

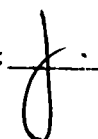
SEVENTEENTH CONGRESS
THE REPUBLIC OF THE PHILIPPINES
First Regular Session



16 JUL 18 P6:06

SENATE

S.B. NO. 393

RECEIVED BY: 

Introduced by SENATOR LOREN LEGARDA

AN ACT STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HIV AND AIDS PREVENTION, TREATMENT, CARE, AND SUPPORT, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 8504, OTHERWISE KNOWN AS "THE PHILIPPINE AIDS PREVENTION AND CONTROL ACT OF 1998", AND APPROPRIATING FUNDS THEREFOR

Explanatory Note

Amidst the continuous rise of human immunodeficiency virus (HIV) infection, there is an urgent need for the government to reform its policy on the prevention and control of the disease through the passage of a new law. The Department of Health fears that the country's total HIV infections could reach 133,000 in the next seven years unless the government undertakes measures to promote early detection, especially among the youth where the disease is spreading at a fast rate.

At present, the DOH has identified eight cities—Cebu, Cagayan de Oro, Puerto Princesa, Quezon City, Mandaue, Parañaque, Davao, and Makati, that have already breached the 5% threshold of HIV prevalence among men and transgender women. As determined by the United Nations, the 5% threshold is considered as the threshold whereby a specific area shall be considered as suffering from a concentrated epidemic.

Among the important provisions of the proposed measure are the following:

- Inclusion of representatives from local communities, civil society organizations, and organizations of persons living with HIV in the Philippine National AIDS Council as part of a multi-sectoral approach in addressing the HIV epidemic;
- Requirement for local government units to implement a locally-based multi-sectoral response to HIV with LGUs authorized to utilize the Gender and Development (GAD) Funds and other sources of funding for HIV and AIDS education;
- In cases where a parent or legal guardian refuses to give their consent for any child below 15 years of age prior to testing, consent may be obtained from a licensed social worker in case the child is determined

to be at a higher risk of HIV exposure and the conduct of testing is in the best interest of the child.

In view of the foregoing, the passage of the measure is earnestly requested.

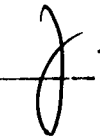


LOREN LEGARDA
Senator

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

**ARTICLE I
GENERAL PROVISIONS**

- 1 **SECTION 1. Short Title.** - The Act shall be known as the "Philippine HIV and
2 AIDS Act."
3
- 4 **SEC. 2. Declaration of Policy.** - The Human Immunodeficiency Virus (HIV)
5 and Acquired Immune Deficiency Syndrome (AIDS) are public health concerns
6 that have wide-ranging social, political, and economic repercussions.
7 Responding to the HIV and AIDS epidemic is therefore imbued with public
8 interest and shall be anchored on the principles of human rights and human
9 dignity. Accordingly, the State shall:
10
- 11 a) Establish policies and programs to prevent the spread of HIV and
12 deliver treatment, care, and support service to Filipinos living with
13 HIV in accordance with evidence-based strategies and approaches
14 that follow the principles of human rights, gender-responsiveness,
15 and meaningful participation of communities affected by the
16 epidemic;
17
- 18 b) Adopt a multi-sectoral approach in responding to the HIV epidemic by
19 ensuring that local communities, civil society organizations (CSOCs)
20 and person living with HIV are involved in the process;
21
- 22 c) Remove all barriers to HIV and AIDS-related services by eliminating
23 the climate of stigma that surrounds the epidemic and the people
24 directly and indirectly affected by it; and
25
- 26 d) Positively address and seek to eradicate conditions that aggravate the
27 spread of HIV infection, which include poverty, gender inequality,
28 prostitution, drug abuse and ignorance.
29

1 Respect for, protection, and promotion of human rights are the cornerstone of
2 an effective response to the HIV epidemic. Towards this end, the State shall
3 ensure the delivery of non-discriminatory HIV and AIDS services by
4 Government and private HIV and AIDS service providers and develop redress
5 mechanisms for persons living with HIV to ensure that their civil, political,
6 economic and social rights are protected. HIV and AIDS education and
7 information dissemination shall likewise form part of the right to health. And
8 unless otherwise provided in this Act, the confidentiality, anonymity, and
9 voluntary nature of HIV testing and HIV-related testing shall always be
10 guaranteed and protected by the state.

11
12 **SEC.3. Definition of Terms.** – As used in this Act, the following terms shall be
13 defined as follows:

14
15 (a) **Acquired Immune Deficiency Syndrome (AIDS)** refers to a health
16 condition where there is a deficiency of the immune system that stems from
17 infection with HIV, making an individual susceptible to opportunistic
18 infections.

19 (b) **Antiretroviral (ARV)** refers to the treatment that stops or suppresses viral
20 replication or replications of a retrovirus like HIV thereby slowing down the
21 progression of infection.

22 (c) **Civil Society Organizations (CSOs)** refer to groups of non-governmental
23 and non-commercial individuals or legal entities that are engaged in non-
24 coerced collective action around shared interests, purpose, and values.

25 (d) **Community-Based Research** refers to research study undertaken in
26 community setting and which involve community members in the design and
27 implementation of research projects.

28 (e) **Discrimination** refers to any action taken to distinguish, exclude, restrict or
29 show preference based on HIV status, whether actual or perceived, and which
30 has the purpose or effect of nullifying or impairing the recognition, enjoyment
31 or exercise by all persons similarly situated, of all rights and freedoms.

32 (f) **Evolving Capacities of Children** refer to the concept enshrined in Article 5
33 of the Convention on the Rights of the Child recognizing the development
34 changes and the corresponding progress in cognitive abilities and capacity for
35 self-determination undergone by children as they grow up thus requiring
36 parents and other charged with the responsibility for the child to provide
37 varying degrees of protection and to allow their participation in opportunities
38 for autonomous decision-making in different context and across different areas
39 of decision-making.

