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SENATE

S. No. 631

REGISTERED BY:

Introduced by Senator Antonio "Sonny" F. Trillanes IV

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

Republic Act 8504 or the "Philippine Aids Prevention and Control Act" was enacted in 1998. It seeks to promote public awareness about the causes, modes of transmission, consequences, and means of prevention and control of HIV/AIDS through a comprehensive nationwide educational and information campaign organized and conducted by the State. It is the State's response in order to control the spread of HIV infections among Filipinos.

15 years after its enactment, cases of HIV infections continue to increase. In fact, based on the records of the National Epidemiology Center of the Department of Health, in January 2013, there were 380 new HIV positive individuals confirmed by the STD/AIDS Cooperative Central Laboratory (SACCL) and reported to the HIV and AIDS Registry. This was 79% higher compared to the same period last 2012. Another alarming data was reflected in the report made in June 2013 wherein a total of 388 new cases of HIV infection were discovered nationwide in April of this year alone.

The alarming incidence of increase in cases of HIV infection in our country raises question on whether or not RA 8504 has been effective in raising awareness of Filipinos with regard the spread of HIV/AIDS. It is therefore clear that there is a need to amend RA 8504 in order to strengthen the law and achieve its purpose of halting the prevalence of HIV/AIDS in the country.

This bill seeks to introduce the following reforms to RA 8504: a) the restructuring of the legal framework on HIV and AIDS; b) the delineation of roles and responsibilities of state institutions involved in HIV and AIDS response; c) the establishment of the National HIV and AIDS Plan, and; d) the strengthening of the stigma reduction mechanisms of the law.

In view of the foregoing, the immediate passage of this bill is earnestly sought.

ANTONIO "SONNY" F. TRILLANES IV
Senator

1 (c) Remove all barriers to HIV and AIDS-related services by eliminating the climate
2 of stigma that surrounds the epidemic and the people directly and indirectly affected
3 by it; and

4 (d) Positively address and seek to eradicate conditions that aggravate the spread of
5 HIV infection, which include poverty, gender inequality, prostitution,
6 marginalization, drug abuse and ignorance.

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

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

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

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

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

1 (d) **Community-Based Research** refers to research study undertaken in community
2 settings and which involve community members in the design and implementation of
3 research projects.

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

8 (f) **Evolving Capacities of Children** refer to the concept enshrined in Article 5 of the
9 Conventions on the Rights of the Child recognizing the developmental changes and
10 the corresponding progress in cognitive abilities and capacity for self-determination
11 undergone by children as they grow up, thus, requiring parents and others charged
12 with the responsibility for the child to provide varying degrees of protection and to
13 allow their participation in opportunities for autonomous decision-making in different
14 contexts and across different areas of decision-making.

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

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

22 (i) **High-risk Occupations** refer to occupations which pose a high risk of
23 transmission of HIV and AIDS and Sexually-transmitted Infections (STIs).

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

26 (k) **HIV and AIDS Counselor** refers to any individual trained by an institution or
27 organization accredited by the Department of Health (DOH) to provide counseling
28 services on HIV and AIDS with emphasis on behavior modification.

1 (l) **HIV and AIDS Prevention and Control** refers to measures aimed at protecting
2 non-infected persons from contracting HIV 'and minimizing the impact of the
3 condition of persons living with HIV.

4 (m) **HIV Counseling** refers to a communication process between a client or patient
5 and a trained HIV counselor wherein the latter explores, discovers and clarifies ways
6 that will enable the client or patient to make an informed decision in accessing
7 available HIV-related services.

8 (n) **HIV-Positive** refers to the presence of HIV infection as documented by the
9 presence of HIV or HIV antibodies in the sample being tested.

10 (o) **HIV-Related Testing** refers to appropriate laboratory testing or procedure done
11 on an HIV-positive individual.

12 (p) **HIV Testing** refers to a procedure that is conducted to determine the presence or
13 absence of HIV infection in a person's body, is confidential, voluntary in nature and
14 must be accompanied by counseling prior to, and after the testing, and conducted only
15 with the informed consent of the person.

