

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 3111

Introduced by Representative Kaka J. Bag-ao

EXPLANATORY NOTE

Thirty years into the HIV pandemic, the Philippines found itself facing a growing HIV incidence. Previously a 'low and slow' country, the HIV incidence in the Philippines has grown rapidly beginning mid-2000s. Prior to 2007, the HIV incidence in the country was one new HIV infection a day. However, it has dramatically increased to one new HIV infection every two hours in 2013, or 12 Filipinos getting infected every day. The World AIDS Report showed that the Philippines is one of the nine countries—among the 186 reporting countries—where HIV infection is highest and continue to increase rapidly. There are already 14,025 reported HIV cases in the country from 1984 to 2013. Government epidemiologists have warned that by 2015, unless appropriate policy actions are being done, the total number of HIV cases in the Philippines could reach 45,000.

Ironically, domestic and international HIV experts have not been sparse in warning the country that it has all the necessary ingredients for an HIV epidemic: condom use is low among Filipinos, and among key populations, sexually transmitted infections and multiple sexual partnerships are common.

Yet the response to the epidemic has been marked with complacency, lack of political leadership, and the reckless disregard of evidence-informed strategies and approaches that could curb and halt the spread of the virus. Modest targets for HIV and HIV-related services have not been met, and public spending on HIV prevention, treatment, care and support has actually dwindled P81 million in 2009 to P65 million in 2011 **despite** the alarming growth in HIV incidence.

Moreover, the governance structure designated to spearhead the HIV response is saddled with bureaucratic confusion and uneven political commitments. Every five years, thru the collaborative efforts of various government agencies and civil society groups, the country adopts an HIV and AIDS Medium-Term Plan, a national roadmap on HIV and AIDS, but the implementation of this strategic plan is impeded by recalcitrant implementing agencies and lack of support from the national government.

Through the MDGs and other international development instruments, the Philippine government has consistently committed to reduce HIV infection, and while it has made progress in other development indicators, it floundered and extraordinarily floundered in achieving its commitments on HIV. Government officials take false comfort from the fact the HIV epidemic has not reached the general population, but various indicators show that if nothing is done immediately, it would just be a matter of time.

The emerging situation also highlights the inadequacy of the existing legal framework in addressing the HIV epidemic. The HIV and AIDS Prevention and Control Act (Republic Act No. 8504), which was enacted in 1998, was once hailed as a model legislation, but clearly the spread of HIV is outpacing the 14-year old law. The preventive interventions that it prescribes are no longer fully aligned with what years of experience and evidence on HIV prevention recommend. Its human rights language is strong, and yet it lacks enabling mechanisms to enforce its human rights provisions.

It has also failed to provide clarity on the continuing confusion around the structure governing the country's HIV response. The limitations of its prevention interventions notwithstanding, its failure to articulate clearly how government agencies should operate to respond to the global pandemic has compounded the problem. Lastly, the HIV and AIDS legal framework now conflicts with laws recently enacted, thus restricting actions that are crucial to halt the spread of the epidemic.

Reforming the legal framework on HIV and AIDS is important at this juncture. This proposed measure seeks to introduce the following reforms:

1. The restructuring of the legal framework on HIV and AIDS by harmonizing it with evidence-informed strategies and approaches on prevention, treatment, care and support, making the HIV response flexible and relevant to the characteristic of the HIV epidemic facing the country;
2. The clarification of the roles and responsibilities of state institutions involved in the HIV and AIDS response, from government agencies to local governments, thus ensuring the effectiveness and efficiency of the structure governing the response;
3. The establishment of the National HIV and AIDS Plan, thus creating a road map on HIV and AIDS that has clear strategies, targets, operationalization framework, and funding;

4. The strengthening of the stigma reduction mechanisms of the law, which guarantees that the country's HIV and AIDS response is premised on the respect, recognition and promotion of human dignity.

The alarming increase in HIV infection in the Philippines requires immediate action from various State institutions, including Congress, which must address the gaps in the existing HIV and AIDS law. This proposed bill almost became a law during the 15th Congress after the House of Representatives approved on third and final reading House Bill 6751, but unfortunately, did not reach the final stage. Hence, the prompt passage of this bill is earnestly sought.

