards.

- A. **Stigma-free HIV and AIDS services** - The Philippine National AIDS Council, in cooperation with public and private HIV and AIDS service providers and civil society groups and in collaboration with the Commission on Human Rights, shall ensure the delivery of stigma-free HIV and AIDS services by government and private HIV and AIDS service providers.
- B. **Prohibition on compulsory HIV testing** -

As a policy, the State shall encourage voluntary HIV testing. However, written consent must be obtained before HIV testing from the person taking the test. If the person is a minor or is mentally incapacitated, such consent shall be obtained from his or her parents, legal guardian, or a duly assigned social worker.

Lawful consent to HIV testing of a donated human body, organ, tissue or blood shall be considered as having been given when:

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

Compulsory HIV testing may be allowed only in the following instances:

1. a person is charged with any of the offenses punishable under Articles 264, 266, 335 and 338 of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997;
2. A person is charged with an offense under any law imposing the death penalty;
3. The determination of HIV status is necessary to resolve the relevant issues under the Family Code;
4. To comply with the provisions of Republic Act No. 7170;
5. To comply with the provisions of Republic Act No. 7719, otherwise known as the "National Blood Services Act."

- C. **Acts of discrimination.** - The following discriminatory acts shall be prohibited:

1. Rejection of job application, termination of employment, or other discriminatory policies in hiring, provision of employment and other related benefits, promotion or

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

2. Refusal of admission, expulsion, segregation, imposition of harsher disciplinary actions, or denial of services or benefits, of a student or prospective student solely or partially on the basis of actual, perceived or suspected HIV status;
3. Restrictions on travel within the Philippines, refusal of lawful entry to the Philippine territory, deportation from the Philippines, or the quarantine or enforced isolation of travelers solely or partially actual, perceived or suspected HIV status;
4. Restrictions on housing or lodging solely or partially on the basis of actual, perceived or suspected HIV status;
5. Prohibitions on the right to seek an elective or appointive public office solely or partially on the basis of actual, perceived or suspected HIV status;
6. Exclusion from health, accident, or life insurance, credit and loan services, including the extension of such loan or insurance facilities, of an individual solely or partially on the basis of actual, perceived or suspected HIV status; Provided, that the person living with HIV has not misrepresented the fact to the insurance company or loan or credit service provider upon application;
7. Denial of health services, or be charged with higher fee, on the basis of actual, perceived or suspected HIV status;
8. Denial of burial services for a deceased person who had HIV and AIDS or who was known, suspected or perceived to be HIV positive; and
9. Other similar discriminatory acts.

Section 7. Protection for peer educators, outreach workers, and other HIV and AIDS service providers. - No person involved in the provision of HIV and AIDS services shall be arrested or prosecuted on the basis of their delivery of such services.

Section 8. Confidentiality. - The State shall guarantee the confidentiality and privacy of any individual, who has been tested for HIV, has been exposed to HIV, has HIV infection or HIV and AIDS-related illnesses, or has been treated for HIV-related illnesses.

- A. **Confidential HIV and AIDS information** - Unless otherwise provided in Section 8 (C) of this Act, it shall be unlawful to disclose, without written consent, information that a person:
- i. had an HIV-related test;
 - ii. has HIV infection, HIV-related illnesses, or AIDS; or
 - iii. has been exposed to HIV.

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

Any media establishment is likewise prohibited from disclosing, without prior written consent of their subject, any confidential HIV and AIDS information.

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

- C. **Exemptions.** - Confidential HIV and AIDS information may be released without written consent on the following grounds:
1. When complying with the reportorial requirements of the national active and passive surveillance system of the Department of Health, provided that the information related to a person's identity shall remain anonymous;
 2. When informing other health workers directly involved in the treatment or care of a person living with HIV: Provided, that such workers shall be required to maintain medical confidentiality.
 3. When responding to a subpoena duces tecum and subpoena ad testificandum issued by a Court with jurisdiction over a legal proceeding where the main issue is the HIV status of an individual: Provided, That the confidential medical record shall be properly sealed by its lawful custodian after being double-checked for accuracy by the head of the office or department, hand delivered, and personally opened by the judge: Provided, further, That the judicial proceedings be held in executive session.
- D. **Disclosure to sexual partners.** - Any person who tested positive for HIV is obliged to disclose his or her status and health condition to his or her spouse or sexual partner prior to engaging in penetrative sex or any potential exposure to HIV. A person living with HIV may opt to ask help from medical professionals, health workers, or peer educators to disclose to his or her partner about his or her condition.
- E. **Civil liability.** - Any person who has obtained knowledge of confidential HIV and AIDS information and has used such information to malign or cause damage, injury, or loss to another person may face liability under Articles 19, 20, 21, and 26 of the Civil Code.