16 (q) **HIV Testing Facility** refers to any DOH-accredited in-site or mobile testing
17 center, hospital, clinic, laboratory and other facility that has the capacity to conduct
18 HIV counseling and HIV testing.

19 (r) **HIV Transmission** refers to the transfer of HIV from one infected person to an
20 uninfected individual, most commonly through sexual intercourse, blood transfusion,
21 sharing of intravenous needles, and vertical or mother-to-child transmission.

22 (s) **Key Populations** refer to affected populations at higher risk of HIV exposure as
23 determined by the Philippine National AIDS Council (PNAC) whose behavior make
24 them more likely to be exposed to HIV or to transmit the virus.

1 (t) **Mandatory HIV Testing** refers to HIV testing which is required, regardless of
2 consent, due to special situations and circumstances.

3
4 (u) **Medical Confidentiality** refers to the relationship of trust and confidence created
5 or existing between a patient or a person living with HIV and his/her attending
6 physician, consulting medical specialist, nurse, medical technologist and all other
7 health workers or personnel involved in any counseling, testing or provision of
8 professional treatment, care and support of the former. It also applies to any person
9 who, in any official capacity, has acquired or may have acquired such confidential
10 information.

11 (v) **Opportunistic Infection** refers to illnesses caused by various organisms, many of
12 which do not cause disease in persons with healthy immune systems.

13 (w) **Partner Notification** refers to the process by which the 'index client', 'source' or
14 'patient', who has a sexually transmitted infection (STI) including HIV, is given
15 support in order to notify and advise the partners that have been exposed to infection.
16 Support includes giving the index client a mechanism to encourage the client's partner
17 to attend counseling, testing and other prevention and treatment services.
18 Confidentiality shall be observed in the entire process.

19 (x) **Person Living with HIV** refers to any individual diagnosed to be infected with
20 HIV.

21 (y) **Pre-Test Counseling** refers to the process of providing risk-reduction information
22 and emotional support to a person who submitted to HIV testing before the result is
23 released.

24 (z) **Post-Test Counseling** refers to the process of providing risk-reduction
25 information and emotional support to a person who submitted to HIV testing at the
26 time the result is released.

27 (aa) **Prophylactic** refers to any agent or device used to prevent the transmission of a
28 disease.

1 (bb) **Provider-initiated Counseling and Testing** refers to a health care provider
2 initiating HIV anti-body testing to a person practicing high-risk behavior or to a
3 person vulnerable to HIV after conducting HIV pre-test counseling.

4 (cc) **Routine HIV Testing** refers to HIV testing recommended at health care facilities
5 as a standard component of medical care and is part of the normal standard or care
6 offered irrespective of whether or not the patient has signs and symptoms of
7 underlying HIV infection or has other reasons for presenting to the facility.

8 (dd) **Safer Sex Practices** refer to choices made and behaviors adopted by a person to
9 reduce or minimize the risk of HIV transmission, including but not limited to
10 abstinence, postponing sexual debut, non-penetrative sex, correct and consistent use
11 of male or female condoms, and reducing the number of sexual partners.

12 (ee) **Sexually Transmitted Infections (STIs)** refer to infections that are spread
13 through the transfer of organisms from one person to another through sexual contact.

14 (ff) **Sexual Orientation** refers to a person's sexual and emotional attraction to, or
15 intimate and sexual relationship with, individuals of different, the same, or both sexes.

16 (gg) **Social Protection** refers to a set of policies and programs designed to reduce
17 poverty and vulnerability by promoting efficient labor market, diminishing people's
18 exposure to risks, and enhancing their capacity to protect themselves against hazards
19 and interruptions/loss of income.

20 (hh) **Stigma** refers to the dynamic devaluation and dehumanization of an individual in
21 the eyes of others which may be based on attributes that are arbitrarily defined by
22 others as discreditable or unworthy and which results in discrimination when acted
23 upon.

24 (ii) **Treatment Hubs** refer to private and public hospitals or medical establishments
25 accredited by the DOH to have the capacity and facility to manage HIV patients
26 medically.

1 (jj) **Vulnerable Communities** refer to communities and groups who are suffering
2 from vulnerabilities such as unequal opportunities, social exclusion, poverty,
3 unemployment, and other similar social, economic, cultural and political conditions,
4 making them more susceptible to HIV infection and to developing AIDS.

