

SENATE

REC'D BY: 
S.B. No. 3398

Introduced by SENATOR PIA S. CAYETANO

EXPLANATORY NOTE

Fifteen years after Republic Act 8504 or the Philippine AIDS Prevention and Control Act of 1998 became a law, the HIV-AIDS problem in the Philippines has worsened contrary to the primary goal of the legislation which was to thwart the growing prevalence of this disease in the country.

Since year 2000, there has been a steady increase in the number of HIV/AIDS positive cases reported in the Philippine HIV and AIDS Registry. In particular, the number of Filipinos living with AIDS has jumped significantly from 29 cases in 2010 to 110 and 148 in 2011 and 2012, respectively¹. Moreover, the National Epidemiology Center has reported 295 newly diagnosed HIV cases in the country in October 2012, twenty-two (22) of which were accounted as AIDS cases². This latest figure of HIV infection is 48% higher than the number recorded covering the same period in 2011³.

This alarming rise in HIV/AIDS incidence and the continuing culture of silence that surrounds the disease raise questions on the effectiveness of R.A. 8504. Budgetary constraints, organizational confusion and policy incongruence have hindered the full implementation of the law to effect its legislative purpose.

To address the gaps in RA 8504 and make it more responsive to what is feared to be an impending epidemic, this bill seeks to, among others: (1) strengthen the governance structure that spearheads the HIV/AIDS response of the government to ensure proper implementation and monitoring of the law; (2) clarify and refine the roles of state institutions to promote efficiency and reinforce governmental capabilities in addressing the disease; (3) harmonize the HIV/AIDS response with other related laws, policies and programs; and (4) highlight the significant roles of people living with HIV and AIDS and local communities in raising awareness about the disease and reducing the stigma attached to it, and bringing to the fore existing realities on the ground to generate immediate and relevant policy and societal change.

The fight against the spread of HIV and AIDS infection necessitates an inclusive, integrative and comprehensive approach that emphasizes cohesive and sustained collective action. Indeed, there is no better time to address the looming HIV and AIDS crisis than the present while we still can. We must not forget that a prosperous nation starts with a healthy citizenry.


SENATOR PIA S. CAYETANO

¹ <http://www.doh.gov.ph/disease-surveillance>.


² Ibid.

³ Ibid.

FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

13 JAN 28 26:19

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RECEIVED BY: 

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Introduced by SENATOR PIA S. CAYETANO

“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:

1 **SECTION 1. Short Title.** - This Act shall be known as the “The Revised
2 Philippine HIV and AIDS Policy and Program Act of 2012”.

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

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

13 b. Adopt a multi-sectoral approach in responding to the HIV epidemic by ensuring
14 that local communities, civil society organizations, and persons living with HIV
15 are involved in the process.

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

19 d. Positively address and seek to eradicate conditions that aggravate the spread
20 of HIV infection, including but not limited to, poverty, gender inequality,
21 prostitution, marginalization, drug abuse and ignorance.

22 Respect for, protection of and promotion of human rights are the cornerstones of
23 an effective response to the HIV epidemic. The meaningful inclusion and participation
24 of persons directly and indirectly affected by the epidemic, especially persons living
25 with HIV, are crucial in eliminating the virus. Thus, unless otherwise provided in this

1 Act, the confidentiality, anonymity, and non-compulsory nature of HIV testing and HIV-
2 related testing shall always be guaranteed and protected by the State.

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

7 **SEC. 3. Definition of Terms.** - As used in this Act, the following terms shall be
8 defined as follows:

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

12 b. **Anti-retroviral Treatment** refers to the treatment that stops or suppresses a
13 retrovirus like HIV;

14 c. **Civil Society Organizations (CSOs)** refer to a group or groups of non-governmental
15 and non-commercial individuals or legal entities that are engaged in
16 uncoerced collective action around shared interests, purposes and values;

17 d. **Community-based research** takes place in community settings and involves
18 community members in the design and implementation of research projects.

