

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 53

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Introduced by REP. KAKA 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 33,419 reported HIV cases in the country from 1984 to 2016.

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 despite the alarming growth in HIV incidence. We need at least P 2.3 billion every year to reverse the epidemic and lower new cases to 500 a year, thus avoiding a more costly epidemic.

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 Millennium Development Goals and other international development instruments, the Philippine government has consistently committed to reduce HIV infection. While our country has made progress in other development indicators, it 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; and
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 rights and 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 16th Congress after the House of Representatives approved on third and final reading House Bill No. 5178, but unfortunately, did not reach the final stage. Hence, the prompt passage of this bill is earnestly sought.



REP. KAKA BAG-AO

Lore District, Dinagat Islands

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AN ACT

STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) PREVENTION, TREATMENT, CARE, AND SUPPORT, AND ESTABLISHING THE PHILIPPINE NATIONAL HIV AND AIDS PLAN, REPEALING 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:

SECTION 1. *Short Title.* – This Act shall be known as the "Philippine HIV and AIDS Policy Act".

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

- a. Establish policies and programs to prevent the spread of HIV and deliver treatment, care, and support services to Filipinos living with HIV in accordance with evidence-based strategies and approaches that follow the principles of human rights, gender-responsiveness, and meaningful participation of communities affected by the epidemic;
- b. Adopt a multi-sectoral approach in responding to the HIV epidemic by ensuring that local communities, civil society organizations, and persons living with HIV are at the center of the process;

- c. Remove all barriers to HIV and AIDS-related services by eliminating the climate of stigma that surrounds the epidemic and the people directly and indirectly affected by it; and
- d. Positively address and seek to eradicate conditions that aggravate the spread of HIV infection, which include poverty, gender-responsiveness, prostitution, marginalization, drug abuse, and ignorance.

Respect for, protection of, and promotion of human rights are the cornerstones of an effective response to the HIV epidemic. The meaningful inclusion and participation of persons directly and indirectly affected by the epidemic, especially persons living with 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, disability, and 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.* – For the purposes of this Act, the following terms shall be defined as follows:

- a. *Acquired Immune Deficiency Syndrome (AIDS)* refers to a health condition where there is a deficiency of the immune system that stems from infection with the Human Immunodeficiency Virus or HIV, making an individual susceptible to opportunistic infections;
- b. *Antiretroviral (ARV)* refers to the treatment that stops or suppresses viral replication or replications of a retrovirus like HIV thereby slowing down the progression of infection;
- c. *Civil Society Organizations (CSOs)* refer to groups of non-governmental and non-commercial individuals or legal entities that are engaged in non-coerced collective action around shared interests, purpose and values;
- d. *Community-based research* refers to research study undertaken in community settings and which involve community members in the design and implementation of research projects;
- e. *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;

- f. *Discrimination* refers to unfair or unjust treatment that distinguishes, excludes, restricts, or shows preferences based on any ground such as sex, gender, age, sexual orientation, gender identity, economic status, disability, ethnicity, and HIV status, 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;
- g. *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 the 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.
- h. *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 experience of gender, among them, dress, speech, and mannerism;
- i. *Harm reduction* refers to evidence-based policies, programs and approaches that aim to reduce transmission of HIV and its harmful consequences on health, social relations and economic conditions;
- j. *High-risk behavior* refers to a person's frequent involvement in certain activities that increase the risk of transmitting or acquiring HIV;
- k. *Human Immunodeficiency Virus (HIV)* refers to the virus, of the type called retrovirus, which infects cells of the human immune system—mainly CD4positiveT cells and macrophages-key components of the cellular immune system—and destroys or impairs the cells' function. Infection with HIV results in the progressive deterioration of the immune system, leading to immune deficiency;
- l. *HIV counseling* refers to the interpersonal, dynamic communication process between a client and a trained counselor, who is bound by a code of ethics and practice, to resolve personal, social, or psychological problems and difficulties, whose objective in counseling, in the context of an HIV diagnosis, is to encourage the client to explore important personal issues, identify ways of coping with anxiety and stress, and plan for the future (keeping healthy, adhering to treatment, and preventing transmission) and, in the context of a negative HIV test result, is to encourage the client to explore motivations, options, and skills to stay HIV-negative;