Adopted,



Hon. Kaka Bag-ao

Representative, Lone District of Dinagat Islands

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

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“AN ACT
STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HIV AND AIDS
PREVENTION, TREATMENT, CARE AND SUPPORT AND ESTABLISHING THE
PHILIPPINE NATIONAL HIV AND AIDS PROGRAM, REVISING FOR THE PURPOSE
REPUBLIC ACT NO. 8504, OTHERWISE KNOWN AS ‘THE PHILIPPINE AIDS
PREVENTION AND CONTROL ACT OF 1998’, AND APPROPRIATING FUNDS
THEREFOR”

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

1 **SECTION 1. *Short Title.*** - This Act shall be known as the “*The Revised Philippine HIV*
2 *and AIDS Policy and Program Act of 2013.*”
3

4 **SEC. 2. *Declaration of Policies.*** - The Human Immunodeficiency Virus and Acquired
5 Immune Deficiency Syndrome (HIV and AIDS) are public health concerns that have wide-
6 ranging social, political, and economic repercussions. Responding to the HIV and AIDS
7 epidemic is therefore imbued with public interest, and accordingly, the State shall:
8

9 a. Establish policies and programs to prevent the spread of HIV and deliver treatment
10 care and support services to Filipinos living with HIV in accordance with evidence-
11 based strategies and approaches that follow the principles of human rights, gender
12 equality, and meaningful participation of communities affected by the epidemic.
13

14 b. Adopt a multi-sectoral approach in responding to the HIV epidemic by ensuring that
15 local communities, civil society organizations, and persons living with HIV are involved
16 in the process.
17

18 c. Remove all barriers to HIV and AIDS-related services by eliminating the climate of
19 stigma that surrounds the epidemic and the people directly and indirectly affected by it.
20

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

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

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

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

- a. *Acquired Immune Deficiency Syndrome (AIDS)* refers to a condition where a body's immune system is reduced due to HIV infection, making an individual susceptible to opportunistic infections;
- b. *Anti-retroviral Treatment* refers to the treatment that stops or suppresses a retrovirus like HIV;
- c. *Civil Society Organizations (CSOs)* refer to a group or groups of non-governmental and non-commercial individuals or legal entities that are engaged in uncoerced collective action around shared interests, purposes and values;
- d. *Compulsory HIV Testing* refers to HIV testing imposed upon an individual characterized by lack of consent, use of force or intimidation, the use of testing as a prerequisite for employment or other purposes, and other circumstances when informed choice is absent;
- e. *Discrimination* refers to any action taken to distinguish, exclude, restrict or show preference based on any ground such as sex, gender, age, sexual orientation, gender identity, economic status, disability, and ethnicity, whether actual or perceived, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons similarly situated, of all rights and freedoms;
- f. *Evolving Capacities of Children* refer to the concept enshrined in Article 5 of the Convention on the Rights of the Child recognizing the developmental changes and the corresponding progress in cognitive abilities and capacity for self-determination undergone by children as they grow up thus requiring parents and others charged with responsibility for the child to provide varying degrees of protection and to allow their participation in opportunities for autonomous decision-making in different contexts and across different areas of decision-making;
- g. *Gender Identity* refers to a person's internal and individual experience of gender that may or may not correspond with the sex assigned at birth, including the person's sense of the body, which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical and other means, and other experience of gender, among them, dress, speech, and mannerism;
- h. *Harm Reduction* refers to evidence-based policies, programs and approaches that aim to reduce the harmful consequences on health, social relations, and economic conditions that are associated with the use of psychoactive substances.