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

23 f. **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,
25 gender identity, economic status, disability and ethnicity, whether actual or perceived,
26 and which has the purpose or effect of nullifying or impairing the recognition,
27 enjoyment or exercise by all persons similarly situated, of all rights and freedoms;

28 g. **Evolving Capacities of Children** refer to the concept enshrined in Article 5 of the
29 Convention on the Rights of the Child recognizing the developmental changes and
30 the corresponding progress in cognitive abilities and capacity for self-determination
31 undergone by children as they grow up thus requiring parents and others charged
32 with responsibility for the child to provide varying degrees of protection and to allow
33 their participation in opportunities for autonomous decision-making in different
34 contexts and across different areas of decision-making;

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

40 i. **HIV and AIDS Counselor** refers to any individual trained by an institution or
41 organization accredited by the Philippine National AIDS Council (PNAC) to conduct
42 training or counseling on HIV and AIDS, HIV prevention, and human rights and
43 stigma reduction;

- 1 j. **HIV Counseling** refers to the provision of information on HIV and AIDS, how it is
2 spread and how it may be prevented, risk-reduction approaches, and information on
3 treatment, care and support for persons living with HIV, which is conducted before
4 and after HIV testing;
- 5 k. **HIV Testing** refers to any facility-based or mobile medical procedure that is
6 conducted to determine the presence or absence of HIV in person's body, is
7 confidential, voluntary in nature and must be accompanied by counseling prior to, and
8 after the testing, and conducted only with the informed consent of the person;
- 9 l. **HIV-Related Testing** refers to any laboratory testing or procedure done on an
10 individual whether the person is HIV positive or negative;
- 11 m. **HIV Testing Facility** refers to any DOH-accredited in-site or mobile testing center,
12 hospital, clinic, laboratory and other facility that has the capacity to conduct voluntary
13 HIV counseling and HIV testing;
- 14 n. **Human Immunodeficiency Virus (HIV)** refers to the virus that causes AIDS;
- 15 o. **Key Affected Populations at Higher Risk of HIV Exposure or 'Key Populations'**
16 refer to those persons whose behavior make them more likely to be exposed to HIV
17 or to transmit the virus, as determined by PNAC. The term includes children below
18 the age of eighteen (18); youth and adults living with HIV; men who have sex with
19 men; transgender persons; people who inject drugs; and people who sell sexual
20 services or favors;
- 21 p. **Laboratory** refers to areas or places where research studies are being undertaken
22 to further develop local evidence base for effective HIV programs;
- 23 q. **Non-Mandatory HIV Anti-Body Testing** refers to a health care provider initiating
24 HIV anti-body testing to a person practicing high-risk behavior or vulnerable to HIV
25 after conducting HIV pre-test counseling. The person may elect to decline or defer
26 testing such that consent is conditional;
- 27 r. **Opportunistic Infection (OI)** refers to illnesses caused by various organisms, many
28 of which do not cause disease in persons with healthy immune systems;
- 29 s. **Person Living with HIV** refers to any individual diagnosed to be infected with HIV;
- 30 t. **Sexually Transmitted Infections (STI)** refer to infections that are spread through
31 the transfer of organisms from one person to another through sexual contact;
- 32 u. **Sexual Orientation** refers to a person's sexual and emotional attraction to, or
33 intimate and sexual relationship with, individuals of different, the same, or both sexes;
- 34 v. **Social Protection** refers to a set of policies and programs designed to reduce
35 poverty and vulnerability by promoting efficient labor markets, diminishing people's
36 exposure to risks, and enhancing their capacity to protect themselves against
37 hazards and interruptions/loss of income;
- 38 w. **Stigma** refers to the dynamic devaluation and dehumanization of an individual in
39 the eyes of others which may be based on attributes that are arbitrarily defined by
40 others as discreditable or unworthy and which results in discrimination when acted
41 upon;

- 1 x. **Treatment Hubs** refer to private and public hospitals or medical establishments
2 accredited by the Department of Health (DOH) to have the capacity and facility to
3 provide anti-retroviral treatment;
- 4 y. **Voluntary HIV Testing** refers to HIV testing done on an individual who, after having
5 undergone pre-HIV counseling, willingly submits oneself to such test;
- 6 z. **Vulnerable Communities** refer to communities and groups who are suffering from
7 vulnerabilities such as unequal opportunities, social exclusion, poverty,
8 unemployment, and other similar social, economic, cultural and political conditions,
9 making them more susceptible to HIV infection and to developing AIDS;
- 10 aa. **Work Place** refers to the office, premises and work site where workers are
11 habitually employed and shall include the office or place where workers, with no
12 fixed or definite work site, regularly report for assignment in the course of their
13 employment.