5 (kk) **Workplace** refers to the office, premise or work site where workers are
6 habitually employed and shall include the office or place where workers, with no
7 fixed or definite work site, regularly report for assignment in the course of their
8 employment.

9
10 **ARTICLE II**
11 **PHILIPPINE NATIONAL AIDS COUNCIL**

12 **SEC. 4. *Philippine National AIDS Council (PNAC).*** – The PNAC, established under
13 Section 43 of R.A. 8504 otherwise known as the “Philippine AIDS Prevention and Control
14 Act of 1998”, shall be reconstituted and streamlined to ensure the implementation of the
15 country’s response to the HIV and AIDS epidemic.

16 **SEC. 5. *Functions of the PNAC.*** – The PNAC shall be the central advisory,
17 planning, and policy-making body for the comprehensive and integrated HIV and AIDS
18 prevention and control program in the Philippines. The PNAC shall perform the following
19 functions:

- 20 1. Develop the National HIV and AIDS Program in collaboration with relevant
21 government agencies and CSOs;
- 22 2. Issue guidelines and policies that are stipulated in this Act including other
23 policies that may be necessary to implement the national HIV and AIDS
24 Program;
- 25 3. Strengthen the collaboration between government agencies and CSOs
26 involved in the implementation of the National HIV and AIDS Program,
27 including the delivery of HIV and AIDS related services;

- 1 4. Coordinate, organize, and work in partnership with foreign and intentional
2 organizations regarding funding, data collection, research, and prevention and
3 treatment modalities on HIV and AIDS;
- 4 5. Advocate for policy reforms to Congress and other government agencies to
5 strengthen the country's response to the epidemic; and
- 6 6. Submit an annual report, including the findings of the DOH on monitoring and
7 evaluation of the National HIV and AIDS Program, to the office of the
8 President, Congress, and members of the PNAC.

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

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

- 11 1. The Secretary of the DOH;
- 12 2. The Secretary of the Department of Education (DepEd) or his/her representative;
- 13 3. The Secretary of the Department of Labor and Employment (DOLE) or his/her
14 representative;
- 15 4. The Secretary of the Department of Social Welfare and Development (DSWD) or
16 his/her representative;
- 17 5. The Secretary of the Department of Interior and Local Government (DILG) or his/her
18 representative;
- 19 6. The Secretary of the Department of Justice (DOJ) or his/her representative;
- 20 7. The Secretary of the Department of Foreign Affairs (DFA) or his/her representative;
- 21 8. The Secretary of the Department of Budget and Management (DBM) or his/her
22 representative;
- 23 9. The Chair of the Civil Service Commission (CSC) or his/her representative;
- 24 10. The Director/General of Technical Education and Skills Development Authority
25 (TESDA) or his/her representative;
- 26 11. The Director/General of National Economic and Development Authority (NEDA) or
27 his/her representative;
- 28 12. The President of the League of Provinces or his/her representative;
- 29 13. The President of the League of Cities or his/her representative;

- 1 14. The Commissioner of the Insurance Commission (IC) or his/her representative;
- 2 15. The Head of the Philippine Information Agency (PIA) or his/her representative;
- 3 16. The Chairperson of the National Youth Commission (NYC) or his/her representative;
- 4 17. Two (2) representatives from medical/health organizations;
- 5 18. Three (3) representatives from CSOs; and
- 6 19. Two (2) persons living with HIV.

7 (b) Members of the PNAC shall be appointed by the President of the Republic of the
8 Philippines;

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

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

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

17 **SEC. 7. Secretariat.** The National HIV and AIDS and STI Prevention and Control
18 Program (NASPCP) of the DOH shall be known as the National HIV and AIDS and STI
19 Prevention and Control Service (NASPCS) shall serve as the Secretariat of the PNAC.

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

23 The current personnel of the NASPCP shall be transferred to the NASPCS. There
24 shall be no demotion of ranks and positions and no diminution in salaries, benefits,
25 allowances, and emoluments.

