EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
***First Regular Session*)**

SENATE

'19 JUL 11 P1 :17

S. No. 359

RECEIVED BY:

INTRODUCED BY SENATOR RISA HONTIVEROS

AN ACT
MAINSTREAMING THE PUBLIC HEALTH APPROACH TO PHILIPPINE DRUG POLICY, ESTABLISHING AND IMPLEMENTING COMMUNITY- BASED PROGRAMS AND STRATEGIES FOR DRUG-RELATED ISSUES AND CONCERNS, AND PROHIBITING HARMFUL AND DISCRIMINATORY INTERVENTIONS AND PRACTICES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

There is an emerging global consensus that a one-sided approach—one that is heavy on law enforcement and criminal justice—in addressing the drug problem is a failed policy and practice. It is inadequate and insufficient in suppressing the supply and demand for illegal drugs. And at worst, it is violent, corruptible, prone to abuse and often leads to violation of people's right.

A cursory search on the experiences of other countries—United States, Thailand, Mexico, and Colombia—in mounting and waging a war on drugs showed that they failed to achieve its goals and objectives of a drug-free community. It fueled poverty, undermined health, marginalized the poor, displaced people, and endangered democracy and civil society.[1]

It is a confirmation that a "one-size-fits-all" war on drugs solution has failed and it has had many unintended and devastating consequences: it has done more harm than drug abuse itself and killed more people than drug overdose mortalities. It created the necessity to find new ways to minimize harm and explore effective drugs policies that are humane, scientific and evidence-based.

This is why global drug policy is taking a pivot towards adopting public health and human rights-based framework as a dominant approach in addressing drug

[1] http://www.lse.ac.uk/ideas/publications/reports/ending-drugs

problems. Such shift is seen in the drugs policies and practices of countries like Vietnam, Malaysia, France, Australia, Hongkong, China, Iran, Portugal, Czech Republic, the Netherland, Switzerland, the United States, Thailand, Myanmar, among others.

Although there is a considerable shift in the global drugs policy away from a failed war on drugs, the Philippines is lagging in terms of policy and practice.

The country's war on drugs resulted in thousands of drug-related deaths and arrests: 4,948 deaths during anti-drugs operations; 22,983 drug-related deaths under investigations; and forced surrendering of 1,308, 078 suspected drug users.[2]

The war on drugs continued and expanded to the provinces of Bulacan, Laguna, Cavite and the cities of Cebu and General Santos.[3] It has become massive, violent, corruptible and violative of rights to the extent that it has been considered as a human rights crisis.

In November 2018, the Philippine Anti-Illegal Drugs Strategy was released to the public as a response. The strategy recognized a balanced approach: a supply reduction effort involving strong law enforcement with consistent adherence to and observance of human right and adopts a compassionate approach to the victims of drug use by encouraging voluntary treatment and rehabilitation under an overarching framework which emphasizes respect for the dignity of the human person.[4]

In the 17th Congress, I have advocated for a balanced approach to address the drugs problem: a rules-based and modern drug law enforcement strategy complemented with a humane, rehabilitative and sustainable public health intervention on drug use.

Concretely, I put forward proposals for a drug law enforcement strategy anchored on the following pillars: internal cleansing of law enforcement agencies; increasing salaries and benefits of law enforcers; funding for modern crime-fighting and solving infrastructure and capability enhancement programs; community policing; and focusing drug law enforcement resources to big-time drug lords and syndicates.

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[2] http://pdea.gov.ph/pdea-map/2-uncategorised/279-realnumbersph
[3] https://www.hrw.org/world-report/2019/country-chapters/philippines
[4] https://www.ddb.gov.ph/images/downloads/Revised_PADS_as_of_Nov_9_2018.pdf

To tilt towards a balanced approach to the drugs problem, to complement law enforcement strategy and enable an effective drugs policy– there is a need to institutionalize a public health intervention on drug use.

This proposal, for Public Health Intervention for Drug Use, would contribute in providing for adequate and sustainable financial and technical support for local governments and communities in the implementation of an effective alternative program for drug use prevention and interventions; improving access to treatment interventions and social services to the communities and families of persons who use drugs; promotion of a rights-based anti-drug campaigns; and enhancing cooperation and coordination among national-local government agencies.