- m. *HIV and AIDS counselor* refers to any individual trained by an institution or organization accredited by the Department of Health (DOH) to provide counseling services on HIV and AIDS with emphasis on behavior modification;
- n. *HIV and AIDS monitoring* refers to the documentation and analysis of the number of HIV/AIDS infections and the pattern of its spread;
- o. *HIV and AIDS prevention and control* refers to measures aimed at protecting non-infected persons from contracting HIV and minimizing the impact of the condition of persons living with HIV;
- p. *HIV-Negative* refers to the absence of HIV or HIV antibodies upon HIV testing;
- q. *HIV-Positive* refers to the presence of HIV infection as documented by the presence of HIV or HIV antibodies in the sample being tested;
- r. *HIV-related testing* refers to any laboratory testing or procedure done on an individual regardless of whether the person is HIV positive or negative;
- s. *HIV testing* refers to any facility-based or mobile medical procedure that is conducted to determine the presence or absence of HIV in a person's body. HIV testing is confidential and 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;
- t. *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;
- u. *HIV transmission* refers to the transfer of HIV from one infected person to an uninfected individual, most commonly through sexual intercourse, blood transfusion, sharing of intravenous needles, and vertical transmission;
- v. *Key affected populations at higher risk of HIV exposure or key populations* refer to those groups of persons, as determined by the Philippine National AIDS Council, whose behavior make them more likely to be exposed to HIV or to transmit the virus;
- w. *Laboratory* refers to area or place, including community-based settings, where research studies are being undertaken to further develop local evidence base for effective HIV programs;

- x. *Medical confidentiality* refers to the relationship of trust and confidence created or existing between a patient or a person living with HIV and his attending physical, consulting medical specialist, nurse, medical technologist and all other health workers or personnel involved in any counseling, testing or professional care of the former. It also applies to any person who, in any official capacity, has acquired or may have acquired such confidential information;
 - y. *Opportunistic infection* refers to illnesses caused by various organisms, many of which do not cause disease in persons with healthy immune system;
 - z. *Partner notification* refers to the process by which the 'index client', 'source' or 'patient', who has a sexually transmitted infection (STI) including HIV, is given support in order to notify and advise the partners that they have been exposed to infection. Support includes giving the index client a mechanism to encourage the client's partner to attend counseling, testing and other prevention and treatment services. Confidentiality shall be observed in the entire process;
- aa. *Person living with HIV* refers to any individual diagnosed to be infected with HIV;
 - bb. *Pre-test counseling* refers to the process of providing an individual information on the biomedical aspects of HIV/AIDS and emotional support to any psychological implications of undergoing HIV testing and the test result itself before the individual is subjected to the test;
 - cc. *Post-test counseling* refers to the process of providing risk-reduction information and emotional support to a person who submitted to HIV testing at the time the result is released;
 - dd. *Prophylactic* refers to any agent or device used to prevent the transmission of a disease;
 - ee. *Provider-initiated counseling and 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. A person may elect to decline or defer testing such that consent is conditional;
 - ff. *Routine HIV testing* refers to HIV testing recommended at health care facilities as a standard component of medical care. It is part of the normal standard of care offered irrespective of whether or not the patient has signs and symptoms of underlying HIV infection or has other reasons for presenting to the facility provided that a patient may elect to decline or defer testing.