40 (g) **Gender Identity** refers to a person's internal and individual experience of
41 gender that may or may not correspond with the sex assigned at birth,
42 including the person's sense of the body, which may involve, if freely chosen,
43 modification of bodily appearance or function by medical, surgical and other
44 means, and experience of gender, among them, dress, speech, and mannerism.

45 (h) **High-risk Behavior** refers to a person's engagement in activities that
46 increase the risk of transmitting or acquiring HIV.

47 (i) **High-risk Occupation** refers to occupations which pose a high risk of
48 transmission of HIV and AIDS and STIs.

49 (j) **Human Immunodeficiency Virus (HIV)** refers to a virus which weakens and
50 destroys the human body's ability to fight infections and some cancers.

- 1 (k) **HIV and AIDS Counselor** refers to any individual trained by an institution
2 or organization accredited by the Department of Health (DOH) to provide
3 counseling services HIV and AIDS with emphasis on behavior modification.
- 4 (l) **HIV and AIDS Prevention and Control** refers to measures aimed at
5 protecting non-infected persons from contracting HIV and minimizing the
6 impact of the condition of persons living with HIV.
- 7 (m) **HIV Counseling** refers to a communication process between a client or
8 patient and a trained HIV counselor wherein the latter explores, discovers and
9 clarifies ways that will enable the client or patient to make an informed
10 decision in accessing available HIV-related services.
- 11 (n) **HIV-Positive** refers to the presence of HIV infection as documented by the
12 presence of HIV antibodies in the sample being tested.
- 13 (o) **HIV-Related Testing** refers to appropriate laboratory testing or procedure
14 done on an HIV-positive individual.
- 15 (p) **HIV Testing** refers to a procedure that is conducted to determine the
16 presence or absence of HIV infection in a person's body, is confidential,
17 voluntary in nature and must be accompanied by counseling prior to, and after
18 the testing, and conducted only with the informed consent of the person.
- 19 (q) **HIV Testing Facility** refers to any DOH-accredited in-site or mobile testing
20 center, hospital, clinic, laboratory and other facility that has the capacity to
21 conduct HIV counseling and HIV testing.
- 22 (r) **HIV Transmission** refers to the transfer of HIV from one infected person to
23 an uninfected individual, most commonly through sexual intercourse, blood
24 transfusion, sharing of intravenous needles, and vertical or mother-to-child
25 transmission.
- 26 (s) **Key Populations** refers to affected populations at higher risk of HIV
27 exposure as determined by the Philippine National AIDS Council (PNAC) whose
28 behavior make them more likely to be exposed to HIV or to transmit the virus.
- 29 (t) **Mandatory HIV Testing** refers to HIV testing which is required, regardless
30 of consent, due to special situations and circumstances.
- 31 (u) **Medical Confidentiality** refers to the relationship of trust and confidence
32 created or existing between a patient or a person living with HIV and his/her
33 attending physician, consulting medical specialist, nurse, medical technologist
34 and all other health workers or personnel involved in any counseling, testing or
35 provision of professional treatment, care and support of the former. It also
36 applies to any person to any person who, in any official capacity, has acquired
37 or may have acquired such confidential information.
- 38 (v) **Opportunistic Infection** refers to illnesses caused by various organisms,
39 many of which do not cause disease in persons with healthy immune system.
- 40 (w) **Partner Notification** refers to the process by which the 'index client',
41 'source' or 'patient' who has a sexually transmitted infection (STI) including
42 HIV, is given support in order to notify and advise the partners that have been
43 exposed to infection. Support includes giving the index client a mechanism to
44 encourage the client's partner to attend counseling, testing and other
45 prevention and treatment services. Confidentiality shall be observed in the
46 entire process.

- 1 (x) **Person Living with HIV** refers to any individual diagnosis to be infected
2 with HIV.
- 3 (y) **Pre-Test Counseling** refers to the process of providing an individual
4 information on the biomedical aspects of HIV and AIDS and emotional support
5 to any psychological implications of undergoing HIV and the test result itself
6 before the individual is subjected to the test.
- 7 (z) **Post-Test Counseling** refers to the process of providing risk-reduction
8 information and emotional support to a person who submitted to HIV testing at
9 the time the result is released.
- 10 (aa) **Prophylactic** refers to any agent or device used to prevent the
11 transmission of a disease.
- 12 (bb) **Provider-initiated Counseling and Testing** refers to a health care
13 provider initiating HIV anti-body testing to a person practicing high-risk
14 behavior or to a person vulnerable to HIV after conducting HIV pre-test
15 counseling.
- 16 (cc) **Routine HIV Testing** refers to HIV testing recommended at health care
17 facilities as a standard component of medical care and is part of the normal
18 standards of care offered irrespective of whether or not the patient has signs
19 and symptoms of underlying HIV infection or has other reasons for presenting
20 to the facility.
- 21 (dd) **Safer Sex Practices** refers to choices made and behaviors adopted by a
22 person to reduce or minimize the risk of HIV transmission, including but not
23 limited to abstinence, postponing sexual debut, non-penetrative sex, correct
24 and consistent use of male or female condoms, and reducing the number of
25 sexual partners.
- 26 (ee) Sexually Transmitted Infection (STIs) refers to infections that are spread
27 through the transfer of organisms from one person to another through sexual
28 contact.
- 29 (ff) **Sexual Orientation** refers to a person's sexual and emotional attraction to,
30 or intimate and sexual relationship with, individuals of different, the same, or
31 both sexes.
- 32 (gg) **Social Orientation** refers to a set of policies and programs designed to
33 reduce poverty and vulnerability by promoting efficient labor markets,
34 diminishing people's exposure to risks, and enhancing their capacity to protect
35 themselves against hazards and interruptions/loss of income.
- 36 (hh) **Stigma** refers to the dynamic devaluation and dehumanization of an
37 individual in the eyes of others which may be based on attributes that are
38 arbitrarily defined by others as discreditable or unworthy and which results in
39 discrimination when acted upon.
- 40 (ii) **Treatment Hubs** refers to private and public hospitals or medical
41 establishments accredited by the DOH to have the capacity and facility to
42 manage HIV patients medically.
- 43 (jj) **Vulnerable Communities** refer to communities and groups who are
44 suffering from vulnerable such unequal opportunities, social exclusion,
45 poverty, unemployment, and other similar social, economic, cultural and
46 political conditions, making them more susceptible to HIV infection and to
47 developing AIDS.