26 The NASPCS shall:

1 (a) Assist the PNAC in the development of the National Multi-Sectoral HIV and
2 AIDS Strategic Plan and the AIDS Medium Term Plan (AMTP);

3 (b) Ensure the operationalization and implementation of the National Multi- Sectoral
4 HIV and AIDS Strategic Plan and the AIDS Medium Term Plan (AMTP); and

5 (c) Coordinate with the PNAC for the implementation of the health sector's HIV and
6 AIDS and STI response, as identified in the National Multi-Sectoral HIV and AIDS Strategic
7 Plan and the AIDS Medium Term Plan (AMTP).

8
9 **SEC. 8. National Multi-Sectoral HIV and AIDS Strategic Plan.** - A six-year national
10 Multi-Sectoral HIV and AIDS Strategic Plan and AMTP shall be formulated and periodically
11 updated by the PNAC. The AMTP shall include the following:

12 (a) The country's targets and strategies in addressing the epidemic;

13 (b) The prevention, treatment, care and support, and other components of the
14 country's response to HIV and AIDS;

15 (c) The six-year operationalization of the program and identification of the
16 government agencies that shall implement the program, including the designated
17 office within each agency responsible for overseeing, coordinating, facilitating and/or
18 monitoring the implementation of its AIDS program from the national to the local
19 levels; and

20 (d) The budgetary requirements and a corollary investment plan that shall identify the
21 sources of funds for its implementation.

22 **ARTICLE III**

23 **EDUCATION AND INFORMATION**

24 **SEC. 9. Education and Prevention Program.** - There shall be an HIV and AIDS
25 education and prevention program that shall educate the public on HIV and AIDS, as well as

1 other STIs, with the goal of reducing high-risk behavior, lowering vulnerabilities, and
2 promoting the human rights of persons living with HIV. The PNAC shall promote and adopt
3 a range of measures and interventions, in consultation with CSOs, that aim to prevent, halt, or
4 control the spread of HIV in the general population, especially among the key populations
5 and vulnerable communities. These measures shall likewise promote the rights, welfare, and
6 participation of persons living with HIV and the affected children, young people, families and
7 partners of persons living with HIV.

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

10 (a) Safer sex practices among the general populations, especially among key
11 populations;

12 (b) Safer sex practices that reduce risk of HIV infection;

13 (c) Universal access to evidence-based and relevant information and education, and
14 medically safe, legal, affordable, effective and quality treatment;

15 (d) Sexual abstinence and sexual fidelity; and

16 (e) Consistent and correct condom use.

17 **SEC. 10. HIV and AIDS Education in Learning Institutions.** – Using official
18 information and data from the PNAC, the DepEd, the Commission on Higher Education
19 (CHED), and the TESDA shall integrate basic and age-appropriate instruction on the causes,
20 modes of transmission, and ways of preventing the spread of HIV and AIDS and other STIs
21 in subjects taught in public and private learning institutions at intermediate grades, secondary,
22 and tertiary levels, including non-formal and indigenous learning systems.

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

1 DSWD Referral System, 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 shall be
4 required to undergo seminars or trainings on HIV and AIDS prevention that shall be
5 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 Armed Forces of
8 the Philippines (AFP) and the Philippine National Police (PNP), shall be regularly provided
9 with standardized basic information and instruction on HIV and AIDS, including topics on
10 confidentiality in the workplace and reduction or elimination of stigma and discrimination.
11 The DOLE, CSC, AFP, and PNP shall implement this provision.

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

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

26 **SEC. 14. *HIV and AIDS Education in Communities.*** – Local Government Units
27 (LGUs), through the local HIV and AIDS Council (LAC) or the Local health Boards, and in
28 coordination with the PNAC, the DILG, the League of Local Governments, shall implement a
29 locally-based multi-sectoral response to HIV and AIDS through various channels on

1 evidence-based, gender-responsive, age-appropriate, and human rights-oriented prevention
2 tools to stop the spread of HIV.

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

6 In coordination with the DSWD, LGUs shall also conduct age-appropriate HIV and
7 AIDS education for the out-school-youth.