This is also my response to a mother who once told me in one of my community visits, where she said:

> *Maraming buhay ang nasayang at hindi napagbigyan ng pagkakataong magbago…may kakulangan sa programa ng gubyerno para sa lubusang pagbabago ng mga drug users.*

This is for the people we could have saved and kept alive. People who could use a second chance. Nobody is beyond redemption. We should offer hope, not death.

RISA HONTIVEROS

Senator

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

ARTICLE I

General Provisions

Section 1. *Short Title.* – This Act shall be known as the "Public Health Intervention for Drug Use Act of 2019."

Sec. 2. *Declaration of Policy.* – It is the policy of the State to protect and promote the right to health of the people and instill health consciousness among them. It shall also be declared the policy of the State to address drug-related issues under the public health framework.

The State shall ensure that a scientific, effective, and evidence-based approach shall be the foundation of national drug-related policies and programs for people who use drugs (PWUD), including their family and relevant others.

The State shall ensure that its drug policy shall be based on the relative harm of psychoactive substances according to scientific studies and updated academic researches.

The State affirms that there are various psychosocial factors affecting the use of drugs. In this light, the State upholds an integrative approach to drug interventions taking into account the context and circumstances of the person who use drugs in designing public health and social programs for them.

Toward this end, the State shall endeavor to mainstream the public health approach to drug use, such as but not limited to harm reduction in key government agencies with

roles on drug-related interventions. Provided that, the State will ensure that the public health intervention for drug use is effectively implemented and sufficiently funded in communities, and that relevant stakeholders are included in this endeavor.

It shall also be the policy of the State to prohibit discriminatory and harmful drug related interventions and practices which violate the right to health of people involved with drugs.

Sec. 3. *Definition of Terms.* – For purposes of this Act, the following terms shall be defined as follows;

a) "Dangerous drugs" pertains to those drugs listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances.

b) "Drug dependence" is a cluster of physiological, behavioral and cognitive phenomena of variable intensity, in which the use of psychoactive drug takes on a high priority thereby involving, among others, a strong desire or a sense of compulsion to take the substance and the difficulties in controlling substance-taking behavior in terms of its onset, termination, or levels of use.

c) "Diversion programs" refers to measures that provide alternatives to criminal sanctions or incarceration for people who are involved with drug use and drug-related offences.

d) "Harm Reduction" refers to policies, programs, and practices that aim primarily to reduce the adverse health, social, and economic consequences of the problematic use of legal and illegal psychoactive drugs without focusing on drug consumption alone.

e) "Psychoactive substances" are substances that, when taken in or administered into one's system, affect mental processes, e.g. cognition or affect.

ARTICLE II
Health Intervention for Drug Use

Sec. 4. *Health Intervention for Drug Use Bureau.* – A Health Intervention for Drug Use Bureau (Bureau) shall be established under the Department of Health (DOH) and shall receive annual budgetary appropriations under the department.

The Bureau shall plan and implement an integrated and comprehensive public health approach to drug-related issues in the Philippines. It shall be the lead policy-making and advisory body of the government, which shall be tasked to design, implement, coordinate, monitor and evaluate the programs and action plans of the government in order to ensure the mainstreaming of the public health intervention for drug use in key government agencies.

The Bureau shall be headed by a Director to be appointed by President upon recommendation of the Secretary of Health. The Director must be a Filipino citizen, a resident of the Philippines, and must have proven expertise on public health and drug policy.

The Bureau shall be composed of staff as required for the full implementation of the National Health Intervention for Drug Use Program. The Secretary of Health shall also appoint civil society organizations and members of the academe working on drug policy and public health as policy consultants of the Bureau.

Sec. 5. *National Health Intervention for Drug Use Program.* – Within six (6) months from the effectivity of this Act, The DOH shall develop and implement an integrated and comprehensive National Health Intervention Program for Drug Use and other drug-related issues in the Philippines.

The DOH shall likewise design, implement, coordinate, monitor and evaluate the programs and action plans of the government in order to ensure the mainstreaming of health interventions for drug use in key government agencies and the private sector.