1 (kk) **Workplace** refers to the office, premise or work site where workers are
2 habitually work site, regularly report for assignment in the course of their
3 employment.

4 **ARTICLE II**
5 **PHILIPPINE NATIONAL AIDS COUNCIL**

6
7 **SEC. 4. Philippine National AIDS Council (PNAC).** - The PNAC, established
8 under Section 43 of R.A. 8504 otherwise known as the "Philippine AIDS
9 Prevention and Control Act of 1998", shall be reconstituted and streamlined to
10 ensure the Implementation of the country's response to HIV and AIDS
11 epidemic.

12 **SEC. 5. Function of the PNAC.** - The shall be the central advisory, planning,
13 and policy-making body for the comprehensive and integrated HIV and AIDS
14 prevention and control program in the Philippines. The PNAC shall perform the
15 following functions:

16 1. Development the National HIV and AIDS Program in collaboration with
17 relevant government agencies and CSOs;

18 2. Issue guidelines and policies that are stipulated in this Act including
19 other policies that may be necessary to implement the National HIV and AIDS
20 program;

21 3. Strengthen the collaboration between government agencies and CSOs
22 involved in the implementation of the National HIV and AIDS Program,
23 including the delivery of HIV and AIDS related services;

24 4. Coordinate, organize, and work in partnership with foreign and
25 international organizations regarding funding, data collection, research, and
26 prevention and treatment modalities on HIV and AIDS;

27 5. Advocate for policy reforms to Congress and other government
28 agencies to strengthen the country's response to the epidemic; and

29 6. Submit an annual report, including the findings of the DOH on
30 monitoring and evaluation of the National HIV and AIDS Program, to the Office
31 of the President, Congress, and members of the PNAC.

32 **SEC. 6. Membership, Composition, Appointment, Quorum and Term of**
33 **Office.-**

34 (a) The PNAC shall be composed of twenty three (23) members as follows:

35 1. The Secretary of the DOH;

36 2. The Secretary of the Department of Education (DepEd) or his/her
37 representative;

38 3. The Secretary of the Department of Labor and Employment (DOLE) or
39 his/her representative;

40 4. The Secretary of the Department of Social Welfare and Development
41 (DSWD) or his/her representative;

42 5. The Secretary of the Department of Interior and Local Government
43 (DILG) or his/her representative;

44 6. The Secretary of the Department of Justice (DOJ) or his/her
45 representative;

46 7. The Secretary of the Department of Foreign Affairs (DFA) or his/her
47 representative;

48 8. The Secretary of the Department of Budget and Management (DBM) or
49 his/her representative;

- 1 9. The Chair of the Civil Service Commission (CSC) or his/her
- 2 representative;
- 3 10. The Director General of the Technical Education and Skills
- 4 Development Authority (TESDA) or his/her representatives;
- 5 11. The Director-General of the National Economic and development
- 6 Authority (NEDA) or his/her representatives;
- 7 12. The President of the League of provinces or his/her representatives;
- 8 13. The President of the League of Cities or his/her representatives;
- 9 14. The Commissioner of the Insurance Commission (IC) or his/her
- 10 representatives;
- 11 15. The Head of the Philippine Information Agency (PIA) or his/her
- 12 representatives;
- 13 16. The Chairperson of the National Youth Commission (NYC) or his/her
- 14 representatives;
- 15 17. Two (2) representatives from medical/health organizations;
- 16 18. Three (3) representatives from CSOs; and
- 17 19. Two (2) persons living with HIV.

18
19 (b) Members of the PNAC shall be appointed by the President of the
20 Republic of the Philippines;

21
22 (c) The members of the PNAC shall be appointed not later than thirty (30)
23 days after the date enactment of this Act;

24
25 (d) The Secretary of Health shall be the permanent chairperson of the
26 PNAC; however, the vice-chairperson shall be elected by its members from
27 among themselves, and shall serve for a term of two (2) years; and

28
29 (e) For the two (2) members representing medical/health professional
30 groups, the three (3) members representing the CSOs, and two (2) persons
31 living with HIV, they shall serve for a term of two (2) years, renewable upon
32 recommendation of the PNAC.

33 **SEC. 7. Secretariat.** – The National HIV and AIDS and STI Prevention and
34 Control Program (NASPCP) of the DOH shall now be known as the National HIV
35 and AIDS and STI Prevention and Control Service (NASPCS) shall serve as the
36 Secretariat of the PNAC.

37 The NASPCS shall be composed of qualified medical specialists and
38 support personnel. It shall have an adequate yearly budget necessary for the
39 implementation of this Act.

40 The current personnel of the NASPCP shall be transferred to the
41 NASPCS. There shall be no demotion of ranks and position and no diminution
42 in salaries, benefits, allowance, and emoluments.

43 The NASPCS shall:

- 44 (a) Assists the PNAC in the development of the National Multi-Sector HIV
- 45 and AIDS strategic Plan and the AIDS Medium Term Plan (AMTP);
- 46 (b) Ensure the operationalization and implementation of the National
- 47 Multi-Sectoral HIV and AIDS Strategic Plan and the AMTP; and
- 48 (c) Coordinate with the PNAC for the implementation of the health
- 49 sector's HIV and AIDS and STI response, as identified in the National
- 50 Multi-Sectoral HIV and AIDS Strategic Plan and the AMPT.