Section 9. HIV and AIDS surveillance. - The Department of Health shall establish a comprehensive HIV and AIDS monitoring and surveillance program that shall have the following functions:

- A. Determine and monitor the magnitude and progression of HIV and AIDS in the Philippines to help the national response determine the efficacy and adequacy of HIV prevention and treatment programs;
- B. Receive, collate, process, and evaluate all HIV and AIDS-related medical reports from all hospitals, clinics, laboratories and testing centers, including HIV-related deaths and all relevant data from public and private hospitals, various databanks or information systems: Provided, that it shall adopt a coding system that ensures anonymity and confidentiality; and
- C. Submit an annual report to the Office of the President, Congress, and members of the Philippine National AIDS Council the findings of its surveillance activities in compliance with this mandate.

Section 10. National HIV and AIDS Plan. - There shall be a six-year National HIV and AIDS Plan that shall be regularly updated and shall comprise of the following: a) the country's targets and strategies in addressing the epidemic; b) the prevention, treatment, care and support, and other components of the country response; c) the five-year operationalization of the plan and the identification of the government agencies that shall implement the plan; and d) the budgetary requirements for the implementation of the plan and a corollary investment plan that shall identify the sources of funds for its implementation.

- A. **Development, Oversight, monitoring and implementation of the plan.** - The Philippine National AIDS Council shall have the mandate to ensure the implementation of the plan and shall coordinate with its member agencies to guarantee the operationalization of the plan. Furthermore, PNAC shall report annually to the Office of the President, Congress, and its own members on the status of the implementation of the plan.
- B. **Localization the National HIV and AIDS Plan.** - To ensure the implementation of the National HIV and AIDS Plan at the local level, local government units, in coordination with and with the

support of the Philippine National AIDS Council, shall develop their Local HIV and AIDS Plan, including its operationalization and investment components.

Local governments shall establish Local AIDS Council or designate a local body that shall ensure the implementation of the Local HIV and AIDS Plan. Furthermore, they shall ensure the availability and accessibility of prophylactic devices, treatment, diagnostic supplies for HIV and other sexually transmitted infections and reagent for HIV testing.

The Department of Interior and Local Government (DILG) shall develop, in coordination with PNAC, the guidelines for the establishment of LACs.

Section 11. *The Philippine National AIDS Council.* - The Philippine National AIDS Council (PNAC) created by virtue of Executive Order No. 39 dated 3 December 1992, shall be reconstituted and strengthened to ensure the implementation of the country's response to the HIV and AIDS epidemic. It shall be an autonomous Agency attached to the Department of Health.

- A. ***Functions*** - The Council shall be the central implementing, coordinating, advisory, planning and policy-making body for Philippine National HIV and AIDS Plan. The Council shall perform the following functions:
1. Develop the National HIV and AIDS Plan in collaboration with relevant government agencies and civil society groups;
 2. Ensure the operationalization and implementation of the National HIV and AIDS Plan;
 3. Coordinate with government agencies that are mandated to implement the provisions of this Act;
 4. Develop, enforce, and/or ensure the implementation of the guidelines and policies that are stipulated in this Act, including other policies that may be necessary to implement the National HIV and AIDS Plan;
 5. Monitor the progress of the epidemic;
 6. Monitor the implementation of the National HIV and AIDS Plan, undertake mid-term assessments, and evaluate its impact;
 7. Strengthen the collaboration between government agencies and civil society organizations involved in the implementation of the National HIV and AIDS Plan, including the delivery of HIV and AIDS related services;
 8. Organize itself to enhance the efficiency of the multi-agency and multi-sectoral structure;
 9. Mobilize domestic and international sources of fund to finance the National HIV and AIDS Plan;
 10. Coordinate and cooperate with foreign and international organizations regarding funding, data collection, research, and prevention and treatment modalities concerning HIV and AIDS; and
 11. Recommend policy reforms to Congress and other government agencies to strengthen the country's response to the epidemic.
- B. ***Membership and Composition.*** -
1. The Council shall be composed of twenty-six (26) members as follows:
 - i. The Secretary of the Department of Health;
 - ii. The Secretary of the Department of Education, Culture and Sports;
 - iii. The Chairperson of the Commission on Higher Education;

