

SEVENTEENTH CONGRESS
CONGRESS OF THE PHILIPPINES
First Regular Session
HOUSE OF REPRESENTATIVES

House Bill No. **581**

Introduced by REPRESENTATIVE PIA S. CAYETANO

HOUSE OF REPRESENTATIVES

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EXPLANATORY NOTE

More than a decade after Republic Act 8504 or the Philippine AIDS Prevention and Control Act of 1998 became law, the HIV/AIDS problem in the Philippine has worsened contrary to the primary goal of the legislation, which was to thwart the growing prevalence of this disease in the country.

Since the year 2000, there has been a steady increase in the number of HIV/AIDS positive cases reported in the Philippine HIV and AIDS Registry. The Philippines, in fact, remains one of only seven countries in the world where the number of new HIV cases has increased by over 25% from 2001 to 2009.¹ In 2008, there was 1 new HIV case diagnosed per day. In 2015, there were 22 new HIV cases diagnosed each day.² In November of 2015 alone, there were 627 new HIV cases. In the same month, there were 174 reported deaths, which is likely an underestimate of the total number of deaths among people with HIV in the Philippines.³

The alarming rise in HIV/AIDS incidence and the continuing culture of silence that surrounds the disease raise questions on the effectiveness of RA 8504. Budgetary constraints, organizational confusion, and policy incongruence have hindered the full implementation of the law to effect its legislative purpose.

This bill seeks to address the gaps in RA 8504 and make it more responsive to what is feared to be an impending epidemic, through the following: 1) strengthen the governance structure that spearheads HIV/AIDS response; 2) clarify and refine the roles of state institutions to promote efficiency and reinforce governmental capabilities in addressing the disease; 3) harmonize the HIV/AIDS response with other related laws, policies and programs; and 4) highlight the significant roles of people living with HIV/AIDS and local communities in raising awareness about the disease and reducing the stigma attached to it, and bringing to the fore existing realities on the ground to generate immediate and relevant policy and societal change.

The fight against the spread of HIV/AIDS necessitates an inclusive, integrative, nondiscriminatory, and comprehensive approach that emphasizes cohesive and sustained collective action. Indeed, there is no better time to address the looming HIV/AIDS crisis than the present, while we still can. We must not forget that a prosperous nation starts with a healthy citizenry.

Pia S. Cayetano
PIA S. CAYETANO

¹ <http://www.unicef.org/philippines/hivaids.html#Vp-2HWQrLZs>

² HIV/AIDS & ART Registry of the Philippines. Department of Health (November 2015).

³ Ibid.

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House Bill No. **581**

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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
2 HIV and AIDS Policy and Program Act".
3

4 **SEC. 2. Declaration of Policies.** - The Human Immunodeficiency Virus and
5 Acquired Immune Deficiency Syndrome (HIV and AIDS) are public health concerns
6 that have wide-ranging social, political, and economic repercussions. Responding to
7 the HIV and AIDS epidemic is therefore imbued with public interest, and accordingly,
8 the State shall:
9

10 a. Establish policies and programs to prevent the spread of HIV and deliver
11 treatment care and support services to Filipinos living with HIV in accordance
12 with evidence-based strategies and approaches that follow the principles of
13 human rights, gender equality, and meaningful participation of communities
14 affected by the epidemic.
15

16 b. Adopt a multi-sectoral approach in responding to the HIV epidemic by
17 ensuring that local communities, civil society organizations, and persons living
18 with HIV are involved in the process.
19

20 c. Remove all barriers to HIV and AIDS-related services by eliminating the
21 climate of stigma that surrounds the epidemic and the people directly and
22 indirectly affected by it.
23

24 d. Positively address and seek to eradicate conditions that aggravate the
25 spread of HIV infection, including but not limited to, poverty, gender inequality,
26 prostitution, marginalization, drug abuse and ignorance.
27

1 Respect for, protection of and promotion of human rights are the cornerstones
2 of an effective response to the HIV epidemic. The meaningful inclusion and
3 participation of persons directly and indirectly affected by the epidemic, especially
4 persons living with HIV, are crucial in eliminating the virus. Thus, unless otherwise
5 provided in this Act, the confidentiality, anonymity, and non-compulsory nature of
6 HIV testing and HIV-related testing shall always be guaranteed and protected by the
7 State.