The National Health Intervention for Drug Use Program shall absorb the existing programs of the DOH on drug abuse prevention and treatment.

Sec. 6. *Components of the National Health Intervention for Drug Use Program.* – The program shall include, but not be limited to, the following components:

a) National public health priorities for persons who use drugs**;**
b) Policy recommendations and policies;
c) Compliance with international commitments and guidelines;
d) Research and development agenda on public health and drug policy;
e) Information management;
f) Information, education, and awareness programs on public health and drug policy;
g) Comprehensive advocacy and communication plan;
h) Monitoring and evaluation protocols;
i) Community mobilization strategies;
j) Public health and drug policy integration in key government agencies;

k) Human resource training;

l) Standards implementation of health intervention programs for drug use

Sec. 7. *Health Interventions and Strategies.* — The selection of health interventions and strategies shall be based on strong evidence of effectiveness according to scientific, medical research and practice. The following, but not limited to, health interventions and strategies shall be integral part of the Community-Based Health Intervention for People Who Use Drugs:

a) Education and outreach. - Development and dissemination of drug education campaigns materials to raise the level of public awareness on drugs and drug-related issues from a social, health, rights, and evidence-based framework. This education campaign shall also include human rights principles of non-violence and non-discrimination against people who use drugs and their full protection from stigma and hate. This could include, but is not limited to, counselling, HIV and hepatitis C prevention measures such as safe injecting techniques, overdose prevention, and proper condom use.

   Outreach pertains to face-to-face contact with people who use drugs in the communities they live in, and promotion of harm reduction in their communities, distribute condoms and bleach kits, and other support to the communities based on identified needs.

b) Referral to health and social services. - Facilitate access to medical and social services in a comprehensive, non-judgmental, non-discriminatory manner, as determined by the specific needs of each person involved with drugs. Social services include support to improve the person's quality of life, such as provision of employment, shelter, and skills training, among others.

c) Peer support and mentorship program. - Establishing community-based core groups composed of people involved with drug use with the purpose of providing psychosocial support to people involved with drugs.

d) Integrative Psychotherapy. - Provision of person-centered psychosocial support and counselling based on assessed needs of people who use drugs.

   Other health interventions and strategies for drug use may be developed and included in the program by the DOH in consultation with the civil society and the academe based on latest scientific evidence and research.

Sec. 8. *Community-Based Health Intervention for People Who Use Drugs.* – The DOH, in coordination with LGUs, shall establish a community-based health intervention program for people who use drugs designed for the assessed needs of each community. The development of the community-based health intervention program shall include the following stages:

a) Bringing Key Stakeholders Together. - Convening people involved with drugs in the community and linking them with local officials, civil society organizations, and the private sector, to identify preventable drug-related harm.
b) Creating a Leadership and Organizational Structure. - Establishing a core group involving the Municipal or City Health Officer, barangay health workers, social workers, and people who use drugs.
c) Identifying Key Community Partners and Inventory of Local Services. - Mapping the community resources and organizational partners towards public health and local drug policy.
d) Community Diagnosis and Needs Mapping. - Conducting a detailed needs assessment to determine the gaps in health interventions and strategies for people who use drugs.
e) Development of a Locally-Driven Health Intervention or Strategy. — Developing a comprehensive plan based on the needs and resources of the community.
f) Training of Human Resources and Implementation of Health Intervention and Strategies for Drug Use. - Rolling out of the locally-driven plans with constant provision of technical support and funding assistance.
g) Monitoring and evaluation. - Conduct of studies to ensure that the local plans are consistent with the National Health Intervention for Drug Use Program and improving services based on feedback.
h) Data Gathering - Collecting of data and information relevant to drug policy development on a regular basis and publishing of the same

Each LGU shall implement a Community-Based Health Intervention Program for People Who Use Drugs, with adequate and qualified personnel, equipment, and supplies to be able to provide intervention programs to respond to the assessed needs of people who use drugs, which include, but not limited to, consultation, case management, psycho-education, counselling, health and social support, relapse management, and other evidence-based health interventions and strategies. Provided That, the national

government shall provide additional and necessary funding and other necessary assistance for the effective implementation of this provision.