14 **SEC. 4. Philippine National AIDS Council.** - The Philippine National AIDS
15 Council (PNAC), hereinafter referred to as the Council, established under Section 43 of
16 R.A. 8504 otherwise known as the "Philippine AIDS Prevention and Control Act of
17 1998", shall be reconstituted and strengthened to ensure the implementation of the
18 country's response to the HIV and AIDS epidemic. The Council shall be the central
19 policy-making, planning, implementing, coordinating and advisory body for Philippine
20 National HIV and AIDS Program. It shall be an agency attached to the Department of
21 Health.

22 **SEC. 5. Functions of the PNAC.** - The Council shall perform the following
23 functions:

- 24 1. Develop the National HIV and AIDS Program in collaboration with relevant
25 government agencies and civil society organizations;
- 26 2. Ensure the operationalization and implementation of the National HIV and
27 AIDS Program;
- 28 3. Coordinate with government agencies that are mandated to implement the
29 provisions of this Act;
- 30 4. Develop, enforce, and/or ensure the implementation of the guidelines and
31 policies that are stipulated in this Act, including other policies that may be
32 necessary to implement the National HIV and AIDS Program;
- 33 5. Monitor the progress of the epidemic;
- 34 6. Monitor the implementation of the National HIV and AIDS Program,
35 undertake mid-term assessments and evaluate its impact, and conduct
36 annual reporting to Congress;
- 37 7. Strengthen the collaboration between government agencies and civil society
38 organizations involved in the implementation of the National HIV and AIDS
39 Program, including the delivery of HIV and AIDS related services;
- 40 8. Organize itself to enhance the efficiency of the multi-agency and multi-
41 sectoral structure;

- 1 9. Mobilize domestic and international sources of fund to finance the National
2 HIV and AIDS Program;
- 3 10. Coordinate and cooperate with foreign and international organizations
4 regarding funding, data collection, research, and prevention and treatment
5 modalities on HIV and AIDS; and
- 6 11. Recommend policy reforms to Congress, DOH and other government
7 agencies to strengthen the country's response to the epidemic.

8 **Sec. 6. Membership and Composition.** – a) The Council shall be composed of
9 twenty-six (26) members as follows:

- 10 1. The Secretary of the Department of Health;
- 11 2. The Secretary of the Department of Education;
- 12 3. The Chairperson of the Commission on Higher Education;
- 13 4. The Director-General of the Technical Education and Skills Development
14 Authority;
- 15 5. The Secretary of the Department of Labor and Employment;
- 16 6. The Secretary of the Department of Social Welfare and Development;
- 17 7. The Secretary of the Department of the Interior and Local Government;
- 18 8. The Secretary of the Department of Justice;
- 19 9. The Director-General of the National Economic and Development
20 Authority;
- 21 10. The Secretary of the Department of Tourism;
- 22 11. The Secretary of the Department of Budget and Management;
- 23 12. The Secretary of the Department of Foreign Affairs;
- 24 13. The Head of the Philippine Information Agency;
- 25 14. The President of the League of Governors;
- 26 15. The President of the League of City Mayors;
- 27 16. The Chairperson of the Committee on Health of the Senate;
- 28 17. The Chairperson of the Committee on Health of the House of
29 Representatives;
- 30 18. Two (2) representatives from organizations of medical/health professionals;
- 31 19. Six (6) representatives from non-government organizations involved in HIV
32 and AIDS prevention and control efforts or activities; and
- 33 20. A representative of an organization of persons living with HIV.

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

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

40 d) To the greatest extent possible, appointment to the Council must ensure sufficient
41 and discernible representation from the fields of medicine, education, health care,
42 law, labor, ethics and social services;

43 e) The members of the Council shall be appointed not later than thirty (30) days after
44 the date of the enactment of this Act;

45 f) The Secretary of Health shall be the permanent Chairperson of the Council. However,
46 the Vice-Chairperson shall be elected from among the members, and shall serve for
47 a term of two (2) years; and

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

4 **Sec. 7. Secretariat.** - The PNAC shall be supported by a Secretariat consisting
5 of personnel with the necessary technical expertise and capability who shall be
6 conferred permanent appointments, subject to Civil Service rules and regulations. It
7 shall be headed by an Executive Director who shall be under the direct supervision of
8 the Chairperson of the Council.

