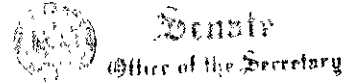


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



15 APR 16 P2:23

SENATE
S. No. 2728

Introduced by Senator Miriam Defensor Santiago

AN ACT
PROVIDING FOR AN EFFECTIVE HUMAN IMMUNODEFICIENCY VIRUS (HIV)/
ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) PROGRAM IN
PRISONS¹

EXPLANATORY NOTE

The Constitution, Article 2, Section 15 states: "The State shall protect and promote the right to health of the people and instill health consciousness among them."

Republic Act No. 8504, also known as the Philippine AIDS Prevention and Control Act of 1998, Section 2, provides:

Sec. 2. Declaration of Policies. - Acquired Immune Deficiency Syndrome (AIDS) is a disease that recognizes no territorial, social, political and economic boundaries for which there is no known cure. The gravity of the AIDS threat demands strong State action today, thus:

(a) The State shall 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. Such campaigns shall promote value formation and employ scientifically proven approaches, focus on the family as a basic social unit, and be carried out in all schools and training centers, workplaces, and communities. This program shall involve affected individuals and groups, including people living with HIV/AIDS.

(b) The State shall extend to every person suspected or known to be infected with HIV/AIDS full protection of his/her human rights and civil liberties.

....

(c) The State shall promote utmost safety and universal precautions in practices and procedures that carry the risk of HIV transmission.

¹ This bill was originally filed in the United States 14th Congress, First Regular Session, as House Bill No. 768.

Thirty years since it was discovered, the Human Immunodeficiency Virus (HIV) is no longer the “slow and hidden” disease afflicting the Philippines. Given the increasing number of HIV cases per year, the Joint United Nations Programme on HIV/AIDS (UNAIDS), in its 2012 Global AIDS (Acquired Immune Deficiency Syndrome) Epidemic Report, categorized the Philippines as one of nine countries with a growing HIV epidemic.

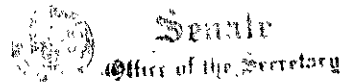
Recent news reports revealed that twelve inmates of the Cebu City Jail were found positive for HIV. The findings came after the National Bureau of Investigation isolated imprisoned drug lords who have allegedly turned the state penitentiary into a major hub for illegal drug trafficking.²

This bill seeks to provide an effective HIV/AIDS program in prisons in order to mitigate the spread of the dreaded disease among inmates. This is in line with the State’s policy to encourage rehabilitation among prisoners and even provide them with proper healthcare.


MIRIAM DEFENSOR SANTIAGO
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² Dacanay, Barbara Mae. “Twelve Prisoners in Central Philippines Positive for HIV.” *Gulf News*. Published on 26 March 2015 at <http://gulfnnews.com/news/asia/philippines/twelve-prisoners-in-central-philippines-positive-for-hiv-1.1479574> Last accessed 27 March 2015.

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SENATE
S. No. 2728

RECEIVED BY. J

Introduced by Senator Miriam Defensor Santiago

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

1 AN ACT
2 PROVIDING FOR AN EFFECTIVE HUMAN IMMUNODEFICIENCY VIRUS (HIV)/
3 ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) PROGRAM IN PRISONS

4 SECTION 1. *Short Title.* – This Act shall be known as the “Stop AIDS in Prisons
5 Act.”

6 SECTION 2. *Comprehensive HIV/AIDS Policy.* –

7 (a) In General. – The Bureau of Corrections (hereinafter in this Act referred to as
8 the ‘Bureau’) shall, together with the Department of Health, develop a comprehensive
9 policy to provide HIV testing, treatment, and prevention for inmates within the
10 correctional setting and upon reentry.

11 (b) Purpose. – The purposes of this policy shall be as follows:

12 (1) To stop the spread of HIV/AIDS among inmates.

13 (2) To protect prison guards and other personnel from HIV/AIDS infection.

14 (3) To provide comprehensive medical treatment to inmates who are living
15 with HIV/AIDS.

16 (4) To promote HIV/AIDS awareness and prevention among inmates.

17 (5) To encourage inmates to take personal responsibility for their health.

1 (6) To reduce the risk that inmates will transmit HIV/AIDS to other persons
2 in the community following their release from prison.

3 (c) Consultation. – The Bureau shall consult with appropriate officials of the
4 Department of Health, the Philippine National AIDS Council, the Research Institute for
5 Tropical Medicine, and the Department of Justice regarding the development of this
6 policy.

7 (d) Time Limit. – The Bureau shall draft appropriate regulations to implement this
8 policy not later than one year after the date of the enactment of this Act.

