

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



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SENATE  
S. No. 2822

RECEIVED BY: J.

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Introduced by Senator Miriam Defensor Santiago

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AN ACT  
DEFINING AND PENALIZING THE CRIMES OF RECKLESS ENDANGERMENT  
OF THE PUBLIC HEALTH AND OFFERING FALSE STATEMENTS WHICH  
ENDANGERS THE PUBLIC HEALTH

EXPLANATORY NOTE

The Constitution, Article 2, Section 15, provides:

Section 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.

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.<sup>1</sup>

  
MIRIAM DEFENSOR SANTIAGO  
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<sup>1</sup> This bill was originally filed in the Fourteenth Congress, First Regular Session.

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

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

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

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

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

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

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

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

1           SECTION 3. *Reckless Endangerment to the Public Health.* – A person is guilty of  
2 reckless endangerment to the public health when he or she has tested positively for HIV  
3 or AIDS and then recklessly engages in conduct which results in the transmission of HIV  
4 or AIDS to another person who was unaware of such condition. A person is guilty of  
5 reckless endangerment to the public health in the frustrated stage when he or she has  
6 tested positively for HIV or AIDS and then recklessly engages in conduct which creates a  
7 substantial risk of the transmission of HIV or AIDS to another person who was unaware  
8 of such condition.

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

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

23           SECTION 6. *HIV-Related Testing of Alleged Sex and Public Health Offenders.* –

24           (A) A police officer who makes an arrest for any crime where the defendant has  
25 committed or is about to commit a sex or public health offense, either with or without a

1 warrant, shall, following such arrest or the arraignment upon a court of competent  
2 jurisdiction accusatory instrument of a defendant whose court attendance has been  
3 secured by a summons or an appearance ticket, cause such defendant to be immediately  
4 given an HIV -related test to determine if such defendant has HIV infection, HIV-related  
5 illness or AIDS.

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

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

13 SECTION 7. *Appropriations.* – To carry out the provisions of this Act, such  
14 amount as may be necessary is hereby authorized to be appropriated from the  
15 National Treasury. Thereafter, the amount necessary for the continuous operation of this  
16 program shall be included in the annual appropriation of DOH.

17 SECTION 8. *Separability Clause.* – If any provision of this Act is held invalid or  
18 unconstitutional, the same shall not affect the validity and effectivity of the other  
19 provisions hereof.

20 SECTION 9. *Repealing Clause.* – All laws, decrees, orders, and issuances, or  
21 portions thereof, which are inconsistent with the provisions of this Act, are hereby  
22 repealed, amended or modified accordingly.

1           SECTION 10. *Effectivity Clause.* – This Act shall take effect fifteen (15) days  
2 after its publication in the *Official Gazette* or in two (2) newspapers of general  
3 circulation.

Approved,

/apm5June2015