9 The Secretariat shall perform the following functions:

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

25 **SEC. 8. HIV Prevention.** - The government shall promote and adopt a range of
26 measures and interventions, in partnership with civil society organizations, that aim to
27 prevent, halt, or control the spread of HIV, especially among key populations and
28 vulnerable communities. These measures shall likewise promote the rights, welfare,
29 and participation of persons living with HIV and the affected children, young people,
30 families and partners of persons living with HIV.

31 a. *Evidence-Informed, Gender Sensitive, Age-Appropriate, and Human Rights-Based*
32 *Preventive Measures* – The HIV and AIDS prevention programs shall be based on
33 up-to-date evidence and scientific strategies and shall be age-appropriate. The
34 government shall therefore actively promote safer sex behavior, especially among
35 key populations; safer practices that reduce risk of HIV infection; access to treatment;
36 consistent sexual abstinence and sexual fidelity; and consistent and correct condom
37 use.

38 b. *HIV and AIDS Education as a Right to Health and Information* – HIV and AIDS
39 education and information dissemination shall form part of the right to health. The
40 knowledge and capabilities of all public health practitioners, workers and personnel
41 shall be enhanced to include skills for proper information dissemination and
42 education on HIV and AIDS. It shall likewise be considered a civic duty of health

1 providers in the private sector to make available to the public such information
2 necessary to control the spread of HIV and AIDS and to correct common
3 misconceptions about the disease. The training of health workers shall include
4 discussions on HIV-related ethical issues such as confidentiality, informed consent
5 and the duty to provide treatment.

6 c. *HIV and AIDS Education and Information.* - The State shall educate the public,
7 especially the key populations and vulnerable communities, on HIV and AIDS and
8 other sexually transmitted infections, with the goal of reducing risky behavior,
9 lowering vulnerabilities, and promoting the human rights of persons living with HIV.

10 1. *HIV and AIDS Education for Key Populations and Vulnerable Communities.* -
11 To ensure that HIV services reach populations at higher risk, the State,
12 through the PNAC and in collaboration with HIV and AIDS civil society
13 organizations, shall support and provide funding for HIV and AIDS education
14 programs, such as peer education, outreach activities and community-based
15 research. The PNAC shall likewise craft the guidelines for peer education and
16 outreach activities which may be undertaken in various settings including
17 laboratory-based activities.

18 2. *Age-Appropriate HIV and AIDS Education in Schools.* - Using official
19 information and data from the PNAC, the Department of Education (DepEd),
20 the Commission on Higher Education (CHED), and the Technical Education
21 and Skills Development Authority (TESDA) shall integrate basic and age-
22 appropriate instruction on the causes, modes of transmission and ways of
23 preventing the spread of HIV and AIDS and other sexually transmitted
24 infections in subjects taught in public and private schools at intermediate
25 grades, secondary and tertiary levels, including non-formal and indigenous
26 learning systems.

27 The learning modules shall include information on treatment, care and support
28 to promote stigma reduction.

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

34 All teachers and instructors to be assigned to handle these learning modules
35 shall be required to undergo seminars or trainings on HIV and AIDS prevention
36 that shall be supervised by the PNAC in coordination with concerned
37 agencies.

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

44 The Department of Labor and Employment (DOLE) for the private sector and
45 the Civil Service Commission (CSC) for the public sector shall implement this
46 provision. The DOLE and the CSC shall ensure that the HIV and AIDS
47 education program in the workplace is industry or sector-appropriate and shall
48 ensure the full participation of employers and workers in designing the content
49 of the program. Referral mechanisms for key populations and vulnerable

1 communities shall also be developed and instituted by the DOLE and the CSC
2 in coordination with the PNAC.

3 4. *HIV and AIDS Education for Filipinos Going Abroad.* – In coordination with the
4 PNAC, the Department of Foreign Affairs (DFA) and the DOLE shall ensure
5 that all overseas Filipino workers, including diplomatic, military, trade, labor
6 officials, personnel and their families to be assigned overseas, shall undergo
7 or attend a seminar on HIV and AIDS and shall be provided with information
8 on how to access on-site HIV-related services and facilities before certification
9 for overseas assignment.