Sec. 9. *Exemption from Liability.* – The manufacture, delivery, or possession for delivery of equipment, instrument, apparatus, and other paraphernalia necessary for the implementation of health intervention for drug use program by public health officers, barangay health workers, and other health personnel shall not be considered a violation of Section 10, 12 and 14 of R.A. No. 9165. Any public health officer, barangay health worker or other health personnel implementing the aforementioned program shall be exempted from liability and shall not be charged under R.A. No.9165.

Sec. 10. *Promotion, Prevention, and Public Awareness.* – The DOH and the LGUs shall initiate and sustain a nationwide multimedia-campaign to raise the level of public awareness on drugs and drug-related issues from a social, health, rights, and evidence-based framework. This education campaign shall also include human rights principles of non-violence and non-discrimination against people who use drugs and their full protection from stigma and hate.

Education and information materials to be developed and disseminated for this purpose shall be reviewed regularly to ensure their effectiveness and relevance.

Sec. 11. *Referral System.* — The police officer, prosecutor, or any law enforcer shall not arrest, incarcerate, list, profile, or put under surveillance a PWUD but shall refer him or her to a public health officer or properly designated local health officer within their local government unit to undergo Community Based Health Intervention Program for People Who Use Drugs.

Sec. 12. *Screening and Assessment.* — Each PWUD, with his or her consent, may undergo a screening and assessment procedure to determine the level of drug use and the necessary evidence-based intervention that he or she can avail of. The health personnel who did the screening and assessment shall institute a referral system, linking the PWUD to the service provider of the intervention or strategy he or she may choose to access.

Sec. 13. *Provision of Diversion Programs.* – Each LGU shall design and implement diversion programs for PWUDs in their community. These programs shall facilitate their reintegration to family and community life.

ARTICLE III

Voluntary Treatment and Rehabilitation

Sec. 14. *Voluntary Treatment and Rehabilitation.* – Any PWUD who needed rehabilitation, as assessed by a public health officer or the properly designated local health officer, after meaningful consultation with him or her, shall be referred to appropriate hospitals or institutions for further care. The public health officer or the properly designated local health officer will also ensure proper reintegration strategies for the PWUD in compliance with standards set by the DOH.

Sec. 15. *Exemption from Criminal Liability.* – A PWUD under a voluntary treatment and rehabilitation program, who is finally discharged from confinement or who is under a diversion program, shall not be charged with any criminal offense for drug use.

Likewise, a PWUD, who is not rehabilitated after commitment to a treatment or rehabilitation center, or who withdraws from the program, shall not be charged with any criminal offense for drug use.

Sec. 16. *Confidentiality of Records.* – Judicial and medical records of a PWUD under the voluntary treatment and rehabilitation program or under Community-Based Health Intervention Program for People Who Use Drugs shall be confidential and shall not be used against him or her for any purpose.

Any person who disclosed the judicial or medical records of a PWUD, without his or her written consent, shall be administratively liable.

Sec. 17. *Compulsory Confinement.* – Compulsory confinement of a PWUD who refuses to undergo a voluntary treatment and rehabilitation program shall be prohibited.

Sec. 18. *Treatment and Rehabilitation Centers.* – The existing treatment and rehabilitation centers for PWUDs operated and maintained by the NBI and the PNP shall be operated, maintained, and managed by the DOH in coordination with other concerned agencies and local government units.

ARTICLE IV
Protection of the Rights of People Who Use Drugs

Sec. 19. *Use or Possession for Personal Use.* – A person, who is found to be positive for use of any dangerous drug, after a confirmatory test, or who is found to possess any dangerous drug for personal or medical use, shall not be apprehended, arrested, incarcerated, detained, listed, profiled, or subjected to surveillance and shall be referred to a public health officer or properly designated local health officer within the local government unit to be assessed under a Community-Based Health Intervention Program for People Who Use Drugs. After determination, the person who used or

possessed drugs for personal or medical use shall be referred to the service provider of the appropriate intervention or strategy.

Any person apprehended for drug use or possession shall, regardless of prior or succeeding violations thereof, shall undergo the aforementioned community-based health intervention program.