Sec. 8. National Multi-Sectoral HIV and AIDS Strategic Plan. – A six-year National Multi-Sectoral HIV and AIDS Strategic Plan and AMPT shall be formulated and periodically updated by the PNAC. The AMPT shall include 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's response to HIV and AIDS;
- (c) The six-year operationalization of the program and identification of the government agencies that shall implement the program, including the designated offices within each agency responsible for overseeing, coordinating, facilitating and/or monitoring the implementation of its AIDS program from the national to the local levels; and
- (d) The budgetary requirements and a corollary investment plan that shall identify the sources of funds for its implementation.

ARTICLE III EDUCATION AND INFORMATION

SEC. 9. Education and Prevention Program. – There shall be an HIV and AIDS education and prevention program that shall educate the public on HIV and AIDS as well as other STIs, with the goal of reducing high-risk behavior, lowering vulnerabilities, and promoting the human rights of persons living with HIV. The PNAC shall promote and adopt a range of measures and interventions, in consultation with CSOs, that aim to prevent, halt, or control the spread of HIV in the general population, especially among the key populations and vulnerable communities. These measures shall likewise promote the rights, welfare, and participation of persons living with HIV and the affected children, young people, families and partners living with HIV.

The HIV and AIDS education and prevention programs shall be age-appropriate and based on up-to-date evidence and scientific strategies, and shall actively promote:

- (a) Safer sex practices among the general population, especially among key populations;
- (b) Safer sex practices that reduce risk of HIV infection;
- (c) Universal access to evidence-based and relevant information and education, and medically safe, legal, affordable, effective and quality treatment;
- (d) Sexual abstinence and sexual fidelity; and
- (e) Consistent and correct condom use.

SEC. 10. HIV and AIDS Education in Learning Institutions. – Using official information and data from the PNAC, the DepEd, the Commission on Higher Education (CHED), and the 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 STIs in subjects taught and private learning institute at intermediate grades, secondary, and tertiary levels, including non-formal and indigenous learning system.

The learning modules shall include human rights-based principles and information on treatment, care, and support to promote stigma reduction. The learning modules that shall be developed to implement this provision shall be done in coordination with the PNAC and stakeholders in the education sector. Referral mechanisms, including but not limited to the DSWD Referral System,

1 shall be included in the modules for key populations and vulnerable
2 communities.

3 All teachers and instructors to be assigned to handle these learning modules
4 shall be required to undergo seminars or trainings on HIV and aids prevention
5 that shall be supervised by the PNAC in coordination with concerned agencies.

6 **SEC. 11. HIV and AIDS Education in the Workplace.** – All public and private
7 employees, workers, managers, and supervisors, including members of the
8 Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP),
9 shall be regularly provided with standardized basic information and instruction
10 on HIV and AIDS, including topics on confidentiality in the workplace and the
11 workplace and reduction or elimination of stigma and discrimination. The
12 DOLE, CSC, AFP, and PNP shall implement this provision.

13 **SEC. 12. HIV and AIDS Education for Filipinos Going Abroad.** – The PNAC,
14 in coordination with the DFA, DOLE, Overseas Workers Welfare Administration
15 (OWWA) and Commission on Filipinos Overseas (CFO), shall ensure that all
16 overseas Filipino workers, including diplomatic, military, trade, labor officials,
17 personnel, and their families to be assigned overseas, shall undergo or attend a
18 seminar on HIV and AIDS and shall be provided with information on how to
19 access on-site HIV-related services and facilities before certification for
20 overseas assignment.

21 **SEC. 13. HIV and AIDS Information for Tourists and Transients.** –
22 Educational materials on the cause, models of transmission, prevention, and
23 consequences of HIV infection and list of HIV counseling and testing facilities
24 shall be adequately provided at all international and local ports of entry and
25 exit. The Department of Tourism (DOT), DFA, Department of Transportation
26 and Communication (DOTC) and Bureau of Quarantine (BOQ), in coordination
27 with the PNAC and stakeholders in the tourism industry, shall lead the
28 implementation of this Section.

29 **SEC. 14. HIV and AIDS Education in Communities.** – Local Government
30 Units (LGUs), through the Local HIV and AIDS Council (LAC) or the Local
31 Health Boards, and in coordination with the PNAC, the DILG, and league of
32 Local Governments, shall implement a locally-based multi-sectoral response to
33 HIV and AIDS through various channels on evidence-based, gender-responsive,
34 age-appropriate, and human rights-oriented prevention tools to stop the spread
35 of HIV.

36 For these purposes, the LGUs and other concerned agencies are hereby
37 authorized to utilize the Gender and Development (GAD) funds and other
38 sources for HIV and AIDS education in communities.

39 In coordination with the DSWD, LGUs shall also conduct age-appropriate HIV
40 and AIDS education for out-of-school youths.

41 **SEC. 15. HIV and AIDS Education for Key Populations and Vulnerable**
42 **Communities.** – To ensure that HIV services reach key populations, the state,
43 through the PNAC and In collaboration with CSOs, shall support and provide
44 funding for HIV and AIDS education programs, such as peer education,
45 outreach activities, and community-based research. The DOH, in coordination
46 with appropriate agencies and the PNAC, shall craft the guidelines and
47 standardized information message for peer education and outreach activities
48 which be undertaken in various settings including laboratory-based activities.
49

1 The LGUs shall implement a locally-based multi-sectoral response to HIV. For
2 these purposes, the LGUs are hereby authorized to utilize the GAD Funds and
3 other sources for HIV and AIDS education in communities.

4
5 **SEC. 16. HIV and AIDS Prevention in Prisons and Others Closed-Setting. –**

6 The DOH shall, in coordination with the Bureau of Jail Management and
7 Penology (BJMP), through the DILG, Bureau of Corrections (BuCor), LGUs, and
8 DSWD, develop an HIV and AIDS comprehensive programs which will be
9 implemented in all prisons, rehabilitation centers, and other closed-setting
10 institutions. The program shall include HIV education and information, HIV
11 counselling and testing and access to HIV treatment and care services, among
12 others.