10 5. *HIV and AIDS Education in Communities* - The DILG, League of Governors
11 and League of Mayors, through the Local HIV and AIDS Council (LAC) or the
12 Local Health Board and in coordination with the PNAC, local governments
13 shall conduct public awareness campaigns on HIV and AIDS and shall
14 educate local communities, through various channels, on evidence-based,
15 gender-sensitive, age-appropriate and human rights-oriented prevention tools
16 to stop the spread of HIV. For these purposes, the LGUs are hereby
17 authorized to utilize the Gender and Development (GAD) Funds for HIV and
18 AIDS education in communities.

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

22 6. *Information for Tourists and Transients* - Educational materials on the cause,
23 modes of transmission, prevention, and consequences of HIV infection shall
24 be adequately provided at all international ports of entry and exit. The
25 Department of Tourism (DOT), the DFA, and the Bureau of Immigration (BI), in
26 coordination with the PNAC stakeholders in the tourism industry, shall lead the
27 implementation of this provision.

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

32 1. The DOH shall accredit public and private HIV testing facilities based on their
33 capacity to deliver testing services, including HIV counseling. Only DOH-
34 accredited HIV testing facilities shall be allowed to conduct HIV testing;

35 2. The DOH shall lead the development of the guidelines for the conduct of HIV
36 counseling and HIV testing, including mobile HIV counseling and testing, by
37 testing facilities. The guidelines shall ensure, among others, that HIV testing is
38 voluntary and confidential and that HIV counseling is available at all times and
39 provided by qualified persons and DOH-accredited providers;

40 3. The DOH shall accredit institutions or organizations that train HIV and AIDS
41 counselors; and

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

45 e. *Positive Prevention* – The DOH shall lead, in coordination with the local
46 government units, and other relevant government agencies, private sector and
47 civil society organizations, in promoting preventive measures that shall focus on

1 the positive roles of persons living with HIV. Such preventive measures shall
2 cover, among others: (i) the creation of rights-based and community-led behavior
3 change programs that seek to encourage HIV risk reduction behavior among
4 persons living with HIV; (ii) the establishment and enforcement of rights-based
5 mechanisms to encourage newly tested HIV-positive individuals to conduct sexual
6 contact tracing and to promote HIV status disclosure to sexual partners; (iii) the
7 establishment of standard precautionary measures in public and private health
8 facilities; (iv) the accessibility of anti-retroviral treatment, management of
9 opportunistic infections, and health services related to sexually transmitted
10 infections; and (v) the mobilization of communities of persons living with HIV, for
11 public awareness campaigns and stigma reduction activities. The enforcement of
12 this provision shall not lead to or result in the discrimination or violation of the
13 rights of persons living with HIV.

14 f. *Preventing Mother-to-Child HIV Transmission* - The DOH shall establish a
15 program to prevent mother-to-child HIV transmission that shall be integrated in its
16 maternal and child health services.

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

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

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

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

38 **SEC. 9. Treatment, Care and Support for Persons Living with HIV and AIDS.**

39 -
40 a. *National HIV and AIDS Treatment Program*. - The DOH shall establish a program to
41 provide free and accessible anti-retroviral treatment to all indigents living with HIV
42 and AIDS. Free medication for opportunistic infections shall also be provided to
43 persons living with HIV who are enrolled in the program. It shall likewise establish or
44 accredit public and private treatment hubs and shall have the authority to develop
45 guidelines on the provision of anti-retrovirals.

46 b. *Health Insurance*. - The Philippine National Health Insurance Corporation
47 (PHILHEALTH) shall develop an insurance package for persons living with HIV that
48 shall include coverage for in-patient and out-patient medical and diagnostic services,

1 including medication and treatment. The PHILHEALTH shall enforce confidentiality in
2 the provision of these packages to persons living with HIV.

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

7 c. *Economic Empowerment and Support* - Persons living with HIV shall not be deprived
8 of any employment, livelihood, micro-finance, self-help, and cooperative programs by
9 reason of their HIV status. The DOLE, and the DSWD, in coordination with the
10 TESDA and with local government units, shall develop programs to ensure economic
11 empowerment and provide economic support to persons living with HIV.

