



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH (18th) CONGRESS
First Regular Session

HOUSE BILL NO. 162

Introduced by REP. JOSE CHRISTOPHER Y. BELMONTE

EXPLANATORY NOTE

House Bill No. 5567 or "*An Act Establishing a National Center and an Inter-Agency Council for Harm Reduction, Providing for Harm Reduction Program for Personal Use and Low-Level Possession of Drugs, Appropriating Funds Therefor and for Other Purposes*" was originally filed at the end of the Second Regular Session of the 17th Congress by this Representation.

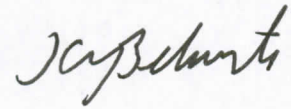
This bill was filed in view of Section 15, Article II of the 1987 Constitution which provides that the State shall protect and promote the right to health of the people and instill health consciousness among them. Moreover, the State values the dignity of every human person and guarantees full respect for human rights.

In this light, the Philippines strongly reaffirms that health, which is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, is a fundamental human right and that the attainment of the highest possible level of health is a most important worldwide social goal. The right to health includes the right to be free from non-consensual medical treatment and proscribes any discrimination in access to health care, such as discrimination based on health status (including HIV/ AIDS).

Currently, the Philippine Government has intensified efforts to address drug-related issues in the country. However, multi-country experience and evidence show that the most successful and effective approach to drug-related issues focuses on public health, prevention, treatment and care, as well as on economic, social, and cultural strategies as opposed to criminalization and incarceration of people who use drugs. This public health framework for drug-related issues is anchored on the principle of harm reduction, which aim primarily to reduce the adverse health, social and economic consequences related to the problematic use of legal and illegal psychoactive drugs without focusing on drug consumption alone.

Towards this end, this bill proposes the creation of a National Center and an Inter-Agency Council for Harm Reduction, providing for harm reduction diversion program for personal use and low-level possession of drugs, prohibiting discriminatory and harmful drug-related interventions and practices, and for other purposes.

In view of the foregoing, immediate approval of this measure is earnestly sought.

A handwritten signature in black ink, appearing to read "Jay Belmont". The signature is written in a cursive style with a large, stylized initial "J".



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AN ACT
ESTABLISHING A NATIONAL CENTER AND AN INTER-AGENCY COUNCIL
FOR HARM REDUCTION, PROVIDING FOR DIVERSION AND HARM-
REDUCTION PROGRAM FOR PERSONAL USE AND LOW-LEVEL POSSESSION
OF DRUGS, PROHIBITING HARMFUL AND DISCRIMINATORY DRUG-
RELATED INTERVENTIONS AND PRACTICES, AND FOR OTHER PURPOSES

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

1 SECTION 1. *Title.* – This Act shall be known as the “*Harm Reduction Act.*”

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

6 The State shall ensure that a scientific, effective, and evidence-based approach shall be
7 the foundation of national drug-related policies and programs for people involved with drugs,
8 including their family and relevant others.

9 The State affirms that the individual who uses drugs is at the center of harm reduction
10 and that there are various psychosocial factors affecting the use of drugs. The State recognizes
11 that majority of drug use and low-level possession of drugs do not amount to social problems
12 that necessitate punitive interventions. In this light, the State upholds an integrative approach
13 to drug-related issues which takes into account the context of the person involved with drugs

and their personal motivations and desires in designing harm reduction programs.

Towards this end, the State shall endeavor to mainstream harm reduction principles in key government agencies with roles on drug-related interventions. The State will ensure that harm reduction approach is effectively implemented and sufficiently funded in communities, and that relevant stakeholders are included in this endeavor.

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

SEC. 3. *Purpose.* – This act aims to:

- (a) Establish a National Center for Harm Reduction;
- (b) Establish an Inter-Agency Council for Harm Reduction;
- (c) Mainstream harm reduction in public policy, plans and programs of various sectors and government agencies;
- (d) Provide for diversion and harm reduction diversion program for drug use and low-level possession of drugs; and
- (e) Prohibit discriminatory and harmful drug-related interventions and practices.