8
9 Policies and practices that discriminate on the basis of perceived or actual
10 HIV status, sex, gender, sexual orientation, gender identity, age, economic status,
11 disability and ethnicity, hamper the enjoyment of basic human rights and freedoms
12 guaranteed in the Constitution and are deemed inimical to national interest.

13
14 **SEC. 3. Definition of Terms.** - As used in this Act, the following terms shall be
15 defined as follows:

- 16
17 a. **Acquired Immune Deficiency Syndrome (AIDS)** refers to a condition where a
18 body's immune system is reduced due to HIV infection, making an individual
19 susceptible to opportunistic infections;
20
21 b. **Anti-retroviral Treatment** refers to the treatment that stops or suppresses a
22 retrovirus like HIV;
23
24 c. **Civil Society Organizations (CSOs)** refer to a group or groups of non-
25 governmental and non-commercial individuals or legal entities that are engaged in
26 uncoerced collective action around shared interests, purposes and values;
27
28 d. **Community-based research** takes place in community settings and involves
29 community members in the design and implementation of research projects.
30
31 e. **Compulsory HIV Testing** refers to HIV testing imposed upon an individual
32 characterized by lack of consent, use of force or intimidation, the use of testing as
33 a prerequisite for employment or other purposes, and other circumstances when
34 informed choice is absent;
35
36 f. **Discrimination** refers to any action taken to distinguish, exclude, restrict or show
37 preference based on any ground such as sex, gender, age, sexual orientation,
38 gender identity, economic status, disability and ethnicity, whether actual or
39 perceived, and which has the purpose or effect of nullifying or impairing the
40 recognition, enjoyment or exercise by all persons similarly situated, of all rights
41 and freedoms;
42
43 g. **Evolving Capacities of Children** refer to the concept enshrined in Article 5 of the
44 Convention on the Rights of the Child recognizing the developmental changes and
45 the corresponding progress in cognitive abilities and capacity for self-
46 determination undergone by children as they grow up thus requiring parents and
47 others charged with responsibility for the child to provide varying degrees of
48 protection and to allow their participation in opportunities for autonomous decision-
49 making in different contexts and across different areas of decision-making;
50

- 1 h. **Gender Identity** refers to a person's internal and individual experience of gender
2 that may or may not correspond with the sex assigned at birth, including the
3 person's sense of the body, which may involve, if freely chosen, modification of
4 bodily appearance or function by medical, surgical and other means, and other
5 experience of gender, among them, dress, speech, and mannerism;
6
- 7 i. **HIV and AIDS Counselor** refers to any individual trained by an institution or
8 organization accredited by the Philippine National AIDS Council (PNAC) to
9 conduct training or counseling on HIV and AIDS, HIV prevention, and human
10 rights and stigma reduction;
11
- 12 j. **HIV Counseling** refers to the provision of information on HIV and AIDS, how it is
13 spread and how it may be prevented, risk-reduction approaches, and information
14 on treatment, care and support for persons living with HIV, which is conducted
15 before and after HIV testing;
16
- 17 k. **HIV Testing** refers to any facility-based or mobile medical procedure that is
18 conducted to determine the presence or absence of HIV in person's body, is
19 confidential, voluntary in nature and must be accompanied by counseling prior to,
20 and after the testing, and conducted only with the informed consent of the person;
21
- 22 l. **HIV-Related Testing** refers to any laboratory testing or procedure done on an
23 individual whether the person is HIV positive or negative;
24
- 25 m. **HIV Testing Facility** refers to any DOH-accredited in-site or mobile testing
26 center, hospital, clinic, laboratory and other facility that has the capacity to conduct
27 voluntary HIV counseling and HIV testing;
28
- 29 n. **Human Immunodeficiency Virus (HIV)** refers to the virus that causes AIDS;
30
- 31 o. **Key Affected Populations at Higher Risk of HIV Exposure or 'Key**
32 **Populations'** refer to those persons whose behavior make them more likely to
33 be exposed to HIV or to transmit the virus, as determined by PNAC. The term
34 includes children below the age of eighteen (18); youth and adults living with HIV;
35 men who have sex with men; transgender persons; people who inject drugs; and
36 people who sell sexual services or favors;
37
- 38 p. **Laboratory** refers to areas or places where research studies are being
39 undertaken to further develop local evidence base for effective HIV programs;
40
- 41 q. **Non-Mandatory HIV Anti-Body Testing** refers to a health care provider initiating
42 HIV anti-body testing to a person practicing high-risk behavior or vulnerable to
43 HIV after conducting HIV pre-test counseling. The person may elect to decline or
44 defer testing such that consent is conditional;
45
- 46 r. **Opportunistic Infection (OI)** refers to illnesses caused by various organisms,
47 many of which do not cause disease in persons with healthy immune systems;
48
- 49 s. **Person Living with HIV** refers to any individual diagnosed to be infected with
50 HIV;