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

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

23 **SEC. 10. *Stigma Reduction and Human Rights***. – The country's response to
24 the HIV and AIDS phenomena shall be anchored on the principles of human rights and
25 human dignity, and public health concerns shall be aligned with the following
26 internationally- recognized human rights instruments and standards:

27 a. *Prohibition on Compulsory HIV Testing* - As a policy, the State shall encourage
28 voluntary HIV testing. Written consent from the person taking the test must be
29 obtained before HIV testing. If the person is below fifteen (15) years of age or is
30 mentally incapacitated, such consent shall be obtained from the child's parents, legal
31 guardian, or whenever applicable, from the licensed social worker, licensed health
32 service providers, or a DOH-accredited health service provider assigned to provide
33 health services to the child.

34 In keeping with the principle of "*evolving capacities of the child*" as defined in Section
35 3 (g) of this Act, HIV testing and counseling shall be made available to a child under
36 the following conditions:

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

40 2. Reasonable efforts were undertaken to locate, provide counseling to, and to
41 obtain the consent of, the parents, but the parents are absent or cannot be
42 located, or otherwise refuse to give their consent;

43 3. Proper counseling shall be conducted by a social worker, health care provider
44 or other health care professional, accredited by the DOH or DSWD; and

45 4. The licensed social worker, health care provider or other health care
46 professional shall determine that the child is "*at higher risk of HIV exposure*,"

1 as defined in Section 3 (o) of this Act, and that the conduct of the testing and
2 counseling is in the child's best interest and welfare.

3 *b. Compulsory HIV Testing* - Compulsory HIV testing shall be allowed only in the
4 following instances:

5 1. A person is charged with any of the offenses punishable under Articles 264,
6 266, 335 and 338 of the Revised Penal Code, as amended by Republic Act
7 No. 8353, otherwise known as the Anti-Rape Law of 1997;

8 2. The determination of HIV status is necessary to resolve the relevant issues
9 under the Family Code;

10 3. To comply with the provisions of Republic Act No. 7170, also known as the
11 "Organ Donation Act of 1991" ;

12 4. To comply with the provisions of Republic Act No. 7719, otherwise known as
13 the "National Blood Services Act of 1994"; and

14 5. Pre-surgical screening test as a precaution against transmission of blood-
15 borne infection.

16
17 *c. Stigma-Free HIV and AIDS Services* - The PNAC, in cooperation with public and
18 private HIV and AIDS service providers and civil society organizations, and in
19 collaboration with the Commission on Human Rights, shall ensure the delivery of
20 stigma-free HIV and AIDS services by government and private HIV and AIDS service
21 providers.

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

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

26 2. A person has executed a legacy in accordance with Sec. 3 of Republic Act No.
27 7170; and

28 3. A donation is executed in accordance with Sec. 4 of Republic Act No. 7170.

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

34 *f. Redress Mechanism.* - The Department of Justice and the Commission on Human
35 Rights shall take the lead in developing redress mechanisms for persons living with
36 HIV to ensure that their civil, political, economic and social rights are protected.

37 *g. Acts of Discrimination.* - The following discriminatory acts shall be prohibited:

38 1. Rejection of job application, termination of employment, or other
39 discriminatory policies in hiring, provision of employment and other related
40 benefits, promotion or assignment of an individual solely or partially on the
41 basis of actual, perceived, or suspected HIV status;

- 1 2. Refusal of admission, expulsion, segregation, imposition of harsher
2 disciplinary actions, or denial of services or benefits, of a student or
3 prospective student solely or partially on the basis of actual, perceived or
4 suspected HIV status;
- 5 3. Restrictions on travel within the Philippines, refusal of lawful entry to the
6 Philippine territory, deportation from the Philippines, or the quarantine or
7 enforced isolation of travelers solely or partially actual, perceived or suspected
8 HIV status;
- 9 4. Restrictions on housing or lodging solely or partially on the basis of actual,
10 perceived 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,
14 including the extension of such loan or insurance facilities, of an individual
15 solely or partially on the basis of actual, perceived or suspected HIV status:
16 *Provided, That the person living with HIV has not misrepresented the fact to*
17 *the insurance company or loan or credit 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
21 was known, suspected or perceived to be HIV positive; and
- 22 9. Other similar or analogous discriminatory acts.