13
14 Persons living with HIV in prisons and closed-settings shall be provided HIV
15 treatment, which includes ARV and care and support, in accordance with the
16 guidelines of the DOH and the Philippine National Health Insurance
17 Corporation (PhilHealth). Efforts should be undertaken to ensure the continuity
18 of care at all stages, from admission or imprisonment to release. The provision
19 on informed consent and confidentiality shall also apply in closed-settings.

20
21 **SEC. 17. HIV and AIDS Information on Prophylactics. –** Appropriate
22 information shall be attached to or provided with every prophylactic offered for
23 sale or given as a donation. Such information shall be legibly printed in English
24 and Filipino, and contain literature on the proper use of the prophylactic device
25 or agent, and its efficacy against HIV and STIs.

26
27 **SEC. 18. Misinformation on HIV and AIDS. –** Misinformation on HIV and
28 AIDS, which includes false and misleading advertising and claims in any of the
29 multimedia or the promotional marketing of drugs, devices, agents or
30 procedures without prior approval from the DOH through the Food and Drug
31 Administration (FDA) and without the requisite medical and scientific basis,
32 including markings and indications in drugs and devices or agents, purporting
33 to be a cure or a fail-safe prophylactic for HIV infection, shall be prohibited.

34
35 **ARTICLE IV**
36 **PREVENTION**
37

38 **SEC. 19. Positive Health, Dignity and Prevention. –** The PNAC, in
39 coordination with the DOH, LGUs and other relevant government agencies,
40 private sector, CSOs, faith-based organizations, and persons living with HIV,
41 shall support preventive measures that shall focus on the positive roles of
42 persons living with HIV. Such preventive measures shall include the following:

- 43
44 a. Creation of rights-based and community-led behaviour medications
45 programs that seek to encourage HIV risk reduction behaviour among
46 persons living with HIV;
47
48 b. Establishment and enforcement of rights-based mechanisms to strongly
49 encourage newly tested HIV-positive individuals to conduct partner
50 notifications and to promote HIV status disclosure to sexual partners;
51
52 c. Establishment of standard precautionary measures in public and private
53 health facilities;
54 d. Accessibility of ARV treatment, management of opportunistic infections;
55 and

- 1 e. Mobilization of communities of persons living with HIV, for public
2 awareness campaigns and stigma reduction activities.
3

4 The enforcement of this Section shall not lead to or result in the discrimination
5 or violation of the rights of persons living with HIV.
6

7 **SEC. 20. Prohibition on the Use of Condoms, Other Safer Sex**
8 **Paraphernalia, and Sterile Injecting Equipment as Basis for Raids and**
9 **Similar Police Operation.** – It shall be unlawful to use the presence of used or
10 unused condoms, other safer sex paraphernalia, and sterile injecting
11 equipment to conduct raids or similar police operations in sites and venues of
12 HIV preventions interventions. The PNP, through the DILG and DOH, in
13 coordination with the Dangerous Drugs Board (DDB), shall establish a national
14 policy to guarantee the implementation of this provision.
15

16 **SEC. 21. Standard Precaution on the Donation of Blood, Tissue, or Organ.**
17 – The DOH shall enforce the following guidelines on donation of blood, tissue,
18 or organ:
19

- 20 a) A donation of tissue or organs, whether gratuitous or onerous, shall be
21 accepted by a laboratory or institution only after a sample from the donor
22 has been tested negative for HIV;
23
24 b) All donated blood shall also be subject to HIV testing. HIV-positive blood
25 shall be disposed of properly and immediately; and
26
27 c) A second testing may be demanded, as a matter of right, by the blood,
28 tissue, or organ recipients or their immediate relatives before transfusion
29 or transplant, except during emergency cases.
30

31 Donations of blood, tissue or organ testing positive for HIV may be accepted for
32 research purposes only, and shall be subjected to strict sanitary disposal
33 requirements.
34

35 **SEC. 22. Standard Precaution on Surgical and Other Similar Procedures.** –
36 The DOH shall, in consultation with concerned professional organizations and
37 hospital associations, issue guidelines in precautions against HIV transmission
38 during surgical, dental, embalming, body painting, or tattooing that require the
39 use of needles, or similar procedures. The necessary protective equipment such
40 as gloves, goggles, and gowns shall be prescribed and required, and made
41 available to all physicians and health care providers and similarly exposed
42 personnel at all times.
43

44 **ARTICLE V**
45 **TESTING, SCREENING, AND COUNSELING**
46

47 **SEC. 23 Voluntary and Opt-out Routine HIV Testing.** – As a policy, the state
48 shall encourage voluntary and opt-out routine HIV testing, including provider-
49 initiated counseling and testing, as part of clinical care in all health settings.
50 To this end, the DOH shall develop guidelines for HIV testing to ensure that
51 testing is voluntary and confidential, except as otherwise provided in this Act,
52 available at all times, and provided by qualified persons and DOH-accredited
53 providers.
54

55 In keeping with the principle of “evolving capacities of children” as defined in
56 Section 3 (f) of this Act, HIV testing shall be made available under the following
circumstances:

- 1 a) If the person is below fifteen (15) years of age or is mentally
2 incapacitated, consent to voluntary HIV testing shall be obtained from
3 the child's parents or legal guardian. In cases when the child's parents or
4 legal guardian cannot be found, despite reasonable efforts to locate the
5 parents were undertaken, the consent shall be obtained from licensed
6 social worker. If the child's parents or legal guardian refuse to give their
7 consent, the consent shall likewise be obtained from licensed social
8 worker if the latter determines that the child is at higher risk of HIV
9 exposure and the conduct of the voluntary HIV testing is in the best
10 interest of the child.
11
12 b) If the person is fifteen (15) to below eighteen (18) years of age, consent to
13 voluntary HIV testing shall be obtained from the child.
14