- iv. The Director-General of the Technical Education and Skills Development Authority;
 - v. The Secretary of the Department of Labor and Employment;
 - vi. The Secretary of the Department of Social Welfare and Development;
 - vii. The Secretary of the Department of the Interior and Local Government;
 - viii. The Secretary of the Department of Justice;
 - ix. The Director-General of the National Economic and Development Authority;
 - x. The Secretary of the Department of Tourism;
 - xi. The Secretary of the Department of Budget and Management;
 - xii. The Secretary of the Department of Foreign Affairs;
 - xiii. The Head of the Philippine Information Agency;
 - xiv. The President of the League of Governors;
 - xv. The President of the League of City Mayors;
 - xvi. The Chairperson of the Committee on Health of the Senate of the Philippines;
 - xvii. The Chairperson of the Committee on Health of the House of Representatives;
 - xviii. Two (2) representatives from organizations of medical/health professionals;
 - xix. Six (6) representatives from non-government organizations involved in HIV and AIDS prevention and control efforts or activities; and
 - xx. A representative of an organization of persons living with HIV.
2. The heads of government agencies may be represented by an official from their respective agencies no lower than the undersecretary rank.
 3. To the greatest extent possible, appointment to the Council must ensure sufficient and discernible representation from the fields of medicine, education, health care, law, labor, ethics and social services.
 4. All members of the Council shall be appointed by the President of the Republic of the Philippines, except for the representatives of the Senate and the House of Representatives, who shall be appointed by the Senate President and the House Speaker, respectively.
 5. The members of the Council shall be appointed not later than thirty (30) days after the date of the enactment of this Act.
 6. The Secretary of Health shall be the permanent chairperson of the Council. However, the vice-chairperson shall be elected by its members from among themselves, and shall serve for a term of two (2) years.
 7. For members representing medical/health professional groups and the six (6) non-government organizations, they shall serve for a term of two (2) years, renewable upon recommendation of the Council for a maximum of two (2) consecutive terms.
- C. **Secretariat.** - The PNAC shall be supported by a secretariat that shall be staffed by technically equipped and capable personnel with permanent appointment and adequate operational budget. It shall be headed by an Executive Director and shall be under the direct supervision of the Chair of the Council.

The secretariat shall perform the following functions:

1. Coordinate and manage the day-to-day affair of the Council;
2. Coordinate the formulation, monitoring, and evaluation of the National HIV and AIDS Plan and the HIV and AIDS programs and policies;
3. Provide technical assistance, support, and advisory services to the Council and its external partners;
4. Assist the Council in identifying and building internal and external networks and partnerships;

5. Coordinate and support the efforts of the Council and its members to mobilize resources;
6. Serve as the clearing house and repository of HIV and AIDS-related information on HIV and AIDS;
7. Disseminate updated, accurate, relevant, and comprehensive information about the epidemic to Council members, policy makers, and the media;
8. Provide administrative support to the Council; and
9. Perform other functions as provided by law or the Council.

The personnel designated by the Department of Health as the Secretariat of PNAC under Section 47 of RA 8504 shall be fully absorbed as permanent personnel to fulfill the Secretariat functions stipulated in this Act.

Section 12. *The National HIV and AIDS and STI Prevention and Control Program of the Department of Health* - The National HIV and AIDS and STI Prevention and Control Program (NASPCP) of the Department of Health, which shall be staffed by qualified medical specialist and support staff with permanent appointment and supported with an adequate yearly budget, shall coordinate with PNAC for the implementation of the health sector's HIV and AIDS and STI response, as identified in the National HIV and AIDS Plan.

Section 13. *Misinformation on HIV and AIDS as a prohibited act.* - Misinformation on HIV and AIDS through false and misleading advertising and claims, or the promotional marketing of drugs, devices agents or procedures without prior approval from the Philippine National AIDS Council (PNAC), as instituted in this Act and under the supervision of the Department of Health and the Food and Drug Authority (FDA) and the requisite medical and scientific basis, including markings and indications in drug and devices or agents, purporting to be a cure or a fail- safe prophylactic for HIV infection, shall be prohibited.

