

FOURTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

8 FEB 11 2011

SENATE  
S. No. 2062

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Introduced by Senator Miriam Defensor Santiago

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EXPLANATORY NOTE

HIV/AIDS infection poses a serious threat to the public health of all Filipinos whenever HIV or AIDS infected persons act in a manner which is likely to spread this incurable disease to other persons. When HIV or AIDS infected persons commit such actions as having unprotected sex or sharing needles without the consent of their partners, they endanger the public health and frustrate the efforts of health officials to contain and, hopefully, reverse the spread of HIV/AIDS. Also, in order to allow the victims of alleged sex crimes or crimes which endanger their health to obtain the most effective health care treatment, the HIV status of their offenders must be determined. Hence, this bill seeks to define and penalize the crimes of reckless endangerment of the public health and offering a false statement which endangers the public health. This bill likewise provides for the HIV-related testing of defendants accused of committing sex or public health crimes in order to determine the appropriate treatment for their victims.

*ACS* *Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO

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1 AN ACT  
2 DEFINING AND PENALIZING THE CRIMES OF RECKLESS ENDANGERMENT  
3 OF THE PUBLIC HEALTH AND OFFERING A FALSE STATEMENT WHICH  
4 ENDANGERS THE PUBLIC HEALTH

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

7 SECTION 1. *Declaration of Policy.* – It is a policy of the State to protect the physical,  
8 moral and social well-being of the people. Towards this end, the State shall exert efforts to  
9 prevent the spread of HIV and AIDS by penalizing certain reckless acts which may cause the  
10 transmission of the said diseases.

11 SECTION 2. *Definition of Terms.* – For the purposes of this Act, the term:

12 (A) “AIDS” means acquired immunodeficiency syndrome.

13 (B) “HIV” means the human immunodeficiency virus.

14 (C) “HIV infection” means infection with HIV or any other related virus identified as a  
15 probable causative agent of AIDS.

16 (D) “HIV related illness” means any illness that may result from or may be associated  
17 with HIV infection.

18 (E) “HIV related test” means any laboratory test or series of tests for any virus, antibody,  
19 antigen or etiologic agent whatsoever thought to cause or to indicate the presence of  
20 AIDS.

21 SECTION 3. *Reckless Endangerment to the Public Health.* – A person is guilty of  
22 reckless endangerment to the public health when he or she has tested positively for HIV or AIDS

1 and then recklessly engages in conduct which results in the transmission of HIV or AID to  
2 another person who was unaware of such condition.

3 A person is guilty of reckless endangerment to the public health in the frustrated stage  
4 when he or she has tested positively for HIV or AIDS and then recklessly engages in conduct  
5 which creates a substantial risk of the transmission of HIV or AID to another person who was  
6 unaware of such condition.

7 SECTION 4. *Defense.* – In any prosecution for reckless endangerment of the public  
8 safety, either in the consummated or frustrated stage, it shall be an absolute defense that the  
9 defendant, at the time she was engaged in the conduct constituting the offense, was a woman  
10 who transmitted the HIV or AIDS virus to her child as the result of giving birth to such child.

11 SECTION 5. *Offering a False Instrument which Endangers the Public Health.* – A  
12 person is guilty of offering a false instrument which endangers the public health when he or she  
13 is aware that he or she has tested positive for HIV or AIDS and then knowing that a written  
14 instrument contains a false statement or false information regarding his or her HIV status and  
15 with the intent to defraud the Department of Health, any subdivision or agent thereof, or any  
16 other health care provider, he or she offers or presents such instrument to an agent of that office  
17 or other health care provider with the knowledge or belief that it will be filed with, registered or  
18 recorded in or otherwise become a part of the records of such public office or public officer.

19 SECTION 6. *HIV-Related Testing of Alleged Sex and Public Health Offenders.* – (A) A  
20 police officer who makes an arrest for any crime where the defendant has committed or is about  
21 to commit a sex or public health offense, either with or without a warrant, shall, following such  
22 arrest or the arraignment upon a court of competent jurisdiction accusatory instrument of a  
23 defendant whose court attendance has been secured by a summons or an appearance ticket,  
24 cause such defendant to be immediately given an HIV-related test to determine if such  
25 defendant has HIV infection, HIV-related illness or AIDS.

1 (B) The HIV-related test prescribed in paragraph (A) and the submission of available  
2 information concerning the defendant and the facts and circumstances of the crime charged must  
3 be in accordance with the rules and regulations promulgated by the Secretary of Justice.

4 (C) The result of an HIV-related test performed pursuant to paragraph (A) shall, upon  
5 request, be made available to the victim or alleged victim of such crime and to the defendant.

6 SECTION 7. *Separability Clause.* – If any part hereof, is held invalid or unconstitutional,  
7 the remainder of the provision not otherwise affected shall remain valid and subsisting.

8 SECTION 8. *Repealing Clause.* – Any law, presidential decree or issuance, executive  
9 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent  
10 with, the provisions of this Act is hereby repealed, modified or amended accordingly.

11 SECTION 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
12 publication in at least two (2) newspapers of general circulation.

13 Approved,

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