- i. *HIV and AIDS Counselor* refers to any individual trained by an institution or organization accredited by the Philippine National AIDS Council (PNAC) to conduct training or counseling on HIV and AIDS, HIV prevention, and human rights and stigma reduction;
- j. *HIV Counseling* refers to the provision of information on HIV and AIDS, how it is spread and how it may be prevented, risk-reduction approaches, and information on treatment, care and support for persons living with HIV, which is conducted before and after HIV testing;
- k. *HIV Testing* refers to any facility-based or mobile medical procedure that is conducted to determine the presence or absence of HIV in person's body, is confidential, voluntary in nature and must be accompanied by counseling prior to, and after the testing, and conducted only with the informed consent of the person;
- l. *HIV-Related Testing* refers to any laboratory testing or procedure done on an individual whether the person is HIV positive or negative;
- m. *HIV Testing Facility* refers to any DOH-accredited in-site or mobile testing center, hospital, clinic, laboratory and other facility that has the capacity to conduct voluntary HIV counseling and HIV testing;
- n. *Human Immunodeficiency Virus (HIV)* refers to the virus that causes AIDS;
- o. *Key Affected Populations at Higher Risk of HIV Exposure* or '*Key Populations*' refer to those persons whose behavior make them more likely to be exposed to HIV or to transmit the virus, as determined by PNAC. The term includes children below the age of eighteen (18), youth and adults living with HIV; men who have sex with men; transgender persons; people who inject drugs; and people who sell sexual services or favors;
- p. *Non-Mandatory HIV Anti-Body Testing* refers to a health care provider initiating HIV anti-body testing to a person practicing high-risk behavior or vulnerable to HIV after conducting HIV pre-test counseling. The person may elect to decline or defer testing such that consent is conditional.
- q. *Opportunistic Infection (OI)* refers to illnesses caused by various organisms, many of which do not cause disease in persons with healthy immune systems;
- r. *Person Living with HIV* refers to any individual diagnosed to be infected with HIV;
- s. *Sexually Transmitted Infections (STI)* refer to infections that are spread through the transfer of organisms from one person to another through sexual contact;
- t. *Sexual Orientation* refers to a person's sexual and emotional attraction to, or intimate and sexual relationship with, individuals of different, the same, or both sexes;
- u. *Social Protection* refers to a set of policies and programs designed to reduce poverty and vulnerability by promoting efficient labor markets, diminishing people's exposure to

risks, and enhancing their capacity to protect themselves against hazards and interruptions/loss of income;

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

w. *Treatment Hubs* refer to private and public hospitals or medical establishments accredited by the Department of Health (DOH) to have the capacity and facility to provide anti-retroviral treatment;

x. *Voluntary HIV Testing* refers to HIV testing done on an individual who, after having undergone pre-HIV counseling, willingly submits oneself to such test;

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

z. *Work Place* refers to the office, premises and work site where workers are habitually employed and shall include the office or place where workers, with no fixed or definite work site, regularly report for assignment in the course of their employment.

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

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

1. Develop the National HIV and AIDS Program in collaboration with relevant government agencies and civil society organizations;
2. Ensure the operationalization and implementation of the National HIV and AIDS Program;
3. Coordinate with government agencies that are mandated to implement the provisions of this Act;
4. Develop, enforce, and/or ensure the implementation of the guidelines and policies that are stipulated in this Act, including other policies that may be necessary to implement the National HIV and AIDS Program;
5. Monitor the progress of the epidemic;
6. Monitor the implementation of the National HIV and AIDS Program, undertake mid-term assessments, and evaluate its impact;

7. Strengthen the collaboration between government agencies and civil society organizations involved in the implementation of the National HIV and AIDS Program, including the delivery of HIV and AIDS related services;
8. Organize itself to enhance the efficiency of the multi-agency and multi-sectoral structure;
9. Mobilize domestic and international sources of fund to finance the National HIV and AIDS Program;
10. Coordinate and cooperate with foreign and international organizations regarding funding, data collection, research, and prevention and treatment modalities on HIV and AIDS; and
11. Recommend policy reforms to Congress, DOH and other government agencies to strengthen the country's response to the epidemic.

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

1. The Secretary of the Department of Health;
 2. The Secretary of the Department of Education;
 3. The Chairperson of the Commission on Higher Education;
 4. The Director-General of the Technical Education and Skills Development Authority;
 5. The Secretary of the Department of Labor and Employment;
 6. The Secretary of the Department of Social Welfare and Development;
 7. The Secretary of the Department of the Interior and Local Government;
 8. The Secretary of the Department of Justice;
 9. The Director-General of the National Economic and Development Authority;
 10. The Secretary of the Department of Tourism;
 11. The Secretary of the Department of Budget and Management;
 12. The Secretary of the Department of Foreign Affairs;
 13. The Head of the Philippine Information Agency;
 14. The President of the League of Governors;
 15. The President of the League of City Mayors;
 16. The Chairperson of the Committee on Health of the Senate;
 17. The Chairperson of the Committee on Health of the House of Representatives;
 18. Two (2) representatives from organizations of medical/health professionals;
 19. Six (6) representatives from non-government organizations involved in HIV and AIDS prevention and control efforts or activities; and
 20. A representative of an organization of persons living with HIV.
- b) The heads of government agencies may be represented by an official from their respective agencies with a rank not lower than an Undersecretary;
- c) The presence of the Chairperson or the Vice Chairperson of the Council, and at least seven (7) other Council members and/or permanent alternates shall constitute a

quorum to do business, and a majority vote of those present shall be sufficient to pass resolutions or render decisions;