15 **SEC. 24. Mandatory HIV Testing.** – Mandatory HIV testing shall be allowed
16 only in the following instances:
17

- 18 a) When it is necessary to test a person who is charged with any of the
19 offenses punishable under Article 264,265,335, and 338 of the 'Revised
20 Penal Code,' as amended by Republic Act No. 8353 otherwise known as
21 the 'Anti-Rape Law of 1997';
22
23 b) When it is necessary to resolve relevant issues under Executive Order
24 No. 209, otherwise known as 'Family Code of the Philippines';
25
26 c) As a prerequisite in the donation of blood in compliance with the
27 provisions of Republic Act No. 7170, otherwise known as the 'Organ
28 Donation Act' and Republic Act No. 7719, otherwise known as the
29 'National Blood Services Act,' and
30
31 d) When already hired or is currently working in a high-risk occupation.
32

33 **SEC. 25. HIV Anti-Body Testing for Pregnant Women.** – The DOH shall
34 implement a program to prevent mother-to-child HIV transmission that shall
35 be integrated into its maternal and child health services.
36

37 A health care provider who offers pre-natal medical care shall conduct opt-out
38 routine HIV testing for pregnant women. The DOH shall provide the necessary
39 guidelines for healthcare providers in the conduct of the screening procedure.
40

41 **SEC. 26. Pre-test Counseling and Post-test Counseling.** – All HIV testing
42 facilities shall provide pre-test counseling and post-counseling to the person or
43 the child, and the parents or legal guardian of the child who wish to avail of
44 HIV testing, as may be applicable.
45

46 Pre-test counseling and post-test counseling shall be done by the HIV and
47 AIDS counselor, licensed social worker, licensed health service provider, or a
48 DOH-accredited health service provider assigned to provide health services:
49 Provided, that for government HIV testing facilities, pre-test counseling and
50 post-test counseling shall be provided for free.
51

52 The State shall ensure that specific approaches to HIV counseling and testing
53 are adopted based on the nature and extent of HIV and AIDS incidence in the
54 country. The DOH shall set the standard for HIV counseling and shall work
55 closely with CSOs that train HIV and AIDS counselors and peer educators.
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ARTICLE VI
HEALTH AND SUPPORT SERVICES

SEC. 27. Health Insurance. – The PhilHealth 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 PhilHealth shall enforce confidentiality in the provision of these packages to persons living with HIV.

No person living with HIV shall be denied or deprived of private health and life insurance coverage on the basis of the person's HIV status following the company's reasonable underwriting policies. The IC shall implement this provision and shall develop the necessary policies to ensure compliance.

SEC. 28. Treatment for Person Living with HIV and AIDS. – The DOH shall establish a program that will provide free and accessible ARV treatment and medication for opportunistic infections to persons living with HIV who are enrolled in the program. It shall likewise designate public and private hospitals to become treatment hubs with an established HIV and AIDS Core Team.

SEC. 29. Economic Empowerment and Support. – Persons living with HIV shall not be deprived of any employment, livelihood, micro-finance, self-help, and cooperative programs by reason of their HIV status, except as may be provided under this Act. The DSWD, in coordination with the DILG, DOLE and TESDA, shall develop enabling policies and guidelines to ensure economic empowerment and independence designed for persons living with HIV.

SEC. 30. Care and Support for Persons Living with HIV. – The DSWD, in coordination with DOH, 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.

SEC. 31. Care and Support for Overseas Filipinos Living with HIV. – The OWWA, in coordination with the DSWD, DOH, PhilHealth, DFA, Philippine Overseas Employment Administration (POEA), CFO, National Reintegration Center for OFWs (NRCO), and BOQ shall develop a program to provide a stigma-free comprehensive reintegration, care and support program, including economic, social and medical support, for overseas Filipinos who have been repatriated or are about to be repatriated due to their HIV status.

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ARTICLE VII
ACCREDITATION, MONITORING, AND EVALUATION

SEC. 32. Accreditation. – The DOH shall accredit:

- a) Public and private HIV testing facilities based on their capacity to deliver testing services including HIV counseling;
- b) Institutions or organizations that train HIV and AIDS counselor in coordination with DSWD; and
- c) Competent HIV and AIDS counselors for persons with disability, including but not limited to, translator for the hearing-impaired and

1 Braille for the visually-impaired clients in coordination with the National
2 Council for Disability Affairs (NCDA).
3

4 **SEC. 33. HIV and AIDS Monitoring and Evaluation.** – The DOH shall
5 maintain a comprehensive HIV and AIDS monitoring and evaluation program
6 that shall serve the following purposes:
7

- 8 a) Determine and monitor the magnitude and progression of HIV and AIDS
9 in the Philippines to help the national government evaluate the adequacy
10 and efficacy of HIV prevention and treatment programs being employed;
11
12 b) Receive, collate, process and evaluate all HIV and AIDS-related medical
13 reports from all hospitals, clinics, laboratories, and testing centers,
14 including HIV-related death and relevant data from public and private
15 hospitals, various databanks or information system: Provided, That it
16 shall adopt a coding system that ensures anonymity and confidentiality;
17 and
18
19 c) Submit an annual report to the PNAC containing the findings of its
20 monitoring and evaluation activities in compliance with his mandate.
21

22 **ARTICLE VIII**
23 **CONFIDENTIALITY**
24

25 **SEC. 34. Confidentiality.** – The confidentiality and privacy of any individual
26 who has been tested for HIV, exposed to HIV, has HIV infection or HIV and
27 AIDS-related illnesses, or was treated for HIV-related illnesses shall be
28 guaranteed. The following acts violate confidentiality and privacy;
29