- gg. *Safer sex practices* refer to choices made and behaviors adopted by a person to reduce or minimize the risk of HIV transmission. It include postponing sexual debut, non-penetrative sex, correct and consistent use of male or female condoms, and reducing the number of sexual partners;
- hh. *Sexually Transmitted Infections (STIs)* refer to infections that are spread through the transfer of organisms from one person to another as a result of sexual contact;
- ii. *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;
- jj. *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;
- kk. *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;
- ll. *Treatment hubs* refer to private and public hospitals or medical establishments accredited by the DOH to have the capacity and facility to provide anti-retroviral treatment;
- mm. *Vertical transmission* refers to the process of transmission during pregnancy, birth, or breastfeeding;
- nn. *Voluntary HIV testing* refers to HIV testing done on an individual who, after having undergone pre-test counseling, willingly submits to such test;
- oo. *Vulnerable communities* refer to communities and groups 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;
- pp. *Window period* refers to the period of time, usually lasting from two (2) weeks to six (6) months during which an infected individual will test 'negative' upon HIV testing but can actually transmit the infection;
- qq. *Workplace* refers to the office, premise or 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.

ARTICLE I

PHILIPPINE NATIONAL AIDS COUNCIL

SEC. 4. Establishment. – The Philippine National AIDS Council, hereinafter referred to as the Council, shall be the policy-making, planning, coordinating and advisory body of the Philippine National HIV and AIDS Program. It shall be an agency attached to the Department of Health.

In situations where a gap in the national response has been identified, the Council may catalyze or develop the intervention required for endorsement to appropriate government agencies.

SEC. 5. Functions. – The Council shall perform the following functions:

- a. Develop the National Multi-Sectoral HIV and AIDS Strategic Plan in collaboration with relevant government agencies and civil society organizations;
- b. Ensure the operationalization and implementation of the National Multi-Sectoral HIV and AIDS Strategic Plan;
- c. Coordinate with government agencies and other entities mandated to implement the provisions of this Act;
- d. Develop and ensure the implementation of the guidelines and policies provided in this Act, including other policies that may be necessary to implement the National Multi-Sectoral HIV and AIDS Strategic Plan;
- e. Monitor the progress of the epidemic;
- f. Monitor the implementation of the National Multi-Sectoral HIV and AIDS Plan, undertake mid-term assessments and evaluate its impact;
- g. Mobilize sources of fund for the National Multi-Sectoral HIV and AIDS Plan;
- h. Coordinate, organize and work in partnership with foreign and international organizations regarding funding, data collection, research, and prevention and treatment modalities on HIV and AIDS and ensure foreign funded programs are aligned to the national response;
- i. Advocate for policy reforms to Congress, and other government agencies to strengthen the country's response to the epidemic; and
- j. Submit an annual report to the Office of the President, Congress, and members of the Council.

SEC. 6. Membership and Composition. – Two-thirds (2/3) of the Council's membership shall come from national government agencies, and one-third (1/3) shall come from civil society organizations. *Provided, That* an organization representing the positive community shall be included. Positive Community refers to those persons who are infected with HIV or AIDS virus.

Selection of members shall be based on the following criteria:

- a. Government agencies or CSOs with direct contribution to the performance of the core functions of the Council (oversight, direction setting and policy making);
- b. Government agencies or CSOs with existing programs, services and activities that directly contribute to the achievement of the National Multi-Sectoral HIV and AIDS Plan; and
- c. Government agencies or CSOs with existing constituencies that are targeted by the National Multi-Sectoral HIV and AIDS Plan's objectives and activities.

The following Member Agencies and CSOs shall be represented in the Council:

1. Department of Health;
2. Department of Education;
3. Department of Labor and Employment;
4. Department of Social Welfare and Development;
5. Department of the Interior and Local Government;
6. Department of Justice;
7. Department of Budget and Management;
8. Department of Foreign Affairs;
9. Department of Tourism;
10. Philippine Information Agency;
11. National Economic and Development Authority;
12. Civil Service Commission;
13. Commission on Higher Education;
14. Technical Education and Skills Development Authority;
15. League of Provinces of the Philippines;
16. League of Cities;
17. League of Municipalities;
18. Two (2) representatives from non-government organizations who have expertise in standard setting and service delivery;
19. Seven (7) representatives from non-government organizations working for the welfare of identified key populations; and
20. A representative of an organization of persons living with HIV.