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2 t. **Sexually Transmitted Infections (STI)** refer to infections that are spread through
3 the transfer of organisms from one person to another through sexual contact;
4
5 u. **Sexual Orientation** refers to a person's sexual and emotional attraction to, or
6 intimate and sexual relationship with, individuals of different, the same, or both
7 sexes;
8
9 v. **Social Protection** refers to a set of policies and programs designed to reduce
10 poverty and vulnerability by promoting efficient labor markets, diminishing people's
11 exposure to risks, and enhancing their capacity to protect themselves against
12 hazards and interruptions/loss of income;
13
14 w. **Stigma** refers to the dynamic devaluation and dehumanization of an individual in
15 the eyes of others which may be based on attributes that are arbitrarily defined by
16 others as discreditable or unworthy and which results in discrimination when acted
17 upon;
18
19 x. **Treatment Hubs** refer to private and public hospitals or medical establishments
20 accredited by the Department of Health (DOH) to have the capacity and facility to
21 provide anti-retroviral treatment;
22
23 y. **Voluntary HIV Testing** refers to HIV testing done on an individual who, after
24 having undergone pre-HIV counseling, willingly submits oneself to such test;
25
26 z. **Vulnerable Communities** refer to communities and groups who are suffering
27 from vulnerabilities such as unequal opportunities, social exclusion, poverty,
28 unemployment, and other similar social, economic, cultural and political
29 conditions, making them more susceptible to HIV infection and to developing
30 AIDS;
31
32 aa. **Work Place** refers to the office, premises and work site where workers are
33 habitually employed and shall include the office or place where workers, with no
34 fixed or definite work site, regularly report for assignment in the course of their
35 employment.
36

37 **SEC. 4. Philippine National AIDS Council.** - The Philippine National AIDS Council
38 (PNAC), hereinafter referred to as the Council, established under Section 43 of R.A.
39 8504 otherwise known as the "Philippine AIDS Prevention and Control Act of 1998",
40 shall be reconstituted and strengthened to ensure the implementation of the
41 country's response to the HIV and AIDS epidemic. The Council shall be the central
42 policy-making, planning, implementing, coordinating and advisory body for Philippine
43 National HIV and AIDS Program. It shall be an agency attached to the Department
44 of Health.
45

46 **SEC. 5. Functions of the PNAC.** - The Council shall perform the following
47 functions:
48

- 49 1. Develop the National HIV and AIDS Program in collaboration with
50 relevant government agencies and civil society organizations;

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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, and conduct annual reporting to Congress;
 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) The members of the Council shall be appointed not later than thirty (30) days after the date of the enactment of this Act;

f) 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

g) 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
9. Perform other functions as may be provided by the Council.

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

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

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

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

1
2 1. *HIV and AIDS Education for Key Populations and Vulnerable Communities.*
3 - To ensure that HIV services reach populations at higher risk, the State,
4 through the PNAC and in collaboration with HIV and AIDS civil society
5 organizations, shall support and provide funding for HIV and AIDS
6 education programs, such as peer education, outreach activities and
7 community-based research. The PNAC shall likewise craft the guidelines
8 for peer education and outreach activities which may be undertaken in
9 various settings including laboratory-based activities.

10
11 2. *Age-Appropriate HIV and AIDS Education in Schools.* – Using official
12 information and data from the PNAC, the Department of Education
13 (DepEd), the Commission on Higher Education (CHED), and the Technical
14 Education and Skills Development Authority (TESDA) shall integrate basic
15 and age-appropriate instruction on the causes, modes of transmission and
16 ways of preventing the spread of HIV and AIDS and other sexually
17 transmitted infections in subjects taught in public and private schools at
18 intermediate grades, secondary and tertiary levels, including non-formal
19 and indigenous learning systems.