Section 14. *Prohibition on the use of condoms and other safer sex paraphernalia as basis for raids and similar police operations* - It shall be unlawful to use the presence of used or unused condoms or other safer sex paraphernalia to conduct raids or similar police operations in sites and venues of HIV prevention interventions.

The Department of Interior and Local Government shall establish a national policy to guarantee the implementation of this provision.

Section 15. *Penalties.* - The following penalties and sanctions shall be imposed for the offenses enumerated in this Act:

- A. Any person found guilty of violating Section 4 (D)1 (accreditation of HIV testing facility); Section 5 (B) (insurance coverage); Section 6 (B) (voluntary HIV testing); Section 6 (C) (acts of discrimination); Section 8 (A) or Section 8 (C) (confidentiality); or Section 8 (B) (release of results) of this Act shall suffer the penalty of imprisonment for six (6) months to five (5) years and/or a fine of not less than fifty thousand pesos (P50, 000.00) but not more than five hundred thousand pesos (P500,000.00). This is without prejudice to the imposition of administrative sanctions such as fines and suspension or revocation of the entity's business permit, license or accreditation or the individual's license to practice his or her profession.
- B. Any person who commits any act of discrimination as stipulated in Section 6 (C) of this Act may face liability under Articles 19, 20, and 21 of the Civil Code.
- C. Any person found guilty of violating Section 7 (protection for service providers) of this Act shall suffer the penalty of imprisonment for six (6) months to five (5) years and a fine of not less than one hundred thousand pesos (P100,000.00) but not more than five hundred thousand pesos (P500,000.00). If the violator is a law enforcer or a public official, administrative sanctions may be imposed in addition to the above penalties.

- D. Any person found guilty of violating Section 13 (misinformation) of this Act shall suffer the penalty of imprisonment for two (2) months to two (2) years, without prejudice to the imposition of administrative sanctions such as fines and suspension or revocation of professional or business license.
- E. Any person or any law enforcer found guilty of violating Section 14 (raids) of this Act shall suffer the penalty of imprisonment for one (1) year to five (5) years and a fine of not less than one hundred thousand pesos (P100,000.00) but not more than five hundred thousand pesos (P500,000.00). In addition, law enforcers found guilty of violating this section shall be removed from public service.
- F. Any person who knowingly or negligently causes another to get infected with HIV in the course of the practice of his or her profession through unsafe and unsanitary practice or procedure is liable to suffer a penalty of imprisonment for six (6) years to twelve (12) years, without prejudice to the imposition of administrative sanctions such as fines and suspension or revocation of the license to practice his or her profession. The permit or license of any business entity and the accreditation of HIV testing centers may be cancelled or withdrawn if said establishments fail to maintain such safe practices and procedures as may be required by the guidelines formulated in compliance with Section 4(G) of this Act.

Section 16. Congressional Oversight Committee. - To ensure the effective implementation of this Act, a Congressional Oversight Committee shall be established, hereinafter referred to as the HIV and AIDS Oversight Committee, that shall be composed of three members (3) from the Senate, which shall include the Chair of the Senate Committee on Health and Demography, and three (3) members from the House of Representatives, which shall include the Chair of the House Committee on Health. The HIV and AIDS Oversight Committee shall be jointly chaired by the Chairpersons of the Senate Committee on Health and Demography and the House Committee on Health.

Section 17. Appropriations. - The amount of no less than four hundred million pesos (P400,000,000.00) shall be appropriated under the Philippine National AIDS Council in the next General Appropriations Act (GAA) for the initial implementation of the National HIV and AIDS Plan. The funds needed for the subsequent implementation of the National HIV and AIDS Plan shall be included in the budget of PNAC or the implementing national government agencies in the annual GAA.

Section 18. Implementing Rules and Regulations. - The Philippine National AIDS Council shall promulgate the necessary implementing rules and regulations within sixty (60) days from the effectivity of this Act.

Section 19. Separability Clause. - Any portion or provision of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying the other portions and provisions hereof as long as such remaining portion or provision can still subsist and be given effect in their entirety.

Section 20. Repealing Clause. - All laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed or amended accordingly.

Section 21. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) national papers of general circulation.

Approved,