8 **SEC. 15. *HIV and AIDS Education for Key Populations and Vulnerable***
9 ***Communities.*** – To ensure that HIV services reach key populations, the State, through the
10 PNAC and in collaboration with CSOs, shall support and provide funding for HIV and AIDS
11 education programs, such as peer education, outreach activities, and community-based
12 research. The DOH, in coordination with appropriate agencies and the PNAC, shall craft the
13 guidelines and standardized information messages for peer education and outreach activities
14 which may be undertaken in various settings including laboratory-based activities.

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

18 **SEC. 16. *HIV and AIDS Prevention in Prisons and Other Closed-Settings.*** – The
19 DOH shall, in coordination with the Bureau of Jail Management and Penology (BJMP),
20 through the DILG, Bureau of Corrections (BuCor), LGUs, and DSWD, develop an HIV and
21 AIDS comprehensive program which will be implemented in all prisons, rehabilitation
22 centers, and other closed-setting institutions. The program shall include HIV education and
23 information, HIV counseling and testing, and access to HIV treatment and care services,
24 among others.

25 Persons living with HIV in prisons and closed-settings shall be provided HIV
26 treatment, which includes ARV and care and support, in accordance with the guidelines of
27 the DOH and the Philippine National Health Insurance Corporation (PhilHealth). Efforts
28 should be undertaken to ensure the continuity of care at all stages, from admission or

1 d. Accessibility of ARV treatment, management of opportunistic infections; and

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

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

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

13 **SEC. 21. *Standard Precaution in the Donation of Blood, Tissue, or Organ.*** – The
14 DOH shall enforce the following guidelines on donation of blood, tissue, or organ:

15 a) A donation of tissue or organs, whether gratuitous or onerous, shall be accepted by
16 a laboratory or institution only after a sample from the donor has been tested negative
17 for HIV;

18 b) All donated blood shall also be subject to HIV testing. HIV-positive blood shall be
19 disposed of properly and immediately; and

20 c) A second testing may be demanded, as a matter of right, by the blood, tissue, or
21 organ recipients or their immediate relatives before transfusion or transplant, except
22 during emergency cases.

23 Donations of blood, tissue or organ testing positive for HIV may be accepted for
24 research purposes only, and shall be subject to strict sanitary disposal treatments.

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

8 **ARTICLE V**
9 **TESTING, SCREENING, AND COUNSELING**

10 **Sec. 23. *Voluntary and Opt-out Routing HIV Testing.*** – As a policy, the State shall
11 encourage voluntary and opt-out routine HIV testing, including provider-initiated counseling
12 and testing, as part of clinical care in all health settings. To this end, the DOH shall develop
13 guidelines for HIV testing to ensure that testing voluntary and confidential, except as
14 otherwise provided in this Act, available at all times, and provided by qualified persons and
15 DOH-accredited providers.

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

19 a. If the person is below fifteen (15) years of age or mentally incapacitated, consent to
20 voluntary HIV testing shall be obtained from the child’s parents or legal guardian. In cases
21 where the child’s parents or legal guardian cannot be found, despite reasonable efforts to
22 locate the parents were undertaken, the consent shall be obtained from the licensed social
23 worker. If the child’s parents or legal guardian refuse to give their consent, the consent shall
24 likewise be obtained from the licensed social worker if the latter determines that the child is
25 at higher risk of HIV exposure and the conduct of the voluntary HIV testing is in the best
26 interest of the child.

27 b. If the person is fifteen (15) to below eighteen (18) years of age, consent to
28 voluntary HIV testing shall be obtained from the child.

1 **SEC. 24. Mandatory HIV Testing.** - Mandatory HIV testing shall be allowed only in
2 the following instances:

3 (a) When it is necessary to test a person who is charged with any of the offenses
4 punishable under Article 264, 266, 335, and 338 of the 'Revised Penal Code,' as
5 amended by republic Act No. 8353 otherwise known as the 'Anti-rape Law of 1997;

6 (b) When it is necessary to resolve relevant issues under Executive Order No. 209,
7 otherwise known as 'Family Code of the Philippines';

8 (c) As a prerequisite in the donation of blood in compliance with the provisions of
9 Republic Act No. 7170, otherwise known as the 'Organ Donation Act' and Republic
10 Act No. 7719, otherwise known as the 'National Blood Services Act'; and

11 (c) When already hired or is currently working in a high-risk occupation.