20
21 The learning modules shall include information on treatment, care and
22 support to promote stigma reduction.

23
24 The learning modules that shall be developed to implement this provision
25 shall be done in coordination with the PNAC and stakeholders in the
26 education sector. Referral mechanisms, including but not limited to, the
27 DSWD Referral System, shall be included in the modules for key
28 populations and vulnerable communities.

29
30 All teachers and instructors to be assigned to handle these learning
31 modules shall be required to undergo seminars or trainings on HIV and
32 AIDS prevention that shall be supervised by the PNAC in coordination with
33 concerned agencies.

34
35 3. *HIV and AIDS Education in the Workplace.* - All public and private
36 employees, workers, managers, and supervisors, including members of the
37 Armed Forces of the Philippines (AFP) and the Philippine National Police
38 (PNP), shall be provided with standardized basic information and
39 instruction on HIV and AIDS, including topics on confidentiality in the
40 workplace and reduction or elimination of stigma and discrimination.

41
42 The Department of Labor and Employment (DOLE) for the private sector
43 and the Civil Service Commission (CSC) for the public sector shall
44 implement this provision. The DOLE and the CSC shall ensure that the HIV
45 and AIDS education program in the workplace is industry or sector-
46 appropriate and shall ensure the full participation of employers and workers
47 in designing the content of the program. Referral mechanisms for key
48 populations and vulnerable communities shall also be developed and
49 instituted by the DOLE and the CSC in coordination with the PNAC.

1 4. *HIV and AIDS Education for Filipinos Going Abroad.* – In coordination with
2 the PNAC, the Department of Foreign Affairs (DFA) and the DOLE shall
3 ensure that all overseas Filipino workers, including diplomatic, military,
4 trade, labor officials, personnel and their families to be assigned overseas,
5 shall undergo or attend a seminar on HIV and AIDS and shall be provided
6 with information on how to access on-site HIV-related services and facilities
7 before certification for overseas assignment.
8

9 5. *HIV and AIDS Education in Communities* - The DILG, League of Governors
10 and League of Mayors, through the Local HIV and AIDS Council (LAC) or
11 the Local Health Board and in coordination with the PNAC, local
12 governments shall conduct public awareness campaigns on HIV and AIDS
13 and shall educate local communities, through various channels, on
14 evidence-based, gender-sensitive, age-appropriate and human rights-
15 oriented prevention tools to stop the spread of HIV. For these purposes,
16 the LGUs are hereby authorized to utilize the Gender and Development
17 (GAD) Funds for HIV and AIDS education in communities.
18

19 In coordination with the Department of Social Welfare and Development,
20 local governments shall also conduct age-appropriate HIV and AIDS
21 education for out-of-school youths.
22

23 6. *Information for Tourists and Transients* - Educational materials on the
24 cause, modes of transmission, prevention, and consequences of HIV
25 infection shall be adequately provided at all international ports of entry and
26 exit. The Department of Tourism (DOT), the DFA, and the Bureau of
27 Immigration (BI), in coordination with the PNAC stakeholders in the tourism
28 industry, shall lead the implementation of this provision.
29

30 d. *HIV Counseling and HIV Testing.* - The State shall ensure that HIV testing is
31 voluntary and confidential. All HIV testing facilities shall be required to provide free
32 HIV counseling to individuals who wish to avail of HIV testing and counseling
33 which shall likewise be confidential. To implement this provision:
34

35 1. The DOH shall accredit public and private HIV testing facilities based on
36 their capacity to deliver testing services, including HIV counseling. Only
37 DOH-accredited HIV testing facilities shall be allowed to conduct HIV
38 testing;
39

40 2. The DOH shall lead the development of the guidelines for the conduct of
41 HIV counseling and HIV testing, including mobile HIV counseling and
42 testing, by testing facilities. The guidelines shall ensure, among others, that
43 HIV testing is voluntary and confidential and that HIV counseling is
44 available at all times and provided by qualified persons and DOH-
45 accredited providers;
46

47 3. The DOH shall accredit institutions or organizations that train HIV and AIDS
48 counselors; and
49