- 30 a) **Release of HIV Testing and HIV-Related Test Result.**– The result of
31 any HIV testing or HIV-related testing shall be released only to the
32 individual who submitted to the test after receiving post-test counseling.
33 If a patient is below fifteen (15) years of age or is mentally incapacitated,
34 the result may be released to either of the patient's parents, legal
35 guardian, or the duly assigned licensed social worker, as may be
36 applicable. If the person is fifteen (15) to below eighteen (18) years of age,
37 the result shall be released only to the child tested after receiving post-
38 test counseling.
39
40 b) **Disclosure of Confidentiality HIV and AIDS Information.** – Unless
41 otherwise provided in Section 35 of this Act; it shall be unlawful to
42 disclose, without written consent, information that a person had an HIV-
43 related test, has HIV infection, HIV-related illnesses, or has been exposed
44 to HIV.
45

46 The prohibition shall apply to any person, natural or juridical, whose
47 work or function involves the implementation of this Act or the delivery of
48 HIV-related services, including those who handle or have access to
49 personal data or information in the workplace.
50

- 51 c) **Media Disclosure** – It shall be unlawful for any editor, publisher,
52 reporter or columnist in case of printed materials, or any announcer or
53 producer in case of television and radio broadcasting, or any producer or
54 director of films in case of the movie industry, to disclose the name,
55 picture, or any information that would reasonably identify any person
56 living with HIV or AIDS, or any confidential HIV and AIDS Information,

1 without the prior written consent of their subject except when the person
2 waives said confidentiality through his/her own acts and omissions.
3

4 **SEC. 35. Exemptions.** – Confidential HIV and AIDS information may be
5 released by HIV testing facilities without written consent on the following
6 grounds:
7

- 8 1. When complying with the reportorial requirements of the national active
9 and passive surveillance system of the DOH: Provided, That the
10 information related to a person's identity shall remain confidential;
11
- 12 2. When informing other health workers directly involved in the treatment
13 or care of a person living with HIV: Provided, That such workers shall be
14 required to perform the duty of shared medical confidentiality; and
15
- 16 3. When responding to a subpoena duces tecum and subpoena ad
17 testificandum issued by a Court with jurisdiction over a legal proceeding
18 where the main issue is the HIV status of an individual: Provided, That
19 the confidential medical record, after having been verified for accuracy by
20 the head of the office or department, shall be properly sealed by its lawful
21 custodian, hand delivered to the Court, and personally opened by the
22 judge: Provided, further, That the judicial proceedings shall be held in
23 executive session.
24

25 **SEC. 36. Disclosure to Sexual Partners.** – Any person who, after having been
26 tested, is found to be infected with HIV is obliged to disclose this health
27 condition to the spouse or sexual partner at the earliest opportune time. A
28 person living with HIV may opt to seek help from medical professionals, health
29 workers, or peer educators to support him in disclosing this health condition to
30 one's partner or spouse.
31

32 **ARTICLE IX** 33 **DISCRIMINATORY ACTS AND PRACTICES** 34

35 **SEC. 37. Discriminatory Acts and Practices.** – The following are
36 discriminatory acts and practices and shall be prohibited:
37

- 38 (a) **Discrimination in the Workplace.** – The rejection of job application,
39 termination of employment, or other discriminatory policies in hiring,
40 provision of employment, and other related benefits, promotion, or
41 assignment of an individual solely on the basis of actual, perceived, or
42 suspected HIV status;
43
- 44 (b) **Discrimination in Learning Institutions.** – Refusal of admission,
45 expulsion, segregation, imposition of harsher disciplinary actions, or
46 denial of benefits or services, of a student or prospective student solely
47 on the basis of actual, perceived, or suspected HIV status;
48
- 49 (c) **Restriction on Travel.** – Restriction on travel within the Philippines,
50 refusal of lawful entry to Philippines territory, deportation from the
51 Philippines, or the quarantine or enforced isolation of travellers solely on
52 account of actual, perceived, or suspected HIV status is discriminatory.
53 The same standard of protection shall be afforded to migrants, visitors,
54 and residents who are not Filipinos citizens;
- 55 (d) **Restriction on Habitation.** – Restriction on lodging solely on the basis of
56 actual, perceived, or suspected HIV status;

- 1
2 (e) **Inhibition from Public Services.** – Prohibition on the right to seek an
3 elective or appointive public office solely on the basis of actual, perceived,
4 or suspected HIV status;
5
6 (f) **Exclusion from Credit and Insurance Services.** – Exclusion from
7 health, accident, or life Insurance, credit and loan services, including the
8 extension of such loan or Insurance facilities, of an individual solely on
9 the basis of actual, perceived, or suspected HIV status despite having
10 undergone the company's reasonable underwriting processes and pricing
11 policies where the company's decision is other than non-acceptance of
12 the application: Provided, That the person living with HIV has not
13 concealed or misrepresented the fact to the insurance company, loan, or
14 credit service provider upon application;
15
16 (g) **Discrimination in Hospitals and Health Institutions.** – Denial of
17 health services or be charged with a higher fee for such health services,
18 on the basis of actual, perceived, or suspected HIV status;
19
20 (h) **Denial of Burial Services.** – Denial of embalming and burial services for
21 a deceased person who had HIV and AIDS or who was known, suspected,
22 or perceived to be HIV positive; and
23
24 (i) Other similar or analogous discriminatory acts.
25

26 **SEC. 38. Duty of Employers, Heads of Government Offices, Heads of**
27 **Public and Private Schools or Training Institutions, and Local Chief**
28 **Executives.** – It shall be the duty of private employers, heads of government
29 offices, heads of public and private schools or training institutions, and local
30 chief executives, over all private and private establishments within their
31 territorial jurisdiction, to establish guidelines that will prevent or deter acts of
32 discrimination as provided under Section 37 of this Act against persons living
33 with HIV and provide procedures for the resolution, settlement, or prosecution
34 of said acts of discrimination. Towards this end, the employer, head office, or
35 local chief executive shall, consistent with this Act and its rules, as well as
36 guidelines issued by the DOH and relevant government agencies:
37