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

e) Except for the Ex-Officio members, the other members of the Council shall be appointed by the President of the Philippines;

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

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

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

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

The secretariat shall perform the following functions:

1. Coordinate and manage the day-to-day affair of the Council;
2. Assist in the the formulation, monitoring, and evaluation of the National HIV and AIDS Programs and policies;
3. Provide technical assistance, support, and advisory services to the Council and its external partners;
4. Assist the Council in identifying and building internal and external networks and partnerships;
5. Coordinate and support the efforts of the Council and its members to mobilize resources;
6. Serve as the clearing house and repository of HIV and AIDS-related information;
7. Disseminate updated, accurate, relevant, and comprehensive information about the epidemic to Council members, policy makers, and the media;
8. Provide administrative support to the Council; and

271 9. Perform other functions as may be provided by the Council.
272

273 **SEC. 8. HIV Prevention.** - The government shall promote and adopt a range of
274 measures and interventions, in partnership with civil society organizations, that aim to
275 prevent, halt, or control the spread of HIV, especially among key populations and
276 vulnerable communities. These measures shall likewise promote the rights, welfare, and
277 participation of persons living with HIV and the affected children, young people, families
278 and partners of persons living with HIV.
279

280 a. *Evidence-Informed, Gender Sensitive, Age-Appropriate, and Human Rights-Based*
281 *Preventive Measures* – The HIV and Aids preventive programs shall be based on up-
282 to-date evidence and scientific strategies and shall be age-appropriate. The
283 government shall therefore actively promote safer sex behavior, especially among key
284 populations; safer practices that reduce risk of HIV infection; access to treatment;
285 consistent sexual abstinence and sexual fidelity; and, the consistent and correct
286 condom use.
287

288 b. *HIV and AIDS Education as a Right to Health and Information* – HIV and AIDS
289 education and information dissemination shall form part of the right to health. The
290 knowledge and capabilities of all public health practitioners, workers and personnel
291 shall be enhanced to include skills for proper information dissemination and education
292 on HIV and AIDS. It shall likewise be considered a civic duty of health providers in the
293 private sector to make available to the public such information necessary to control the
294 spread of HIV and AIDS and to correct common misconceptions about the disease.
295 The training of health workers shall include discussions on HIV-related ethical issues
296 such as confidentiality, informed consent and the duty to provide treatment.
297

298 c. *HIV and AIDS Education and Information.* - The State shall educate the public,
299 especially the key populations and vulnerable communities, on HIV and AIDS and
300 other sexually transmitted infections, with the goal of reducing risky behavior, lowering
301 vulnerabilities, and promoting the human rights of persons living with HIV.
302

303 1. *HIV and AIDS Education for Key Populations and Vulnerable Communities.* - To
304 ensure that HIV services reach key populations, the State, through the PNAC
305 and in collaboration with HIV and AIDS civil society organizations, shall support
306 and provide funding for HIV and AIDS education programs, such as peer
307 education and outreach activities that target key populations and vulnerable
308 communities. The PNAC shall likewise craft the guidelines for peer education
309 and outreach activities.
310

311 2. *Age-Appropriate HIV and AIDS Education in Schools.* – Using official
312 information and data from the PNAC, the Department of Education (DepEd), the
313 Commission on Higher Education (CHED), and the Technical Education and
314 Skills Development Authority (TESDA) shall integrate basic and age-appropriate
315 instruction on the causes, modes of transmission and ways of preventing the
316 spread of HIV and AIDS and other sexually transmitted infections in subjects
317 taught in public and private schools at intermediate grades, secondary and
318 tertiary levels, including non-formal and indigenous learning systems.
319

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

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

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

In coordination with the PNAC, the Civil Service Commission (CSC) for the public sector and the Department of Labor and Employment (DOLE) for the private sector shall implement this provision. The CSC and the DOLE shall ensure that the HIV and AIDS education program in the workplace is industry or sector-appropriate and shall ensure the full participation of employers and workers in designing the content of the program. Referral mechanisms for key populations and vulnerable communities shall also be developed and instituted by the CSC and the DOLE in coordination with the PNAC.