1 4. The PNAC shall set the standards for HIV counseling and shall work
2 closely with HIV and AIDS civil society organizations that train HIV and
3 AIDS counselors and peer educators.
4

5 e. *Positive Prevention* – The DOH shall lead, in coordination with the local
6 government units, and other relevant government agencies, private sector and
7 civil society organizations, in promoting preventive measures that shall focus
8 on the positive roles of persons living with HIV. Such preventive measures
9 shall cover, among others: (i) the creation of rights-based and community-led
10 behavior change programs that seek to encourage HIV risk reduction behavior
11 among persons living with HIV; (ii) the establishment and enforcement of
12 rights-based mechanisms to encourage newly tested HIV-positive individuals
13 to conduct sexual contact tracing and to promote HIV status disclosure to
14 sexual partners; (iii) the establishment of standard precautionary measures in
15 public and private health facilities; (iv) the accessibility of anti-retroviral
16 treatment, management of opportunistic infections, and health services related
17 to sexually transmitted infections; and (v) the mobilization of communities of
18 persons living with HIV, for public awareness campaigns and stigma reduction
19 activities. The enforcement of this provision shall not lead to or result in the
20 discrimination or violation of the rights of persons living with HIV.
21

22 f. *Preventing Mother-to-Child HIV Transmission* - The DOH shall establish a
23 program to prevent mother-to-child HIV transmission that shall be integrated in
24 its maternal and child health services.
25

26 g. *Standard Precaution*. – The DOH shall establish guidelines on donation of
27 blood,
28 tissue or organ, surgical and other similar procedures based on the following
29 principles:
30

31 1. Donation of tissue or organs, whether gratuitous or onerous, shall be
32 accepted by a laboratory or institution only after a sample from the donee
33 has tested negative for HIV. All donated blood shall also be subjected to
34 HIV testing. HIV positive blood shall be disposed of properly and
35 immediately. A second testing may be demanded as a matter of right by the
36 blood, tissue, or organ recipient or his immediate relatives before
37 transfusion or transplant, except during emergency cases.
38

39 Donations of blood, tissue, or organ tested positive for HIV may be
40 accepted for research purposes only, and subject to strict sanitary disposal
41 requirements.
42

43 2. The DOH, in consultation with concerned professional organizations and
44 hospital associations, shall issue guidelines on precautions against HIV
45 transmission during surgical, dental, embalming, tattooing or similar
46 procedures and guidelines on the handling and disposition of cadavers,
47 body fluids or wastes of persons known or believed to be HIV positive. The
48 necessary protective equipment such as gloves, goggles and gowns shall
49 be made available to all physicians and health care providers and similarly
50 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 indigents 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 (OWWA), 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 concerns 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. 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,

1 legal guardian, or whenever applicable, from the licensed social worker, licensed
2 health service providers, or a DOH-accredited health service provider assigned to
3 provide health services to the child.
4

5 In keeping with the principle of "*evolving capacities of the child*" as defined in
6 Section 3 (g) of this Act, HIV testing and counseling shall be made available to a
7 child under the following conditions:
8

- 9 1. The child, who is above the age of fifteen (15) years but below eighteen
10 (18) years, expresses the intention to submit to HIV testing and counseling
11 and other related services;
12
- 13 2. Reasonable efforts were undertaken to locate, provide counseling to, and
14 to obtain the consent of, the parents, but the parents are absent or cannot
15 be located, or otherwise refuse to give their consent;
16
- 17 3. Proper counseling shall be conducted by a social worker, health care
18 provider or other health care professional, accredited by the DOH or
19 DSWD; and
20
- 21 4. The licensed social worker, health care provider or other health care
22 professional shall determine that the child is "*at higher risk of HIV*
23 *exposure*," as defined in Section 3 (o) of this Act, and that the conduct of
24 the testing and counseling is in the child's best interest and welfare.
25

26 b. *Compulsory HIV Testing* - Compulsory HIV testing shall be allowed only in the
27 following instances:
28