SEC. 4. *Definition of Terms.* – For purposes of this act:

- (a) *Diversion* refers to procedures that provide alternatives to criminal sanctions or incarceration for people who are arrested for drug use or drug-related offenses, particularly personal use and low-level possession of drugs and paraphernalia.
- (b) *Diversion measures* refer to policies, programs and practices that aim to refer people to social and health interventions such as harm reduction, rather than subject them to arrest, detention, prosecution, judicial sentencing and imprisonment.
- (c) *Harm reduction* refers to policies, programs and practices that aim primarily to reduce the adverse health, social and economic consequences of the problematic use of legal and illegal psychoactive drugs without focusing on drug consumption alone.
- (d) *Low-level possession* refers to possession of small amount of drugs and drug use-related paraphernalia intended for individual personal use.
- (e) *Psychoactive drug or psychotropic substance* refers to any substance, natural or synthetic, or any natural material in Schedules I, II, III and IV of the Convention on Psychotropic Substances, 1971.

PART II

Creation of the National Center for Harm Reduction

SEC. 5. *Establishment.* – There is hereby established a National Center for Harm

Reduction, hereinafter referred to as the Center.

The Center shall be an attached agency under the Department of Health (DOH) and shall receive annual budgetary appropriations under the Department. It shall have its principal place of business in Metro Manila. It shall be organized within two (2) months from the effectivity of this Act. The Center shall plan and implement an integrated and comprehensive harm reduction approach to drug-related issues in the Philippines. It shall be the lead policy-making body of the government, which shall be tasked to design, implement, coordinate, monitor and evaluate the programs and action plans of the government in order to ensure the mainstreaming of harm reduction in key government agencies.

The key government agencies shall include but not limited to Department of Health, Department of Interior and Local Government (DILG), Department of Education (DepEd), Department of Social Welfare and Development (DSWD), Philippine Information Agency (PIA), Department of Budget and Management (DBM), Philippine Health Insurance Corporation (PhilHealth), Department of Justice (DOJ), Philippine National Police (PNP), Dangerous Drugs Board and Philippine Drug Enforcement Agency (PDEA) and local government units.

SEC. 6. Functions of the Center. – The Center shall perform the following functions:

- (a) Develop and design the National Harm Reduction Policy Framework and Action Plan, in consultation with the Harm Reduction Inter-Agency Council provided for in Part III of this Act, to ensure the mainstreaming of harm reduction relevant key government agencies and monitoring of their implementation;
- (b) Coordinate the activities of, strengthen working relationships, and ensure an integrated approach among government agencies, civil society organizations, and the private sector involved in the implementation of harm reduction programs;
- (c) Oversee the implementation of harm reduction programs in the identified localities;
- (d) Monitor and assess implementation of laws and policies on harm reduction;
- (e) Provide mechanisms of assistance, including funding support, to local government units and civil society organizations in implementing harm reduction programs;
- (f) Convene panels of advisors and technical experts as necessary to ensure representation of all sectors in the development of policies, programs, and plans for harm reduction;
- (g) To exercise such other powers and functions and perform such other acts as

1 may be necessary or proper for the attainment of the purposes and objectives of this
2 Act.

3 SEC. 7. *Composition of the Center.* – The Center shall be headed by a Director to be
4 appointed by the Secretary of Health, subject to qualifications and eligibility requirements
5 provided in this Act and in existing laws. The Center shall be composed of staff as required
6 for the full implementation of the national harm reduction policy framework and action
7 plan.

8 SEC. 8. *Qualifications, Tenure, Compensation and Removal of the Director.* – The
9 Director must be a Filipino citizen, resident of the Philippines, at least thirty-five (35) years
10 of age at the time of appointment, with proven experience on public health, of proven
11 honesty and integrity, and must not have been a candidate for any elective position in the
12 elections preceding their appointment. The Director shall be an expert in drug policy as
13 proven by his or her educational background, training and experience. The Director shall
14 serve during the period of appointment unless removed for cause or on other grounds
15 provided by law. The compensation shall be consistent with existing salary standardization
16 laws. The Director shall serve during the period of appointment unless removed for cause
17 or on other grounds provided by law.