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

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

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

6. *Information for Tourists and Transients* - Educational materials on the cause, modes of transmission, prevention, and consequences of HIV infection shall be adequately provided at all international ports of entry and exit. The Department

of Tourism, the DFA, and the Bureau of Immigration, in coordination with the PNAC and with stakeholders in the tourism industry, shall implement this provision.

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

1. The DOH shall accredit public and private HIV testing facilities based on their capacity to deliver testing services, including HIV counseling. Only DOH-accredited HIV testing facilities shall be allowed to conduct HIV testing;
2. The PNAC shall develop the guidelines for the conduct of HIV counseling and HIV testing, including mobile HIV counseling and testing, by testing facilities. The guidelines shall ensure, among others, that HIV testing is voluntary and confidential and that HIV counseling is available at all times and provided by qualified persons and DOH-accredited providers;
3. The PNAC shall accredit institutions or organizations that train HIV and AIDS counselors; and
4. The PNAC shall set the standards for HIV counseling and shall work closely with HIV and AIDS civil society organizations that train HIV and AIDS counselors and peer educators.

e. *Positive Prevention* – The PNAC, in coordination with the DOH, local government units, and other relevant government agencies, shall support preventive measures that shall focus on the positive roles of persons living with HIV. Such preventive measures shall cover, among others, (i) the creation of rights-based and community-led behavior change programs that seek to encourage HIV risk reduction behavior among persons living with HIV; (ii) the establishment and enforcement of rights-based mechanisms to encourage newly tested HIV-positive individuals to conduct sexual contact tracing and to promote HIV status disclosure to sexual partners; (iii) the establishment of standard precautionary measures in public and private health facilities; (iv) the accessibility of anti-retroviral treatment, management of opportunistic infections, and health services related to sexually transmitted infections; and (v) the mobilization of communities of persons living with HIV, for public awareness campaigns and stigma reduction activities. The enforcement of this provision shall not lead to or result in the discrimination or violation of the rights of persons living with HIV.

f. *Harm Reduction* - The DILG and the DOH shall establish a human rights and evidence-based HIV prevention policy and program for people who use and inject drugs.

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

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

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

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

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

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

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

b. *Health Insurance.* - The Philippine National Health Insurance Corporation (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 of private health and life insurance coverage on the basis of the person's HIV status. The Insurance Commission shall implement this provision and shall develop the necessary policies to ensure compliance.

c. *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. The DOLE, and the DSWD, in coordination with the TESDA and with local government units, shall develop programs to ensure economic empowerment and provide economic support to persons living with HIV.

d. *Care and Support for Persons Living with HIV.* - The DSWD 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.

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

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

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

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

1. The child, who is above the age of fifteen (15) years but below eighteen (18) years, expresses the intention to submit to HIV testing and counseling and other related services;
2. Reasonable efforts were undertaken to locate, provide counseling to, and to obtain the consent of, the parents, but the parents are absent or cannot be located, or otherwise refuse to give their consent;
3. Proper counseling shall be conducted by a social worker, health care provider or other health care professional, accredited by the DOH or DSWD; and
5. The licensed social worker, health care provider or other health care professional shall determine that the child is "*at higher risk of HIV exposure*," as defined in Section 3 (O) of this Act, and that the conduct of the testing and counseling is in the child's best interest and welfare.

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

1. a person is charged with any of the offenses punishable under Articles 264, 266, 335 and 338 of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997;
 2. the determination of HIV status is necessary to resolve the relevant issues under the Family Code;
 3. to comply with the provisions of Republic Act No. 7170, also known as the "Organ Donation Act of 1991" ;
 4. to comply with the provisions of Republic Act No. 7719, otherwise known as the "National Blood Services Act of 1994" and
 5. to comply with requirements of other countries in applying for overseas employment.
- c. *Stigma-Free HIV and AIDS Services* - The PNAC, in cooperation with public and private HIV and AIDS service providers and civil society organizations, and in collaboration with the Commission on Human Rights, shall ensure the delivery of stigma-free HIV and AIDS services by government and private HIV and AIDS service providers.
- d. *Testing of Organ Donation* - Lawful consent to HIV testing of a donated human body, organ, tissue or blood shall be considered as having been given when:
1. A person volunteers or freely agrees to donate his or her blood, organ, or tissue for transfusion, transplantation, or research;
 2. A person has executed a legacy in accordance with Sec. 3 of Republic Act No. 7170; and
 3. A donation is executed in accordance with Sec. 4 of Republic Act No. 7170.
- e. *HIV Anti-Body Testing for Pregnant Women* – A health care provider who offers pre-natal medical care shall make a non-mandatory HIV anti-body testing available for pregnant women practicing high risk behavior or are vulnerable to HIV. The DOH shall provide the necessary guidelines for health care providers in the conduct of the screening procedure.
- f. *Redress Mechanism*. - The Department of Justice and the Commission on Human Rights, in coordination with PNAC, shall develop redress mechanisms for persons living with HIV to ensure that their civil, political, economic and social rights are protected.
- g. *Acts of Discrimination*. - The following discriminatory acts shall be prohibited:
1. Rejection of job application, termination of employment, or other discriminatory policies in hiring, provision of employment and other related benefits, promotion