- 29 1. A person is charged with any of the offenses punishable under Articles 264,
30 266, 335 and 338 of the Revised Penal Code, as amended by Republic Act
31 No. 8353, otherwise known as the Anti-Rape Law of 1997;
32
- 33 2. The determination of HIV status is necessary to resolve the relevant issues
34 under the Family Code;
35
- 36 3. To comply with the provisions of Republic Act No. 7170, also known as the
37 "Organ Donation Act of 1991" ;
38
- 39 4. To comply with the provisions of Republic Act No. 7719, otherwise known
40 as
41 the "National Blood Services Act of 1994"; and
42
- 43 5. Pre-surgical screening test as a precaution against transmission of blood-
44 borne infection.
45

46 c. *Stigma-Free HIV and AIDS Services* - The PNAC, in cooperation with public and
47 private HIV and AIDS service providers and civil society organizations, and in
48 collaboration with the Commission on Human Rights, shall ensure the delivery of
49 stigma-free HIV and AIDS services by government and private HIV and AIDS
50 service providers.

- 1
2 d. *Testing of Organ Donation* - Lawful consent to HIV testing of a donated human
3 body, organ, tissue or blood shall be considered as having been given when:
4
5 1. A person volunteers or freely agrees to donate his or her blood, organ, or
6 tissue for transfusion, transplantation, or research;
7
8 2. A person has executed a legacy in accordance with Sec. 3 of Republic Act
9 No. 7170; and
10
11 3. A donation is executed in accordance with Sec. 4 of Republic Act No. 7170.
12
13 e. *HIV Anti-Body Testing for Pregnant Women* – A health care provider who offers
14 pre-natal medical care shall make a non-mandatory HIV anti-body testing
15 available for pregnant women practicing high risk behavior or are vulnerable to
16 HIV. The DOH shall provide the necessary guidelines for health care providers in
17 the conduct of the screening procedure.
18
19 f. *Redress Mechanism*. - The Department of Justice and the Commission on Human
20 Rights shall take the lead in developing redress mechanisms for persons living
21 with HIV to ensure that their civil, political, economic and social rights are
22 protected.
23
24 g. *Acts of Discrimination*. - The following discriminatory acts shall be prohibited:
25
26 1. Rejection of job application, termination of employment, or other
27 discriminatory policies in hiring, provision of employment and other related
28 benefits, promotion or assignment of an individual solely or partially on the
29 basis of actual, perceived, or suspected HIV status;
30
31 2. Refusal of admission, expulsion, segregation, imposition of harsher
32 disciplinary actions, or denial of services or benefits, of a student or
33 prospective student solely or partially on the basis of actual, perceived or
34 suspected HIV status;
35
36 3. Restrictions on travel within the Philippines, refusal of lawful entry to the
37 Philippine territory, deportation from the Philippines, or the quarantine or
38 enforced isolation of travelers solely or partially actual, perceived or
39 suspected HIV status;
40
41 4. Restrictions on housing or lodging solely or partially on the basis of actual,
42 perceived or suspected HIV status;
43
44 5. Prohibitions on the right to seek an elective or appointive public office solely
45 or partially on the basis of actual, perceived or suspected HIV status;
46
47 6. Exclusion from health, accident, or life insurance, credit and loan services,
48 including the extension of such loan or insurance facilities, of an individual
49 solely or partially on the basis of actual, perceived or suspected HIV status:
50 *Provided*, That the person living with HIV has not misrepresented the fact

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

20
21 **SEC. 12. Confidentiality.** - The State shall guarantee the confidentiality and privacy
22 of any individual who has been tested for HIV, has been exposed to HIV, has HIV
23 infection or HIV and AIDS-related illnesses, or has been treated for HIV-related
24 illnesses.

25
26 a. *Confidential HIV and AIDS Information* - Unless otherwise provided in Section 12
27 (c) of this Act, it shall be unlawful to disclose, without written consent, information
28 that a person:

- 29 1. Had an HIV-related test;
- 30 2. Has HIV infection, HIV-related illnesses, or AIDS; or
- 31 3. Has been exposed to HIV.

32
33 The prohibition shall apply to any person, natural or juridical, whose work or
34 function involves the implementation of this Act or the delivery of HIV-related
35 services, including those who handle or have access to personal data or
36 information in the workplace, and who, pursuant to the receipt of the required
37 written consent from the subject of confidential HIV and AIDS information, have
38 subsequently been granted access to the same confidential information.