18 SEC. 9. *National Harm Reduction Policy Framework and Action Plan.* – The Center
19 shall, within six (6) months from the effectivity of this Act, formulate a National Harm
20 Reduction Policy Framework and Action Plan in consultation with the Harm Reduction
21 Inter-Agency Council. The Policy Framework and Action Plan shall serve as the basis for
22 harm reduction planning, implementation, research and development, monitoring and
23 evaluation, and financing, in order to address drug-related issues in the country.

24 The Framework and Action Plan shall be reviewed every three (3) years, or as may be
25 deemed necessary. The review of the Policy Framework and Action Plan shall involve a
26 participatory and interactive process.

27 SEC. 10. *Components of the National Harm Reduction Policy Framework and Action*
28 *Plan.* – The Framework shall include, but not limited to, the following components:

- 29 (a) National priorities in harm reduction;
- 30 (b) Policy recommendations and policies;
- 31 (c) Compliance with international commitments and guidelines;
- 32 (d) Research and development agenda on harm reduction;
- 33 (e) Information management;
- 34 (f) Information, education, and awareness programs for harm reduction;

- (g) Comprehensive advocacy and communication plan;
- (h) Monitoring and evaluation protocols;
- (i) Community mobilization strategies;
- (j) Harm reduction integration in key government agencies;
- (k) Human resource training;
- (l) Standards implementation of harm reduction programs.

PART III

Establishment of a Harm Reduction Inter-Agency Council

SEC. 11. *Establishment.* – There is hereby established a Harm Reduction Inter-Agency Council, hereinafter referred to as the Council.

SEC. 12. *Composition.* – All government agencies, which have significant roles in mainstreaming harm reduction, shall comprise the Council and shall take part in the development of the Harm Reduction Policy Framework and Action Plan. The Council will also be composed of representatives from the civil society and private sector as enumerated in the succeeding section. The government agencies are also mandated to integrate specific harm reduction in their policies and programs, and work together towards the implementation of the Policy Framework and Action Plan. Particularly:

- (a) The Department of Health (DOH) shall ensure that harm reduction programs are provided by all health service providers and incorporated in the health services provided in government institutions.
- (b) The Department of the Interior and Local Government (DILG) shall facilitate the development and provision of a capacity building program for local government units in harm reduction.
- (c) The Department of Education (DepEd) shall recognize harm reduction as a key aspect of health and drugs awareness classes, which shall be integrated into the primary and secondary education curricula. Public and private schools shall devote at least four (4) hours of class time per semester for harm reduction education and shall assign guidance counsellors to provide harm reduction education in accordance with standards for content and process for teaching as set by the Center.
DepEd shall ensure that the teachers, guidance counsellors, and involved staff are properly trained to provide for harm reduction awareness classes.
- (d) The Department of Social Welfare and Development (DSWD) shall incorporate harm reduction in their social service packages;
- (e) The Philippine Information Agency (PIA) shall disseminate information on harm

reduction in accordance with the Policy Framework and Action Plan;

(f) The Department of Budget and Management (DBM) shall undertake the formulation of the annual national budget in a way that ensures the appropriate prioritization and allocation of funds to support harm reduction programs and projects in the annual program of government;

(g) The Philippine Health Insurance Corporation (PhilHealth) shall develop and fund programs targeted at harm reduction.

(h) The Department of Justice (DOJ) shall train prosecutors for the proper implementation of diversion programs.

(i) The Philippine National Police (PNP) shall train its police force for the proper implementation of diversion programs.

(j) The Dangerous Drugs Board (DDB) shall ensure that the national drug policy incorporates harm reduction.

(k) The Philippine Drug Enforcement Agency (PDEA) shall train its agents for the proper implementation of diversion programs.