Sec. 20. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs by Medical Professionals*. – Medical practitioners or health professionals who are required to carry equipment, instrument, apparatus, and other paraphernalia for dangerous drugs in the practice of their profession, shall not be prosecuted under any provision of R A 9165.

The possession of such equipment, instrument, apparatus and other paraphernalia shall not constitute prima facie evidence that the possessor has smoked, consumed, administered to himself or herself, injected, ingested or used a dangerous drug.

Sec. 21. *Dangerous Drugs for Medical Use*. – The delivery, possession, transfer, transportation, or use of cannabis and other dangerous drugs intended for medical use or to treat or alleviate a patient's medical condition or symptoms associated with his or her debilitating disease, or its acquisition, administration, cultivation, or manufacturing for medical experiments, research, or for creation of new types of medicines shall be allowed upon application to and approval of the Food and Drug Administration (FDA). The patient, caregiver, physician, or medical researcher who delivers, transports, uses, acquires, administers, cultivates, or manufactures dangerous drugs for medical purposes shall be exempt from criminal liability.

ARTICLE V
Prohibited Acts

Sec. 22. *Mandatory Drug Testing.* – Mandatory drug testing in schools, workplaces, and other public or private places are hereby prohibited. No drug testing shall be conducted as requirement for admission or enrolment in schools and other alternative learning institutions, as well as made a condition for employment or for renewal of business permit, license, or franchise, except when the enterprise involved is a common carrier and public safety requires otherwise.

Sec. 23. *Involuntary Treatment and Compulsory Detention.* — Any person shall not be subjected to involuntary treatment and compulsory detention. For persons determined by a competent court to be without legal competence to signify consent, the guardian or person exercising authority over the person shall be referred to a public

health officer or properly designated local health officer for assessment of appropriate health intervention or strategy needed.

Sec. 24. *Traumatic Physical and Psychological Intervention*. – Any intervention which inflicts physical or psychological trauma to people involved with drugs is prohibited, including, but not limited to, deprivation of food and water, dosing of cold water, blindfolding, confinement in enclosed spaces, verbal abuse, flogging, whipping, electroshock, forced evangelization or participation in religious practices and similar violent and harmful interventions.

Sec. 25. *Non-Disclosure of Effects of Medications and Treatment.* – Physicians and medical practitioners are prohibited from not disclosing relevant information regarding medication and treatment to people involved with drugs which will assist the patient and his family to make informed choices as regards medication and treatment plans.

Sec. 26. *Denial of Health Services by Virtue of Health Status.* — It is prohibited to deny any health service to a person involved with drugs by virtue of his health status, including, but not limited to, HIV/AIDS or Hepatitis C status.

Sec. 27. *Denial of Health Services by Virtue of Drug Use Status.* – It is prohibited to deny any required health service to a person by virtue of his past or present involvement with drug use.

Sec. 28. *Prohibition Against Discrimination and Stigma.* — The unfair or unjust treatment of any person on the basis of his or her actual or perceived involvement with drug use that leads to the nullification or impairment of his or her rights and freedoms shall be prohibited. The use of discriminatory language, hate speech, and terms or labels promoting stigma against PWUDs shall likewise be prohibited.

Sec. 29. *Prohibition of Arrest of a Good Samaritan.* – Any person who assists a person involved with drugs who needs urgent medical attention shall not be arrested or prosecuted.

Sec. 30. *Penalties*. – Any public officer who is guilty of committing any or the prohibited acts will be administratively liable for suspension for six (6) months without pay for the first time, suspension for 12 months without pay for the second time, and removal from office and perpetual disqualification for the third time.

Any public officer, mandated in this Act to gather and publish data, who failed to do, so shall be administratively liable for suspension for six (6) months without pay.

Any physician, medical practitioner, or health personnel who is guilty of committing any of the prohibited acts will be administratively liable for suspension of license to practice

for six (6) months for the first time, suspension of license to practice for nine (12) months for the second time, and revocation of license for the third time.

The penalties provided for in this act are without prejudice to any other civil or criminal liabilities that may be imposed by law.