39 It shall be unlawful for any editor, publisher, and reporter or columnist in case of
40 printed materials, announcer or producer in case of television and radio
41 broadcasting, producer and director of the film in case of the movie industry, to
42 disclose the name, picture, or any information that would reasonably identify any
43 person living with HIV or AIDS, or any confidential HIV and AIDS information,
44 without the prior written consent of their subject.

45
46 b. *Release of HIV Testing and HIV-Related Test Result.* - The result of any HIV
47 testing or HIV-related testing shall be released only to the individual who
48 submitted to the test, or the spouse, upon receipt of post-test counseling, if
49 applicable. If the patient is a minor, an orphan, or is mentally incapacitated, the

1 result may be released to either of the patient's parents, legal guardian, or a duly
2 assigned social worker, whichever is applicable.

3
4 c. *Exemptions.* - Confidential HIV and AIDS information may be released by HIV
5 testing facilities without written consent on the following grounds:

- 6
7 1. When complying with the reportorial requirements of the national active and
8 passive surveillance system of the DOH: *Provided*, That the information
9 related to a person's identity shall remain confidential;
- 10
11 2. When informing other health workers directly involved in the treatment or
12 care of a person living with HIV: *Provided*, That such workers shall be
13 required to perform the duty of shared medical confidentiality;
- 14
15 3. When responding to a subpoena duces tecum and subpoena ad
16 testificandum issued by a Court with jurisdiction over a legal proceeding
17 where the main issue is the HIV status of an individual: *Provided*, That the
18 confidential medical record, after having been verified for accuracy by the
19 head of the office or department, shall be properly sealed by its lawful
20 custodian, hand delivered to the Court, and personally opened by the
21 judge: *Provided, further*, That the judicial proceedings shall be held in
22 executive session.

23
24 d. *Disclosure to Sexual Partners.* - Any person who, after having been tested, is
25 found to be infected with the HIV virus, is obliged to disclose this health condition
26 to the spouse or sexual partner prior to engaging in penetrative sex or any
27 potential exposure to HIV. A person living with HIV may opt to seek help from
28 medical professionals, health workers, or peer educators to support him in
29 disclosing this health condition to one's partner or spouse.

30
31 e. *Civil Liability* - Any person who has obtained knowledge of confidential HIV and
32 AIDS information and has used such information to malign or cause damage,
33 injury, or loss to another person may face liability under Articles 19, 20, 21, and 26
34 of the Civil Code.

35
36 **SEC. 13. National HIV and AIDS Program.** - A six-year National HIV and AIDS
37 Program shall be formulated and periodically updated by PNAC. The Program shall
38 comprise of the following: a) the country's targets and strategies in addressing the
39 epidemic; b) the prevention, treatment, care and support, and other components of
40 the country response; c) the five-year operationalization of the program and the
41 identification of the government agencies that shall implement the program from the
42 national to the local levels; and d) the budgetary requirements and a corollary
43 investment plan that shall identify the sources of funds for its implementation.

44
45 **SEC. 14. National HIV and AIDS and STI Prevention and Control Program of the**
46 **Department of Health** - The National HIV and AIDS and STI Prevention and Control
47 Program (NASPCP) of the Department of Health, which shall be staffed by qualified
48 medical specialist and support personnel with permanent appointments, shall
49 coordinate with PNAC for the implementation of the health sector's HIV and AIDS
50 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, Other Safer Sex Paraphernalia, and Sterile Injecting Equipment as Basis for Raids and Similar Police Operations - It shall be unlawful to use the presence of used or unused condoms, other safer sex paraphernalia and sterile injecting equipment to conduct raids or similar police operations in sites and venues of HIV prevention interventions.

The DILG and DOH, in coordination with the DDB, 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.