12 **SEC. 25. HIV Anti-Body testing for Pregnant Women.** – The DOH shall implement
13 a program to prevent mother-to-child HIV transmission that shall be integrated into its
14 maternal and child health services.

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

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

21 Pre-test counseling and post-test counseling shall be done by the HIV and AIDS
22 counselor, licensed social worker, licensed health service provider, or a DOH-accredited
23 health service provider assigned to provide health services: *Provided*, That for government
24 HIV testing facilities, pre-test counseling and post-test counseling shall be provided for free.

1 The State shall ensure that specific approaches to HIV counseling and testing are
2 adopted based on the nature and extent of HIV and AIDS incidence in the country. The DOH
3 shall set the standards for HIV counseling and shall work closely with CSOs that train HIV
4 and AIDS counselors and peer educators.

5 **ARTICLE VI**
6 **HEALTH AND SUPPORT SERVICES**

7 **SEC. 27. Health Insurance.** – The PhilHealth shall develop an insurance package for
8 persons living with HIV that shall include coverage for in-patient and out-patient medical and
9 diagnostic services, including medication and treatment. The PhilHealth shall enforce
10 confidentiality in the provision of these packages to persons living with HIV.

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

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

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

26 **SEC. 30. Care and Support for Persons Living with HIV.** – The DSWD, in
27 coordination with DOH, shall develop care and support programs for persons living with
28 HIV, which shall include peer-led counseling and support, social protection, welfare

1 assistance, and mechanisms for care management. These programs shall include care and
2 support for the affected children, families, and partners of persons living with HIV.

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

9 **ARTICLE VII**

10 **ACCREDITATION, MONITORING, AND EVALUATION**

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

12 (a) Public and private HIV testing facilities based on their capacity to deliver testing
13 services including HIV counseling;

14 (b) Institutions or organizations that train HIV and AIDS counselors in coordination
15 with DSWD; and

16 (c) Competent HIV and AIDS counselors for persons with disability, including but
17 not limited to, translators for the hearing-impaired and Braille for the visually-
18 impaired clients in coordination with the National Council for Disability Affairs
19 (NCDA).

20 **SEC. 33. *HIV and AIDS Monitoring and Evaluation.*** – The DOH shall maintain a
21 comprehensive HIV and AIDS monitoring and evaluation program that shall serve the
22 following purposes:

23 (a) Determine and monitor the magnitude and progression of HIV and AIDS in the
24 Philippines to help the national government evaluate the adequacy and efficacy of
25 HIV prevention and treatment programs being employed;

1 (b) receive, collate, process, and evaluate all HIV and AIDS-related medical reports
2 from all hospitals, clinics, laboratories, and testing centers, including HIV-related
3 deaths and relevant data from public and private hospitals, various databanks or
4 information systems: *Provided*, That it shall adopt a coding system that ensures
5 anonymity and confidentiality; and

6 (c) Submit an annual report to the PNAC containing the finding of its monitoring and
7 evaluation activities in compliance with his mandate.

8 **ARTICLE VIII**
9 **CONFIDENTIALITY**

10 **SEC. 34. Confidentiality.** – The confidentiality and privacy of any individual who has
11 been tested for HIV, exposed to HIV, has HIV infection or HIV and AIDS-related illnesses,
12 or was treated for HIV-related illnesses shall be guaranteed. The following acts violate
13 confidentiality and privacy:

14 (a) **Release of HIV testing and HIV-Related Test Results.** – The result of any HIV
15 testing or HIV-related testing shall be released only to the individual who submitted
16 to the test after receiving post-test counseling. If a patient is fifteen (15) years of age
17 or is mentally incapacitated, the result may be released to either of the patient's
18 parents, legal guardian, or the duly assigned licensed social worker, as may be
19 applicable. If the person is fifteen (15) to below eighteen (18) years of age, the result
20 shall be released only to the child tested after receiving post-test counseling;

21 (b) **Disclosure of confidential HIV and AIDS information.** – Unless otherwise
22 provided in Section 35 of this Act; it shall be unlawful to disclose, without writer
23 consent, information that a person had an HIV-related test, has HIV infection, HIV-
24 related illnesses, or has been exposed to HIV; and

25 (c) **Media Disclosure.** – It shall be unlawful for any editor, publisher, reporter, or
26 columnist in case of printed materials, or any announcer or producer in case of
27 television and radio broadcasting, or any producer or director of films in case of the

1 movie industry, to disclose the name, picture, or any information that would
2 reasonably identify any person living with HIV or AIDS, or any confidential HIV and
3 AIDS information, without the prior consent of their subject except when the person
4 waives said confidentiality through his/her own acts and omissions.