SEC. 13. *Role of the Civil Society Organizations and the Private Sector.* – The civil society organizations (CSOs), as well as community-based organizations (CBOs), play a key role in harm reduction and shall have seats in the Council. CSOs and CBOs shall come from stakeholders for drug use related issues.

The private sector is encouraged to support harm reduction activities of CSOs and CBOs and to contribute to promoting and implementing the national strategy framework and plan.

The CSOs and private sector shall have at least eight (8) seats and shall be represented by the following groups:

- (a) Women's organization;
- (b) Youth organization;
- (c) Human rights group;
- (d) Drug policy think tank;
- (e) Public health group;
- (f) Organized drug users group;
- (g) HIV/ AIDS advocacy group; and,
- (h) Mental health group.

Other groups may be provided seats in the Council as determined by the existing composition of the Council.

SEC. 14. *Role of LGUs.* – The local government units shall be responsible for the formulation, implementation, monitoring, and evaluation of the local harm reduction plans in their respective jurisdiction, consistent with the Policy Framework and Action Plan.

Barangays shall be directly involved with municipal and city governments in identifying drug-related issues and in identifying and implementing harm reduction programs. Provincial governments shall provide technical assistance, in support of municipal and city plans. Inter-local government unit collaboration shall be maximized in the conduct of harm reduction activities.

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

SEC. 15. *Coordination with Various Sectors.* – In the development and implementation of the Policy Framework and Action Plan, and the local action plans, the Council shall consult and coordinate with the non-government organizations (NGOs), civic organizations, academe, people's organizations, the private and corporate sectors and other concerned stakeholder groups.

PART IV

Diversion and Harm Reduction Programs

SEC. 16. *Qualifications for Harm Reduction Program.* – The following persons will not be arrested, prosecuted, or incarcerated as a consequence of a drug-related activity alone, but will qualify for diversion to a Harm Reduction Program:

- (a) Persons who personally use drugs;
- (b) Persons with low-level possession of drugs and drug paraphernalia intended for personal use. Low-level possession includes any of the following:
 - (i) Possession of not more than the threshold amount per substance as defined by the Food and Drug Authority (FDA), in consultation with the Center and the Dangerous Drug Board.
 - (ii) Possession of not more than 10-days worth of personal drug supply based on the thresholds defined by the FDA, in consultation with the Center and Dangerous Drug Board;
- (c) Persons who are currently incarcerated for personal use or low-level possession drugs and drug paraphernalia.
- (d) Persons who have committed other acts or omissions currently penalized by

1 law but otherwise qualify for the harm reduction program will still be provided harm
2 reduction services without prejudice to arrest, prosecution, or incarcerated for the
3 commission of these other acts or omissions.

4 (e) Persons currently incarcerated but qualify for diversion will be released from
5 custody and diverted to the harm reduction program.

6 SEC. 17. *Procedure for Diversion.* – The police officer, prosecutor, or any agent of the
7 law who encounters any person who qualifies for diversion under the previous section shall
8 refer the person to the Municipal or City Health Officer or properly designated health
9 officer within their local government unit. No information shall be filed against the
10 diverted person.

11 Any person who is deemed by the police officer, prosecutor, or any agent of the law as
12 having not qualified for diversion may appeal the same before the Municipal or City or
13 Provincial Prosecutor, or to the Secretary of the Department of Justice.

14 Any person diverted will take part in an assessment procedure by the Municipal or
15 City Health Officer or properly designated health officer to identify appropriate harm
16 reduction strategies for the person diverted.

17 SEC. 18. *Coverage of Harm Reduction Programs.* – The selection of harm reduction
18 strategies shall be based on strong evidence of effectiveness as shown in scientific
19 literature and in practice. The following, and other similar procedures, shall be integral part
20 of harm reduction:

21 (a) *Education and outreach.* – Drug education campaigns using materials 31
22 developed to inform people involved with drugs of the risks associated with drug use
23 and methods to reduce those risks. This could include, but is not limited to,
24 counselling, HIV and hepatitis C prevention measures such as safe injecting
25 techniques, overdose prevention, and proper condom use. Outreach pertains to face-
26 to-face contact with people who use drugs in the communities they live in, and
27 promote 5 harm reduction strategies in their communities, distribute condoms and
28 bleach kits, and other support to the communities based on identified needs. The
29 education campaigns shall include schools, workplaces, public areas, and other
30 places identified by the community.