9 SECTION 3. *Requirements for Policy.*

10 The policy created under section 2 shall do the following:

11 (1) Testing and Counseling Upon Intake. –

12 (A) Health care personnel shall provide routine HIV testing to all
13 inmates as a part of a comprehensive medical examination immediately
14 following admission to a facility. (Health care personnel need not provide
15 routine HIV testing to an inmate who is transferred to a facility from
16 another facility if the inmate's medical records are transferred with the
17 inmate and indicate that the inmate has been tested previously.)
18

19 (B) To all inmates admitted to a facility prior to the effective date of
20 this policy, health care personnel shall provide routine HIV testing within
21 no more than six months. HIV testing for these inmates may be performed
22 in conjunction with other health services provided to these inmates by
23 health care personnel.

24 (C) All HIV tests under this paragraph shall comply with the opt-out
25 provision.

1 (2) Pre-Test and Post-Test Counseling. – Health care personnel shall
2 provide confidential pre-test and post-test counseling to all inmates who are tested
3 for HIV. Counseling may be included with other general health counseling
4 provided to inmates by health care personnel.

5 (3) HIV/AIDS Prevention Education. –

6 (A) Health care personnel shall improve HIV/AIDS awareness
7 through frequent educational programs for all inmates. HIV/AIDS
8 educational programs may be provided by community based organizations,
9 local health departments, and inmate peer educators.

10 (B) HIV/AIDS educational materials shall be made available to all
11 inmates at orientation, at health care clinics, at regular educational
12 programs, and prior to release. Both written and audio-visual materials shall
13 be made available to all inmates.

14 (C)(i) The HIV/AIDS educational programs and materials under this
15 paragraph shall include information on –

16 (I) modes of transmission, including transmission through
17 tattooing, sexual contact, and intravenous drug use;

18 (II) prevention methods;

19 (III) treatment; and

20 (IV) disease progression.

21 (ii) The programs and materials shall be culturally sensitive, written
22 or designed for low literacy levels, available in a variety of local languages,

1 and present scientifically accurate information in a clear and understandable
2 manner.

3 (4) HIV Testing Upon Request. –

4 (A) Health care personnel shall allow inmates to obtain HIV tests
5 upon request once per year or whenever an inmate has a reason to believe
6 the inmate may have been exposed to HIV. Health care personnel shall,
7 both orally and in writing, inform inmates, during orientation and
8 periodically throughout incarceration, of their right to obtain HIV tests.

9 (B) Health care personnel shall encourage inmates to request HIV
10 tests if the inmate is sexually active, has been raped, uses intravenous
11 drugs, receives a tattoo, or if the inmate is concerned that the inmate may
12 have been exposed to HIV/AIDS.

13 (C) An inmate's request for an HIV test shall not be considered an
14 indication that the inmate has put him/herself at risk of infection and/or
15 committed a violation of prison rules.

16 (5) HIV Testing of Pregnant Women. –

17 (A) Health care personnel shall provide routine HIV testing to all
18 inmates who become pregnant.

19 (B) All HIV tests under this paragraph shall comply with the opt-out
20 provision.

21 (6) Comprehensive Treatment. –

22 (A) Health care personnel shall provide all inmates who test positive
23 for HIV –

1 (i) timely and comprehensive medical treatment;

2 (ii) confidential counseling on managing their medical
3 condition and preventing its transmission to other persons; and

4 (iii) voluntary partner notification services.

5 (B) Health care provided under this paragraph shall be consistent
6 with current Department of Health and Philippine Health Insurance
7 Corporation guidelines and standard medical practice. Health care
8 personnel shall discuss treatment options, the importance of adherence to
9 antiretroviral therapy, and the side effects of medications with inmates
10 receiving treatment.

11 (C) Health care personnel and pharmacy personnel shall ensure that
12 the facility formulary contains all Food and Drug Administration-approved
13 medications necessary to provide comprehensive treatment for inmates
14 living with HIV/AIDS, and that the facility maintains adequate supplies of
15 such medications to meet inmates' medical needs. Health care personnel
16 and pharmacy personnel shall also develop and implement automatic
17 renewal systems for these medications to prevent interruptions in care.

18 (D) Correctional staff, health care personnel, and pharmacy
19 personnel shall develop and implement distribution procedures to ensure
20 timely and confidential access to medications.

21 (7) Protection of Confidentiality. –

22 (A) Health care personnel shall develop and implement procedures
23 to ensure the confidentiality of inmate tests, diagnoses, and treatment.
24 Health care personnel and correctional staff shall receive regular training on

1 the implementation of these procedures. Penalties for violations of inmate
2 confidentiality by health care personnel or correctional staff shall be
3 specified, based on existing laws, and strictly enforced.

4 (B) HIV testing, counseling, and treatment shall be provided in a
5 confidential setting where other routine health services are provided and in
6 a manner that allows the inmate to request and obtain these services as
7 routine medical services.