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

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

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

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

19 **SEC. 36. Disclosure to Sexual Partners.** – Any person who, after having been tested,
20 is found to be infected with HIV, is obliged to disclose this health condition to the spouse or
21 sexual partner at the earliest opportune time. a person living with HIV may opt to seek help
22 from medical professionals, health workers, or peer educators to support him in disclosing
23 this health condition to one’s partner or spouse.

24 ARTICLE IX

25 DISCRIMINATORY ACTS AND PRACTICES

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

1 **(a) Discrimination in the Workplace.** – The rejection of job application, termination
2 of employment, or other discriminatory practices in hiring, provision of employment,
3 and other related benefits, promotion, or any assignment of an individual solely on the
4 basis of actual, perceived, or suspected HIV status;

5
6 **(b) Discrimination in Learning Institutions.** – Refusal of admissions, expulsion,
7 segregation, imposition of harsher disciplinary actions, or denial of benefits or
8 services, of a student or a prospective student solely on the basis of actual, perceived,
9 or suspected HIV status;

10 **(c) Restriction on Travel.** – Restrictions on travel within the Philippines, refusal of
11 lawful entry to Philippine territory, deportation from the Philippines, or the quarantine
12 or enforced isolation of travelers solely on account of actual, perceived, or suspected
13 HIV status is discriminatory. The same standard of protection shall be afforded to
14 migrants, visitors, and residents who are not Filipino citizens;

15 **(d) Restriction on Habitation.** – Restrictions on lodging solely on the basis of actual,
16 perceived, or suspected HIV status;

17 **(e) Inhibition from Public Services.** – Prohibition on the right to seek an elective or
18 appointive public office solely on the basis of actual, perceived, or suspected HIV
19 status;

20 **(f) Exclusion from Credit and Insurance Services.** – Exclusion from health, accident,
21 or life insurance, credit and loan services, including the extension of such loan or
22 insurance facilities, of an individual solely on the basis of actual, perceived, or
23 suspected HIV status despite having undergone the company's reasonable
24 underwriting processes and pricing policies where the company's decision is other
25 than non-acceptance of the application: *Provided*, That the person living with HIV has
26 not concealed or misrepresented the fact to the insurance company, loan, or credit
27 service provider upon application;

1 **(g) Discrimination in Hospitals and Health Institutions.** – Denial of health services
2 or be charged with a higher fee for such health services, on the basis of actual,
3 perceived, or suspected HIV status;

4 **(h) Denial of Burial Services.** – Denial of embalming and burial services for a
5 deceased person who had HIV and AIDS or who was known, suspected, or perceive
6 to be HIV-positive; and

7 **(i) Other similar or analogous discriminatory acts.**

8 **SEC. 38. Duty of Employers, Heads of Government Offices, Heads of Public and**
9 **Private Schools or Training Institutions, and Local Chief Executives.** – It shall be the duty
10 of private employees, head of government offices, heads of public and private schools or
11 training institutions, and local chief executives, over all private establishments within their
12 territorial jurisdiction, to establish guidelines that will prevent or deter acts of discrimination
13 as provided under Section 37 of this Act against persons living with HIV and to provide
14 procedures for the resolution, settlement, or prosecution of said acts of discrimination.
15 Towards this end, the employer, head of office, or local chief executive shall, consistent with
16 this Act and its rules, as well as guidelines issued by the DOH and relevant government
17 agencies:

18 **(a) Promulgate rules and regulations prescribing the procedure for the investigation of**
19 **discrimination cases and the administrative sanctions thereof; and**