or assignment of an individual solely or partially on the basis of actual, perceived, or suspected HIV status;

2. Refusal of admission, expulsion, segregation, imposition of harsher disciplinary actions, or denial of services or benefits, of a student or prospective student solely or partially on the basis of actual, perceived or suspected HIV status;
3. Restrictions on travel within the Philippines, refusal of lawful entry to the Philippine territory, deportation from the Philippines, or the quarantine or enforced isolation of travelers solely or partially actual, perceived or suspected HIV status;
4. Restrictions on housing or lodging solely or partially on the basis of actual, perceived or suspected HIV status;
5. Prohibitions on the right to seek an elective or appointive public office solely or partially on the basis of actual, perceived or suspected HIV status;
6. Exclusion from health, accident, or life insurance, credit and loan services, including the extension of such loan or insurance facilities, of an individual solely or partially on the basis of actual, perceived or suspected HIV status: *Provided*, That the person living with HIV has not misrepresented the fact to the insurance company or loan or credit service provider upon application;
7. Denial of health services, or be charged with higher fee, on the basis of actual, perceived or suspected HIV status;
8. Denial of burial services for a deceased person who had HIV and AIDS or who was known, suspected or perceived to be HIV positive; and
9. Other similar or analogous discriminatory acts.

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

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

a. *Confidential HIV and AIDS Information* - Unless otherwise provided in Section 12 (c) of this Act, it shall be unlawful to disclose, without written consent, information that a person:

1. had an HIV-related test;
2. has HIV infection, HIV-related illnesses, or AIDS; or

611 3. has been exposed to HIV.

612
613 The prohibition shall apply to any person, natural or juridical, whose work or function
614 involves the implementation of this Act or the delivery of HIV-related services, including
615 those who handle or have access to personal data or information in the workplace, and
616 who, pursuant to the receipt of the required written consent from the subject of
617 confidential HIV and AIDS information, have subsequently been granted access to the
618 same confidential information.

619
620 It shall be unlawful for any editor, publisher, and reporter or columnist in case of
621 printed materials, announcer or producer in case of television and radio broadcasting,
622 producer and director of the film in case of the movie industry, to disclose the name,
623 picture, or any information that would reasonably identify any person living with HIV or
624 AIDS, or any confidential HIV and AIDS information, without the prior written consent
625 of their subject.

626
627 *b. Release of HIV Testing and HIV-Related Test Result.* - The result of any HIV testing or
628 HIV-related testing shall be released only to the individual who submitted to the test, or
629 the spouse, if applicable. If the patient is a minor, an orphan, or is mentally
630 incapacitated, the result may be released to either of the patient's parents, legal
631 guardian, or a duly assigned social worker, whichever is applicable.

632
633 *c. Exemptions.* - Confidential HIV and AIDS information may be released by HIV testing
634 facilities without written consent on the following grounds:

635
636 1. When complying with the reportorial requirements of the national active and
637 passive surveillance system of the DOH: *Provided*, That the information related
638 to a person's identity shall remain confidential;

639
640 2. When informing other health workers directly involved in the treatment or care
641 of a person living with HIV: *Provided*, That such workers shall be required to
642 perform the duty of shared medical confidentiality;

643
644 3. When responding to a subpoena duces tecum and subpoena ad testificandum
645 issued by a Court with jurisdiction over a legal proceeding where the main issue
646 is the HIV status of an individual: *Provided*, That the confidential medical
647 record, after having been verified for accuracy by the head of the office or
648 department, shall be properly sealed by its lawful custodian, hand delivered to
649 the Court, and personally opened by the judge: *Provided, further*, That the
650 judicial proceedings shall be held in executive session.