8 (8) Testing, Counseling, and Referral Prior to Reentry. –

9 (A) Health care personnel shall provide routine HIV testing to all
10 inmates no more than three months prior to their release and reentry into the
11 community. (Inmates who are already known to be infected need not be
12 tested again.) This requirement may be waived if an inmate's release occurs
13 without sufficient notice to the Bureau to allow health care personnel to
14 perform a routine HIV test and notify the inmate of the results.

15 (B) All HIV tests under this paragraph shall comply with the opt-out
16 provision.

17 (C) To all inmates who test positive for HIV and all inmates who
18 already are known to have HIV/AIDS, health care personnel shall provide--

19 (i) confidential prerelease counseling on managing their
20 medical condition in the community, accessing appropriate treatment
21 and services in the community, and preventing the transmission of
22 their condition to family members and other persons in the
23 community;

1 (ii) referrals to appropriate health care providers and social
2 service agencies in the community that meet the inmate's individual
3 needs, including voluntary partner notification services and
4 prevention counseling services for people living with HIV/AIDS;
5 and

6 (iii) a 30-day supply of any medically necessary medications
7 the inmate is currently receiving.

8 (9) Opt-Out Provision. – Inmates shall have the right to refuse routine HIV
9 testing. Inmates shall be informed both orally and in writing of this right. Oral and
10 written disclosure of this right may be included with other general health
11 information and counseling provided to inmates by health care personnel. If an
12 inmate refuses a routine test for HIV, health care personnel shall make a note of
13 the inmate's refusal in the inmate's confidential medical records. However, the
14 inmate's refusal shall not be considered a violation of prison rules or result in
15 disciplinary action. Any reference in this section to the 'opt-out provision' shall be
16 deemed a reference to the requirement of this paragraph.

17 (10) Exclusion of Tests Performed Under Republic Act No. 8504 on the
18 Exception to the Prohibition on Compulsory Testing HIV Testing. – HIV testing
19 required under Republic Act No. 8504, Section 17, is not routine HIV testing for
20 the purposes of the opt-out provision. Health care personnel shall document the
21 reason for testing as required by law, in the inmate's confidential medical records.

22 (11) Timely Notification of Test Results. – Health care personnel shall
23 provide timely notification to inmates of the results of HIV tests.

1 SECTION 4. *Reporting Requirements.* –

2 (a) Report on Hepatitis and Other Diseases. – Not later than one year after the date
3 of the enactment of this Act, the Bureau shall provide a report to the Congress on Bureau
4 policies and procedures to provide testing, treatment, and prevention education programs
5 for hepatitis and other diseases transmitted through sexual activity and intravenous drug
6 use. The Bureau shall consult with appropriate officials of the Department of Health, the
7 the Philippine National AIDS Council, the Research Institute for Tropical Medicine, and
8 the Department of Justice regarding the development of this report.

9 (b) Annual Reports. –

10 (1) Generally. – Not later than two years after the date of the enactment of
11 this Act, and then annually thereafter, the Bureau shall report to Congress on the
12 incidence among inmates of diseases transmitted through sexual activity and
13 intravenous drug use.

14 (2) Matters Pertaining to Various Diseases. – Reports under paragraph (1)
15 shall discuss –

16 (A) the incidence among inmates of HIV/AIDS, hepatitis, and other
17 diseases transmitted through sexual activity and intravenous drug use; and

18 (B) updates on Bureau testing, treatment, and prevention education
19 programs for these diseases.

20 (3) Matters Pertaining to HIV/AIDS Only. – Reports under paragraph (1)
21 shall also include –

22 (A) the number of inmates who tested positive for HIV upon intake;

23 (B) the number of inmates who tested positive prior to reentry;

1 (C) the number of inmates who were not tested prior to reentry
2 because they were released without sufficient notice;

3 (D) the number of inmates who opted-out of taking the test;

4 (E) the number of inmates who were tested under R.A. No. 8504;

5 and

6 (F) the number of inmates under treatment for HIV/AIDS.

7 (4) Consultation. – The Bureau shall consult with appropriate officials of
8 the Department of Health, the Philippine National AIDS Council, the Research
9 Institute for Tropical Medicine, and the Department of Justice regarding the
10 development of reports under paragraph (1).

11 SECTION 5. *Separability Clause.* – If any provision or part hereof, is held invalid
12 or unconstitutional, the remainder of the law or the provision not otherwise affected shall
13 remain valid and subsisting.

14 SECTION 6. *Repealing Clause.* – Any law, presidential decree or issuance,
15 executive order, letter of instruction, administrative order, rule or regulation contrary to
16 or inconsistent with, the provisions of this Act is hereby repealed, modified, or amended
17 accordingly.

18 SECTION 7. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after
19 its publication in at least two (2) newspapers of general circulation.

Approved,