Except for the ex-officio members, the other members of the Council shall be appointed by the President of the Philippines.

The heads of government agencies may be represented by an official duly designated by their respective agencies.

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

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

The Secretary of Health shall be the permanent Chairperson of the Council. However, the Vice-Chairperson shall be elected from the government agency members, and shall serve for a term of six (6) years. Members representing the civil society organizations shall serve for a term of three (3) years, renewable upon recommendation of the Council for a maximum of two (2) consecutive terms.

SEC. 7. *Secretariat.* – The Council shall be supported by a secretariat consisting of personnel with the necessary technical expertise and capability that shall be conferred permanent appointments, subject to Civil Service rules and regulations. The Secretariat 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:

- a. Coordinate and manage the day-to-day affairs of the Council;
- b. Assist in the formulation, monitoring, and evaluation of the National Multi-Sectoral HIV and AIDS Strategic Plan and policies;
- c. Provide technical assistance, support, and advisory services to the Council and its external partners;
- d. Assist the Council in identifying and building internal and external networks and partnerships;
- e. Coordinate and support the efforts of the Council and its members to mobilize resources;
- f. Serve as the clearing house and repository of HIV and AIDS-related information;
- g. Disseminate updated, accurate, relevant, and comprehensive information about the epidemic to Council members, policy makers, and the media;
- h. Provide administrative support to the Council; and
- i. Act as spokesperson and representative for and in behalf of the Council.

SEC. 8. *National Multi-Sectoral HIV and AIDS Strategic Plan.* – A six-year national multi-sectoral HIV and AIDS strategic plan or an AIDS Medium Term Plan (AMTP) shall be formulated and periodically updated by the Council. The AMTP shall include 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's response;
- c. The six year operationalization of the program and identification of the government agencies that shall implement the program, including the designated office within each agency responsible for overseeing, coordinating, facilitating and/or monitoring the implementation of its AIDS 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. 9. *National HIV and AIDS and STI Prevention and Control Program of the DOH.*

– The National HIV and AIDS and STI Prevention and Control Program (NASPCP) of the DOH, which shall be composed of qualified medical specialists and support personnel with permanent appointments and with adequate yearly budget, shall coordinate with the Council for the implementation of the health sector's HIV and AIDS and STI response, as identified in the National Multi-Sectoral HIV and AIDS Strategic Plan or AMTP.

SEC. 10. *Protection of Human Rights.* – The country's response to the HIV and AIDS phenomena shall be anchored on the principles of human rights and human dignity. Public health concerns shall be aligned with internationally-recognized human rights instruments and standards.

Towards this end, the members of the Council, in cooperation with CSOs, and in collaboration with the Department of Justice (DOJ) and the Commission on Human Rights (CHR), shall ensure the delivery of non-discriminatory HIV and AIDS services by government and private HIV and AIDS service providers. Further, the DOH and CHR, in coordination with the Council, shall take the lead in developing redress mechanisms for persons living with HIV to ensure that their civil, political, economic, and social rights are protected.

ARTICLE II
EDUCATION AND INFORMATION

SEC. 11. *Prevention Program.* – There shall be a HIV and AIDS prevention program that will educate the public 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. It 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 in the general population, especially among the 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.

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

- a. safer sex practices among the general population, especially among key populations;
- b. safer sex practices that reduce risk of HIV infection;
- c. universal access to evidence-based and relevant information and education, and medically safe, legally affordable, effective and quality treatment; sexual abstinence and sexual fidelity; and consistent and correct condom use.