- 1 c. Any person found guilty of violating Section 11 of this Act shall suffer the penalty
2 of imprisonment for six (6) months to five (5) years and a fine of not less than One
3 Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred
4 Thousand Pesos (P500,000.00): Provided, That if the violator is a law enforcer or
5 a public official, administrative sanctions may be imposed in addition to the above
6 penalties.
7
- 8 d. Any person found guilty of violating Section 16 of this Act shall suffer the penalty
9 of imprisonment for two (2) months to two (2) years, without prejudice to the
10 imposition of administrative sanctions such as fines and suspension or revocation
11 of professional or business license.
12
- 13 e. Any person or any law enforcer found guilty of violating Section 17 of this Act shall
14 suffer the penalty of imprisonment for one (1) year to five (5) years and a fine of
15 not less than One Hundred Thousand Pesos (P100,000.00) but not more than
16 Five Hundred Thousand Pesos (P500,000.00). Law enforcers found guilty of
17 violating this section shall be removed from public service.
18
- 19 f. Any person who knowingly or negligently causes another to get infected with HIV
20 in the course of the practice of one's profession through unsafe and unsanitary
21 practice or procedure is liable to suffer a penalty of imprisonment for six (6) years
22 to twelve (12) years, without prejudice to the imposition of administrative sanctions
23 such as fines and suspension or revocation of the license to practice one's
24 profession. The permit or license of any business entity and the accreditation of
25 HIV testing centers may be cancelled or withdrawn if said establishments fail to
26 maintain such safe practices and procedures as may be required by the guidelines
27 formulated in compliance with Section 8 (g) (2) of this Act.
28

29 The penalties collected pursuant to this Section shall be deposited in the National
30 Treasury as income of the general fund.
31

32 **SEC. 19. *Duty of Employers, Heads of Government Offices, Heads of Public and***
33 ***Private Schools or Training Institutions, and Local Chief Executives.*** It shall be the
34 duty of private employers, heads of the government offices, heads of private and
35 public schools or training institutions, and local chief executives over all private
36 establishments within their territorial jurisdiction, to prevent or deter acts of
37 discrimination against persons living with HIV, and to provide for procedures for the
38 resolution, settlement, or prosecution of acts of discrimination. Towards this end, the
39 employer, head of office or local chief executive shall:
40

- 41 a. Promulgate rules and regulations prescribing the procedure for the investigation of
42 discrimination cases and the administrative sanctions thereof;
43
- 44 b. Create a permanent committee on the investigation of discrimination cases. The
45 committee shall conduct meetings to increase the knowledge and understanding
46 of HIV and AIDS, and to prevent incidents of discrimination. It shall also conduct
47 the administrative investigation of alleged cases of discrimination.
48

49 **SEC.20. *Congressional Oversight Committee.*** - To ensure the effective
50 implementation of this Act, a Congressional Oversight Committee shall be

1 established, hereinafter referred to as the HIV and AIDS Oversight Committee, that
2 shall be composed of three members (3) from the Senate, who shall include the
3 Chairperson of the Senate Committee on Health and Demography, and three (3)
4 members from the House of Representatives, who shall include the Chairperson of
5 the House Committee on Health. The HIV and AIDS Oversight Committee shall be
6 jointly chaired by the Chairpersons of the Senate Committee on Health and
7 Demography and the House Committee on Health.

8
9 The oversight committee shall exist for a period not exceeding three (3) years from
10 the effectivity of this Act, after which the oversight functions shall be undertaken by
11 the Committee on Health and Demography of the Senate of the Philippines and the
12 Committee on Health of the House of Representatives.

13
14 **SEC. 21. Appropriations.** - The initial amount necessary to implement the
15 provisions of this Act shall be charged against the current year's appropriation of the
16 Philippine National AIDS Council under the Department of Health. Thereafter, such
17 sums as maybe necessary for the continued implementation of this Act shall be
18 included in the Annual General Appropriations Act.

19
20 **SEC. 22. Implementing Rules and Regulations.** - The Philippine National AIDS
21 Council shall promulgate the necessary implementing rules and regulations within
22 sixty (60) days from the effectivity of this Act.

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

27
28 **SEC. 24. Separability Clause.** - Any portion or provision of this Act that may be
29 declared unconstitutional or invalid shall not have the effect of nullifying the other
30 portions and provisions hereof as long as such remaining portion or provision can
31 still subsist and be given effect in their entirety.

32
33 **SEC. 25. Repealing Clause.** - Republic Act No. 8504, otherwise known as the
34 "Philippine AIDS Prevention and Control Act of 1998" and all decrees, executive
35 orders, proclamations and administrative regulations or parts thereof inconsistent
36 herewith are hereby repealed, amended or modified accordingly.

37
38 **SEC. 26. Effectivity Clause.** - This Act shall take effect fifteen (15) days after its
39 publication in any national paper of general circulation.

Approved,