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

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

- 35 a. *Confidential HIV and AIDS Information* - Unless otherwise provided in Section 12 (c)
36 of this Act, it shall be unlawful to disclose, without written consent, information that a
37 person:
38 1. Had an HIV-related test;
39 2. Has HIV infection, HIV-related illnesses, or AIDS; or
40 3. Has been exposed to HIV.

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

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

7 *b. Release of HIV Testing and HIV-Related Test Result.* - The result of any HIV testing
8 or HIV-related testing shall be released only to the individual who submitted to the
9 test, or the spouse, upon receipt of post-test counseling, if applicable. If the patient is
10 a minor, an orphan, or is mentally incapacitated, the result may be released to either
11 of the patient's parents, legal guardian, or a duly assigned social worker, whichever is
12 applicable.

13 *c. Exemptions.* - Confidential HIV and AIDS information may be released by HIV testing
14 facilities without written consent on the following grounds:

15 1. When complying with the reportorial requirements of the national active and
16 passive surveillance system of the DOH: *Provided*, That the information
17 related to a person's identity shall remain confidential;

18 2. When informing other health workers directly involved in the treatment or
19 care of a person living with HIV: *Provided*, That such workers shall be required
20 to perform the duty of shared medical confidentiality;

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

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

34 *e. Civil Liability* - Any person who has obtained knowledge of confidential HIV and AIDS
35 information and has used such information to malign or cause damage, injury, or loss
36 to another person may face liability under Articles 19, 20, 21, and 26 of the Civil
37 Code.

38 **SEC. 13. National HIV and AIDS Program.** - A six-year National HIV and AIDS
39 Program shall be formulated and periodically updated by PNAC. The Program shall
40 comprise of the following: a). the country's targets and strategies in addressing the
41 epidemic; b) the prevention, treatment, care and support, and other components of the
42 country response; c) the five-year operationalization of the program and the
43 identification of the government agencies that shall implement the program from the
44 national to the local levels; and d) the budgetary requirements and a corollary
45 investment plan that shall identify the sources of funds for its implementation.

46 **SEC. 14. National HIV and AIDS and STI Prevention and Control Program of**
47 **the Department of Health** - The National HIV and AIDS and STI Prevention and
48 Control Program (NASPCP) of the Department of Health, which shall be staffed by

1 qualified medical specialist and support personnel with permanent appointments, shall
2 coordinate with PNAC for the implementation of the health sector's HIV and AIDS and
3 STI response, as identified in the National HIV and AIDS Program.

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

- 7 a. Determine and monitor the magnitude and progression of HIV and AIDS in the
8 Philippines to help the national response determine the efficacy and adequacy of HIV
9 prevention and treatment programs;
- 10 b. Receive, collate, process, and evaluate all HIV and AIDS-related medical reports
11 from all hospitals, clinics, laboratories and testing centers, including HIV-related
12 deaths and all relevant data from public and private hospitals, various databanks or
13 information systems: *Provided*, That it shall adopt a coding system that ensures
14 anonymity and confidentiality; and
- 15 c. Submit an annual report to the Office of the President, Congress, and members of
16 the PNAC the findings of its monitoring and evaluation activities in compliance with
17 this mandate.

18 **SEC. 16. Misinformation on HIV and AIDS as a Prohibited Act.** -
19 Misinformation on HIV and AIDS through false and misleading advertising and claims,
20 or the promotional marketing of drugs, devices, agents or procedures without prior
21 approval from the PNAC, and the Food and Drug Authority (FDA) and the requisite
22 medical and scientific basis, including markings and indications in drugs and devices or
23 agents, purporting to be a cure or a fail-safe prophylactic for HIV infection, shall be
24 prohibited.

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

30 The DILG and DOH, in coordination with the DDB, shall establish a national policy to
31 guarantee the implementation of this provision.