ARTICLE VI
Role of Government and Non-Government Agencies

Sec. 31. *Role of Key Government Agencies in Implementing the National Health Intervention for Drug Use Program.* –

a. The DOH shall ensure that health interventions and strategies for drug use are provided by all health service providers and incorporated in the health services provided in government institutions.
b. The Department of the Interior and Local Government (DILG) shall facilitate the development and provision of a capacity-building program for LGUs on health interventions for drug use and oversee the development of Community-Based Health Intervention Programs for People Who Use Drugs in each LGU.
c. The Department of Education (DepED) shall recognize the public health approach to drug use as framework of health and drugs awareness classes, which shall be integrated into primary and secondary education curricula. The DepEd shall ensure that the teachers, guidance counsellors, and staff are properly trained to provide health and drugs awareness classes.
d. The Department of Social Welfare and Development (DSWD) shall incorporate health interventions for PWUD in their social service packages.
e. The Philippine Information Agency (PIA) shall disseminate information on the public health approach to drug use in accordance with the National Health Intervention for Drug Use Program.
f. The Philippine Health Insurance Corporation (Philhealth) shall develop benefit packages for treatment of drug dependency.
g. The Department of Justice shall train prosecutors for the proper implementation of diversion programs.
h. The Philippine National Police shall train its police force for the proper implementation of diversion programs.

i. The Dangerous Drugs Board shall ensure that the national drug policy incorporates the public health approach to drug use.

j. The Philippine Drug Enforcement Agency shall train its agents for the proper implementation of diversion programs.

Sec. 32. *Role of Local Government Units in Implementing the National Health Intervention for Drug Use Program.* – The LGUs shall be responsible for the formulation, implementation, monitoring, and evaluation of the local health intervention for drug use programs in their respective jurisdiction, consistent with the National Health Intervention for Drug Use Program.

Barangays shall be directly involved with municipal and city governments in identifying drug-related issues and in identifying and implementing health intervention programs. Provincial governments shall provide technical assistance in support of municipal and city plans.

Inter-local government unit collaboration shall be maximized in the conduct of health intervention programs.

The local chief executive shall appoint the Municipal, City Health Officer or any proper local health officer responsible for the formulation and implementation of the local health intervention for drug use program. It shall be the responsibility of the national government to extend technical and financial assistance to LGUs for the accomplishment of their health intervention for drug use programs.

Sec. 33. *Role of the Private Sector and Civil Society Organizations in Implementing the National Health Intervention for Drug Use Program.* – Civil society organizations (CSOs) shall play a key role in the implementation of the National Health Intervention for Drug Use Program. The DOH and the LGUs shall consult and coordinate with CSOs in formulating and implementing health intervention for drug use programs. CSOs may also provide capacity-building trainings and technical assistance to the implementation of such programs.

The private sector is encouraged to support health intervention for drug use programs of LGUs.

ARTICLE VII
Final Provisions

Sec. 34. *Congressional Oversight Committee.* – A Joint Congressional Oversight Committee (COC) is hereby constituted which is mandated to review the implementation of this Act. The COC shall be composed of five (5) members from the

Senate and five (5) members from the House of Representatives to be appointed by the Senate President and the Speaker of the House of Representatives, respectively. The COC shall be jointly chaired by the Chairpersons of the Senate Committee on Health and Demography and the House of Representatives Committee on Health.

The Secretariat of the COC shall be drawn from the existing secretariat personnel of the standing committees composing the Congressional Oversight Committee and its funding requirements shall be charged under the appropriations of both the House of Representatives and the Senate of the Philippines.

Sec. 35. *Appropriations.* - The amount needed for the initial implementation of this Act shall be charged against the appropriations for the DOH. Thereafter, such sums as maybe necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

Sec. 36. *Implementing Rules and Regulations.* - The DOH shall promulgate the Implementing Rules and Regulations (IRR) for this Act within ninety (90) days from its constitution. Failure to promulgate the IRR shall not affect the implementation of the self-executory provisions of this Act.

Sec. 37. *Separability Clause.* - If any provision or section of this Act is held invalid, the other provisions and sections not affected thereby shall remain in full force and effect.

Sec. 38. *Repealing Clause.* - All laws, presidential decrees, executive orders and their Implementing rules inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

Sec. 39. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,