20 **(b) Create a permanent committee on the investigation of discrimination cases which**
21 **shall conduct meetings to increase the members' knowledge and understanding of**
22 **HIV and AIDS and prevent incidents of discrimination, as well as conduct the**
23 **administrative investigation of alleged cases of discrimination.**

ARTICLE X
PROHIBITED ACTS AND PENALTIES

SEC. 39. Prohibited Acts and Penalties. –

(a) **Penalties** – The following penalties and sanctions shall be imposed for the offenses enumerated in this Act:

1. Any person found guilty of violating Section 27, Section 34, and Section 37 of this Act shall suffer the penalty of imprisonment for six (6) months to five (5) years or a fine of not less than Fifty Thousand Pesos (P50,000) but not more than Five Hundred Thousand Pesos (P500,000), or both, at the discretion of the court.

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

3. Any person found guilty of violating Section 20 of this Act shall suffer the penalty of imprisonment of one (1) year to five (5) years and a fine of not less than One

1 Hundred Thousand pesos (P100,000.00) but not more than Five Hundred Thousand
2 Pesos (P500,000.00).

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

7 **b) Where Offender is a Juridical Person, Alien, Public Officer, or Licensed**
8 **Professional** – If the offender is a corporation, association, partnership, or any other
9 juridical person, the penalty of imprisonment shall be imposed upon the responsible
10 officers and employees, as the case may be, who participated in, or allowed by their
11 gross negligence, the commission of the crime, and the fine shall be imposed jointly
12 and severally on the juridical person and the responsible officer/employees.
13 Furthermore, the court may suspend or revoke its license or business permit.

14 If the offender is an alien, he shall, in addition, to the penalties herein
15 prescribed, be deported without further proceedings after serving the penalties herein
16 prescribed.

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

20 If the offender is a licensed professional, the respective Boards under the
21 Professional Regulation Commission may either suspend or revoke his/her license to
22 practice the profession.

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

26 **SEC. 40. Immunity from Suit for HIV educators, Licensed Social Workers, Health**
27 **Workers and Other HIV and AIDS Services Providers.** – Any person involved in the

1 provision of HIV and AIDS services, including HIV educators, licensed social workers,
2 health workers, and other HIV and AIDS service providers, shall be immune from suit, arrest,
3 or prosecution, and from civil, criminal, or administrative liability, on the basis of their
4 delivery of such services in Sections 9 to 16 and 19 to 26 hereof, or in relation to the
5 legitimate exercise of protective custody of children, whenever applicable. The DOJ, the
6 DILG, and the PNP, in coordination with the PNAC, shall develop the mechanism for the
7 implementation of this provision.

8 **ARTICLE XI**
9 **APPROPRIATIONS**

10 **SEC. 41. Appropriations.** – The amount needed for the initial implementation of this
11 Act shall be charged against the current year’s appropriation for each of the member agencies
12 of the PNAC, as enumerated in Section 6, in amounts to be determined by the PNAC. For this
13 purpose, each of the agencies in Section 6 shall include in their annual budget an item for the
14 implementation of the National Multi-Sectoral HIV and AIDS Strategic Plan and AMTP in
15 Section 8.

16 Thereafter, such sums as may be necessary for the continued implementation of this
17 Act shall be included in the Annual General Appropriations Act.

18 **ARTICLE XII**
19 **FINAL PROVISIONS**

20 **SEC. 42. Implementing Rules and Regulations.** – Within one hundred twenty (120)
21 days from the effectivity of this Act, the PNAC shall promulgate the necessary rules and
22 regulations for the effective implementation of the provisions of this Act.

23 **SEC. 43. Repealing Clause.** – Republic Act No. 8504, otherwise known as the
24 “Philippine AIDS Prevention and Control Act of 1998”, and all laws, decrees, executive
25 orders, proclamations and administrative regulations or parts thereof inconsistent herewith
26 are hereby repealed, amended or modified accordingly.

1 **SEC. 44. *Separability Clause.*** – If any provision or part of this Act is declared
2 unconstitutional the remaining parts or provisions not affected shall remain in full force and
3 effect.

4 **SEC. 45. *Effectivity.*** – This Act shall take effect fifteen (15) days after its complete
5 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.