32 **SEC. 18. Penalties.** - The following penalties and sanctions shall be imposed for
33 the offenses enumerated in this Act:

- 34 a. Any person found guilty of violating Section 9 (b); Section 10 (b) ; Section 10 (g); and
35 Section 12 (a, b ,c and e) of this Act shall suffer the penalty of imprisonment for six
36 (6) months to five (5) years and/or a fine of not less than Fifty Thousand Pesos (P50,
37 000.00) but not more than Five Hundred Thousand Pesos (P500,000.00), without
38 prejudice to the imposition of administrative sanctions such as fines and suspension
39 or revocation of the entity's business permit, license or accreditation or the
40 individual's license to practice his or her profession.
- 41 b. Any person who commits any act of discrimination as stipulated in Section 10 (g) of
42 this Act may face liability under Articles 19, 20, and 21 of the Civil Code.
- 43 c. Any person found guilty of violating Section 11 of this Act shall suffer the penalty of
44 imprisonment for six (6) months to five (5) years and a fine of not less than One
45 Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred Thousand

1 Pesos (P500,000.00): Provided, That if the violator is a law enforcer or a public
2 official, administrative sanctions may be imposed in addition to the above penalties.

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

7 e. Any person or any law enforcer found guilty of violating Section 17 of this Act shall
8 suffer the penalty of imprisonment for one (1) year to five (5) years and a fine of not
9 less than One Hundred Thousand Pesos (P100,000.00) but not more than Five
10 Hundred Thousand Pesos (P500,000.00). Law enforcers found guilty of violating this
11 section shall be removed from public service.

12 f. Any person who knowingly or negligently causes another to get infected with HIV in
13 the course of the practice of one's profession through unsafe and unsanitary practice
14 or procedure is liable to suffer a penalty of imprisonment for six (6) years to twelve
15 (12) years, without prejudice to the imposition of administrative sanctions such as
16 fines and suspension or revocation of the license to practice one's profession. The
17 permit or license of any business entity and the accreditation of HIV testing centers
18 may be cancelled or withdrawn if said establishments fail to maintain such safe
19 practices and procedures as may be required by the guidelines formulated in
20 compliance with Section 8 (g) (2) of this Act.

21 The penalties collected pursuant to this Section shall be deposited in the National
22 Treasury as income of the general fund.

23 **SEC. 19. Duty of Employers, Heads of Government Offices, Heads of Public and**
24 **Private Schools or Training Institutions, and Local Chief Executives.** It shall be the duty
25 of private employers, heads of the government offices, heads of private and public
26 schools or training institutions, and local chief executives over all private establishments
27 within their territorial jurisdiction, to prevent or deter acts of discrimination against
28 persons living with HIV, and to provide for procedures for the resolution, settlement, or
29 prosecution of acts of discrimination. Towards this end, the employer, head of office or
30 local chief executive shall:

31 a. Promulgate rules and regulations prescribing the procedure for the investigation of
32 discrimination cases and the administrative sanctions thereof;

33 b. Create a permanent committee on the investigation of discrimination cases. The
34 committee shall conduct meetings to increase the knowledge and understanding of
35 HIV and AIDS, and to prevent incidents of discrimination. It shall also conduct the
36 administrative investigation of alleged cases of discrimination.

37 **SEC.20. Congressional Oversight Committee.** - To ensure the effective
38 implementation of this Act, a Congressional Oversight Committee shall be established,
39 hereinafter referred to as the HIV and AIDS Oversight Committee, that shall be
40 composed of three members (3) from the Senate, who shall include the Chairperson of
41 the Senate Committee on Health and Demography, and three (3) members from the
42 House of Representatives, who shall include the Chairperson of the House Committee
43 on Health. The HIV and AIDS Oversight Committee shall be jointly chaired by the
44 Chairpersons of the Senate Committee on Health and Demography and the House
45 Committee on Health.

46 The oversight committee shall exist for a period not exceeding three (3) years from the
47 effectivity of this Act, after which the oversight functions shall be undertaken by the

1 Committee on Health and Demography of the Senate of the Philippines and the
2 Committee on Health of the House of Representatives.

3 **SEC. 21. Appropriations.** - The initial amount necessary to implement the
4 provisions of this Act shall be charged against the current year's appropriation of the
5 Philippine National AIDS Council under the Department of Health. Thereafter, such
6 sums as maybe necessary for the continued implementation of this Act shall be
7 included in the Annual General Appropriations Act.

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

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

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

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

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

24 **Approved,**