651
652 *d. Disclosure to Sexual Partners.* - Any person who, after having been tested, is found to
653 be infected with the HIV virus, is obliged to disclose this health condition to the spouse
654 or sexual partner prior to engaging in penetrative sex or any potential exposure to HIV.
655 A person living with HIV may opt to seek help from medical professionals, health
656 workers, or peer educators to support him in disclosing this health condition to one's
657 partner or spouse.

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

SEC. 13. *National HIV and AIDS Program.* - A six-year National HIV and AIDS Program shall be formulated and periodically updated by PNAC. The Program shall comprise of 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 response; c) the five-year operationalization of the program and the identification of the government agencies that shall implement the 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.

SEC. 14. *National HIV and AIDS and STI Prevention and Control Program of the Department of Health* - The National HIV and AIDS and STI Prevention and Control Program (NASPCP) of the Department of Health, which shall be staffed by qualified medical specialist and support personnel with permanent appointments, shall coordinate with PNAC for the implementation of the health sector's HIV and AIDS and STI response, as identified in the National HIV and AIDS Program.

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

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

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

SEC. 17. *Prohibition on the Use of Condoms and Other Safer Sex Paraphernalia as Basis for Raids and Similar Police Operations* - It shall be unlawful to use the presence of used or unused condoms or other safer sex paraphernalia to conduct raids or similar police operations in sites and venues of HIV prevention interventions. The DILG shall establish a national policy to guarantee the implementation of this provision.

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

- a. Any person found guilty of violating Section 9 (b); Section 10 (b) ; Section 10 (g); and Section 12 (a,b,c and e) of this Act shall suffer the penalty of imprisonment for six (6) months to five (5) years and/or a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00), without prejudice to the imposition of administrative sanctions such as fines and suspension or revocation of the entity's business permit, license or accreditation or the individual's license to practice his or her profession.
- b. Any person who commits any act of discrimination as stipulated in Section 10 (g) of this Act may face liability under Articles 19, 20, and 21 of the Civil Code.
- c. Any person found guilty of violating Section 11 of this Act shall suffer the penalty of imprisonment for six (6) months to five (5) years and a fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00): Provided, That if the violator is a law enforcer or a public official, administrative sanctions may be imposed in addition to the above penalties.
- d. Any person found guilty of violating Section 16 of this Act shall suffer the penalty of imprisonment for two (2) months to two (2) years, without prejudice to the imposition of administrative sanctions such as fines and suspension or revocation of professional or business license.
- e. Any person or any law enforcer found guilty of violating Section 17 of this Act shall suffer the penalty of imprisonment for one (1) year to five (5) years and a fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00). Law enforcers found guilty of violating this section shall be removed from public service.
- f. Any person who knowingly or negligently causes another to get infected with HIV in the course of the practice of one's profession through unsafe and unsanitary practice or procedure is liable to suffer a penalty of imprisonment for six (6) years to twelve (12) years, without prejudice to the imposition of administrative sanctions such as fines and suspension or revocation of the license to practice one's profession. The permit or license of any business entity and the accreditation of HIV testing centers may be cancelled or withdrawn if said establishments fail to maintain such safe practices and procedures as may be required by the guidelines formulated in compliance with Section 8 (h-2) of this Act.

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

SEC. 19. Duty of Employers, Heads of Government Offices, Heads of Public and Private Schools or Training Institutions, and Local Chief Executives. It shall be the duty of private employers, heads of the government offices, heads of private and public schools or training institutions, and local chief executives over all private establishments within their territorial jurisdiction, to prevent or deter acts of discrimination against persons living with HIV, and to provide for procedures for the resolution, settlement, or prosecution of

acts of discrimination. Towards this end, the employer, head of office or local chief executive shall:

a. Promulgate rules and regulations prescribing the procedure for the investigation of discrimination cases and the administrative sanctions therefor.

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

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

The oversight committee shall exist for a period not exceeding three (3) years from the effectivity of this Act, after which the oversight functions shall be undertaken by the Committee on Health and Demography of the Senate of the Philippines and the Committee on Health of the House of Representatives.

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

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

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

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

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

807 **SEC. 26. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days after its
808 publication in any national paper of general circulation.
809
810 ***Approved,***