31 (b) *Referral to health and social services.* – Access to medical and social services
32 in a comprehensive and non-judgmental manner, as determined by the specific needs
33 of each person involved with drugs. Social services include support to improve the
34 person's quality of life, such as employment and skills training, among others.

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

(d) *Safe paraphernalia distribution programs.* – Distributing sterile needle, syringes and other safe paraphernalia and collection of used needles and syringes.

(e) *Drug substitution treatment.* – Provision of drugs as substitutes and/or maintenance for substance dependents based on the recommendations of the Food and Drug Authority.

(f) *Integrative Harm Reduction Psychotherapy.* Provision of person-centered psychosocial support and counselling based on the specific needs of each person diverted.

Harm reduction strategies may be developed by the Center in consultation with the Council based on the latest evidence and on researches done as provided in this Act.

SEC. 19. *Community-Specific Harm Reduction Program.* – The Center, in coordination with LGUs, will establish community-specific harm reduction program based on the specific needs of each community. The Center shall oversee the different stages of the development of the harm reduction program, which include the following:

(a) *Bringing Key Stakeholders Together.* – Convening people involved with drugs in the community and linking them with local officials to identify preventable drug-related harm.

(b) *Creating a Leadership and Organizational Structure.* – Establishing a core group involving the Municipal or City Health Officer, barangay health workers, social workers, and representatives from the community.

(c) *Identifying Key Community Partners and Inventory of Local Services.* – Mapping the community resources and organizational partners towards harm reduction.

(d) *Community Diagnosis and Needs Mapping.* – Conducting a detailed needs assessment to determine the gaps in harm reduction strategies.

(e) *Development of a Locally-Driven Harm Reduction Strategy.* – Developing a comprehensive plan based on the needs and resources of the community.

(f) *Training of Human Resources and Implementation of Harm Reduction Strategies.* – Rolling out of the locally-driven plans with constant provision of technical support and funding assistance.

(g) *Monitoring and Evaluation.* – Conduct of studies to ensure that the local plans

1 are consistent with the Policy Framework and Action Plan and improving services
2 based on feedback.

3 SEC. 20. *Treatment, Rehabilitation, and Reintegration.* – Any diverted person
4 assessed by the Municipal or City Health Officer or the properly designated health officer,
5 in meaningful consultation with the person diverted, who needs further treatment and
6 rehabilitation will be referred to appropriate hospitals or institutions for further care. The
7 Municipal or City Health Officer or the properly designated health officer, will also ensure
8 proper reintegration strategies for the person under treatment or rehabilitation in
9 compliance with standards set by the Center.

10 SEC. 21. *Education and Information Awareness Campaign.* – In addition to locally-
11 initiated education and campaign, the Center will develop information, education, and
12 communication materials aimed at increasing awareness on harm reduction. The Center
13 will utilize available media and communication platforms, including, but not limited to,
14 online campaigns, print media, radio and television, among others.

15 SEC. 22. *Research and Development.* – The Center will initiate research on harm
16 reduction based on research agenda developed under the Policy Framework and Action
17 Plan. The research output will form essential basis for developing and improving the
18 Policy Framework and Action Plan.

19 SEC. 23. *Human Resource Training and Development.* – The Center will develop a
20 human resource training and development system to ensure that police, prosecutors, agents
21 of the law, health officers, social workers, teachers, and all other persons involved in any
22 aspect of the development and implementation of the Policy Framework and Action Plan
23 are fully capable of achieving the purpose of this Act.