- 38 (a) Promulgate rules and regulations prescribing the procedure for the
39 investigation of discrimination cases and the administrative sanctions
40 thereof; and
41
42 (b) Create a permanent committee on the investigation of discrimination
43 cases which shall conduct meetings to increase the members' knowledge
44 and understanding of HIV and AIDS and prevent incidents of
45 discrimination, as well as conduct the administrative investigation of
46 alleged cases of discrimination.
47 (c)

48 **ARTICLE X**
49 **PROHIBITED ACTS AND PENALTIES**
50

51 **SEC. 39. Prohibited Acts and Penalties.**
52

- 53 (a) **Penalties** – The following penalties and sanctions shall be imposed for
54 the offenses enumerated in this Act:
55 1. Any person found guilty of violating Section 27, Section 34, and
56 Section 37 of this Act shall suffer the penalty of imprisonment for six

1 (6) months to five (5) years or a fine of not less than Fifty Thousand
2 Pesos (P50,000) but not more than Five Hundred Thousand Pesos
3 (P500,000), or both, at the discretion of the court.
4

5 2. Any person found guilty of violating Section 18 of this Act shall, upon
6 conviction, suffer the penalty of imprisonment ranging from one (1)
7 year but not more than ten (10) years or a fine of not less than Fifty
8 Thousand Pesos (P50,000) but not more than Five Hundred Thousand
9 Pesos (P500,000), or both, at the discretion of the court: Provided,
10 That if the offender is a manufacturer, importer or distributor of any
11 drugs, devices, agents, and other health products, the penalty of at
12 least five (5) years of imprisonment but not more than ten (10) years
13 and a fine of at least Five Hundred Thousand Pesos (P500,000) but
14 not more than Five Million Pesos (P5,000,000) shall be imposed:
15 Provided, further, That an additional fine of one percent (1%) of the
16 economic value/cost of the violate product or violation, or One
17 Thousand Pesos (P1,000.00), whichever is higher, shall be imposed for
18 each day of continuing violation: Provided, finally, That drugs,
19 devices, agents, and other health products found in violation of
20 Section 18 of this Act may be seized and held custody pending
21 proceedings, without hearing or court order, when the FDA Director-
22 General has reasonable cause to believe from facts found by him/her
23 or an authorized officer or employee of the FDA that such health
24 products may cause injury or prejudice to the consuming public.
25

26 3. Any person found guilty of violating Section 20 of this Act shall suffer
27 the penalty of imprisonment of one (1) year to Five (5) years and a fine
28 of not less than One Hundred Thousand Pesos (P100,000) but not
29 more than Five Hundred Thousand Pesos (P500,000).
30

31 4. Any person who knowingly or negligently causes another to get
32 infected with HIV in the course of the practice of one's profession
33 through unsafe and unsanitary practice or procedure is liable to
34 suffer a penalty of imprisonment of six (6) to twelve (12) years.
35

36 (b) **Where Offender is a juridical Person, Alien, Public Officer, or**
37 **Licensed Professional** – if the offender is a corporation, association,
38 partnership or any other juridical person, the penalty of imprisonment
39 shall be imposed upon the responsible officers and employees, as the
40 case may be, who participated in, or allowed by their gross negligence,
41 the commission of the crime, and the fine shall be imposed jointly and
42 severally on the juridical person and the responsible officer/employees.
43 Furthermore, the court may suspend or revoke its license or business
44 permit.
45

46 If the offender is an alien, he shall, in addition to the penalties herein
47 prescribed, be deported without further proceedings after serving the
48 penalties herein prescribed.
49

50 If the offender is a public official or employee, he shall, in addition to the
51 penalties prescribed herein, suffer perpetual or temporary absolute
52 disqualification from office, as the case may be.

53 If the offender is a licensed professional, the respective Board under the
54 Professional Regulation Commission may either suspend or revoke his/her
55 license to practice the profession.
56

1 (c) **Penalties Collected** – The penalties collected pursuant to this Section
2 shall be put into a special fund to be administered by the DOH and shall
3 be used for awareness campaigns and other priority HIV and AIDS
4 activities of the PNAC.
5

6 **SEC. 40. Immunity from Suit for HIV Educators, Licensed Social Workers,**
7 **Health Workers and Other HIV and AIDS Services Providers.** – Any person
8 involved in the provision of HIV and AIDS services, including HIV educators,
9 licensed social workers, health workers, and other HIV and AIDS services
10 providers, shall be immune from suit, arrest, or prosecution, and from civil,
11 criminal, or administrative liability, on the basis of their delivery of such
12 services in Sections 9 to 16 and 19 to 26 hereof, or in relation to the legitimate
13 exercise of protective custody of children, whenever applicable. The DOJ, DILG,
14 and the PNP in coordination with the PNAC, shall develop the mechanism for
15 the implementation of this provision.
16

17 **ARTICLE XI**
18 **FINAL PROVISIONS**
19

20 **SEC. 41. Implementing Rules and Regulations.** – Within one hundred twenty
21 (120) days from the effectivity of this Act, the PNAC shall promulgate the
22 necessary rules and regulations for the effective Implementation of the
23 provisions of this Act.

24 **SEC. 42. Repealing Clause.** – Republic Act No. 8504, otherwise known as the
25 “Philippine AIDS Prevention and Control Act of 1998” and all laws, decrees,
26 executive orders, proclamations and administration regulations or parts thereof
27 inconsistent herewith are hereby repealed, amended or modified accordingly”.

28 **SEC. 43. Separability Clause.** – If any provision or part of this Act is declared
29 unconstitutional the remaining parts or provisions not affected shall remain in
30 full force and effect.

31 **SEC. 44. Effectivity.** – This Act shall take effect fifteen (15) days after its
32 complete publication in the Official gazette or in a newspaper of general
33 circulation.

34 Approved,