24 **PART V**

25 *Prohibited Acts*

26 SEC. 24. *Mandatory Drug Testing.* – Mandatory drug testing in schools, workplaces,
27 and other public or private places are hereby prohibited, Sections 36 and 38 of Republic
28 Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, are
29 hereby repealed.

30 SEC. 25. *Involuntary Treatment and Compulsory Detention.* Unless otherwise
31 determined by a competent court to be without legal competence to provide for consent,
32 any person will not be subject to involuntary treatment and compulsory detention.

33 SEC. 26. *Traumatic Physical and Psychological Intervention.* – Any intervention
34 which inflicts physical or psychological trauma to people involved with drugs are

1 prohibited, including, but not limited to, deprivation of food and water, dosing of cold
 2 water, blindfolding, confinement in enclosed spaces, verbal abuse, flogging, whipping,
 3 electroshock, involuntary evangelization or participation in religious practices and similar
 4 violent and harmful interventions.

5 The use of appropriate restraints as medically indicated shall be allowed.

6 SEC. 27. *Non-Disclosure of Effects of Medications and Treatment.* – Physicians and
 7 medical practitioners are prohibited from not disclosing relevant information regarding
 8 medication and treatment to people involved with drugs which will assist the patient and
 9 his family to make informed choices as regards medication and treatment plans.

10 SEC. 28. *Denial of Health Services by Virtue of Health Status.* It is prohibited to deny
 11 any health service to a person involved with drugs by virtue of his health status, including,
 12 but not limited to, HIV/ AIDS or Hepatitis C status and his past or present history of
 13 involvement with drug use.

14 SEC. 29. *Prohibition of Arrest of a Good Samaritan.* – Any person who brings a
 15 person involved with drugs who needs urgent 31 medical attention shall not be arrested or
 16 prosecuted for any drug-use related activity.

17 SEC. 30. *Penalties.* – Any public officer who is guilty of committing any or the
 18 prohibited acts will 4 be administratively liable of suspension for six (6) months without
 19 pay for the first time, suspension for twelve (12) months without pay for the second time,
 20 and removal from office for the third time.

21 Any physician or medical practitioner who is guilty of committing any of the
 22 prohibited acts will be administratively liable of suspension of license to practice for six
 23 (6) months for the first time, suspension of license to practice for twelve (12) months for
 24 the second time, and revocation of license of the third time.

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

27 **PART VI**

28 *Miscellaneous Provisions*

29 SEC. 31. *Congressional Oversight Committee.* – A Joint Congressional Oversight
 30 Committee (COC) is hereby constituted. It is mandated to review the implementation of
 31 this Act and the performance and structure of the National Center and Council after two (2)
 32 years from its creation. The COC shall be composed of five (5) members from the Senate
 33 and five (5) members from the House of Representatives to be appointed by the Senate
 34 President and the Speaker of the House of Representatives, respectively. The COC shall be

1 jointly chaired by the Chairpersons of the Senate Committee on Health and Demography
2 and the House of Representatives Committee on Health.

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

7 SEC. 32. *Implementing Rules and Regulations.* – Within ninety (90) days from the
8 approval of this Act, the Secretary of Health shall, in consultation with the Council,
9 promulgate the necessary rules and regulations for the effective implementation of this
10 Act. Failure to promulgate the IRR shall not affect the implementation of the self-
11 executory provisions of this Act.

12 SEC. 33. *Appropriations.* – The initial funding necessary to carry out the provisions of
13 this Act shall be charged against the current appropriations of the Department of Health.
14 Thereafter, the amount necessary for the continued implementation of this Act shall be
15 included in the General Appropriations Act.

16 SEC. 34. *Separability Clause.* – If any provision or section of this Act is declared
17 unconstitutional, the other provisions and sections not affected thereby shall remain in full
18 force and effect.

19 SEC. 35. *Repealing Clause.* – All laws, presidential decrees, executive orders and their
20 implementing rules inconsistent with the provisions of this Act are hereby repealed,
21 amended, or modified accordingly.

22 SEC. 36. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication
23 in at least two (2) national newspapers of general circulation.

24 *Approved,*