SEC. 12. *Education in Learning Institutions.* – Using standardized information and data from the Council, the Department of Education (DepEd), the Commission on Higher Education (CHED), and the Technical Education and Skills Development Authority (TESDA), shall integrate basic and age-appropriate instruction on the causes, modes of transmission and ways of preventing the spread of HIV and AIDS and other sexually transmitted infections in their respective curricula taught in public and private learning institutions, including alternative and indigenous learning systems. The learning modules shall include human rights based principles and information on treatment, care and support to promote stigma reduction.

The DepEd, CHED and TESDA shall ensure the development and provision of psychosocial support and counseling in learning institutions for the development of positive health, promotion of values and behavior pertaining to reproductive health in coordination with the Department of Health. For this purpose, funds shall be allocated for the training and certification of teachers and school counselors.

SEC. 13. *Education as a Right to Health and Information.* – HIV and AIDS education and information dissemination shall form part of the constitutional right to health.

SEC. 14. *Education in the Workplace.* – All public and private employers and employees 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.

The Department of Labor and Employment (DOLE) for the private sector and the Civil Service Commission (CSC) for the public sector shall implement this provision. The members of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) shall likewise be provided with standardized basic information and instruction on HIV and AIDS by the DOH in partnership with appropriate agencies.

SEC. 15. *Education for Filipinos Going Abroad.* – The Department of Foreign Affairs (DFA), shall in coordination with the Commission on Filipino Overseas, Department of Labor and Employment and the Council, ensure that all overseas Filipino workers, including diplomatic, military, trade, labor officials, and 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.

SEC. 16. *Information for Tourists and Transients.* – Educational materials on the cause, modes of transmission, prevention, and consequences of HIV infection and list of HIV counseling testing facilities shall be adequately provided at all international and local ports of entry and exit. The Department of Tourism (DOT), the Department of Foreign Affairs (DFA), Department of Transportation and Communication (DOTC) and the Bureau of Immigration (BI), in coordination with the Council and stakeholders in the tourism industry, shall lead the implementation of this Section.

SEC. 17. *Education in Communities.* – The DILG, League of Provinces, League of Cities, and League of Municipalities, through the Local HIV and AIDS Council (LAC) or the Local Health Boards and, in coordination with the Council, shall implement a locally based, multi-sectoral community response to HIV and AIDS by raising awareness and the ways to curtail transmission.

Gender and Development (GAD) funds and other sources may be utilized for these purposes.

The Department of Interior and Local Government (DILG) shall, in coordination with the Department of Social Welfare and Development (DSWD) shall also conduct age-appropriate HIV and AIDS education for out-of-school youth.

SEC. 18. *Education for Key Populations and Vulnerable Communities.* – To ensure that HIV services reach key populations at higher risk, the Council, in collaboration with the local government units and civil society organizations engaged in HIV and AIDS program and project, shall support and provide funding for HIV and AIDS education programs, such as peer education, support groups, outreach activities and community-based research that target these populations and other vulnerable communities. The DOH shall, in coordination with appropriate agencies and the Council shall craft the guidelines, and standardized information messages for peer education, support group and outreach activities.

SEC. 19. *Prevention in Prisons and Others Closed-Setting Institutions.* – All prisons, rehabilitation centers, and other closed-setting institutions shall have comprehensive STI, HIV, and AIDS prevention and control program that includes HIV education and information, HIV counseling and testing, and access to HIV treatment and care services. The DOH, in coordination with DILG, DOJ, and DSWD, shall develop HIV and AIDS comprehensive program and policies which include the HIV counseling and testing procedures in prisons, rehabilitation centers, and other closed-setting institutions.

Persons living with HIV in prisons, rehabilitation centers, and other closed-setting institutions shall be provided HIV treatment, which includes ARV drugs, care, and support in accordance

with the national guidelines. Efforts should be undertaken to ensure the continuity of care at all stages, from admission or imprisonment to release. The provision on informed consent and confidentiality shall also apply in closed-setting institutions.

SEC. 20. *Information on Prophylactics.* – Appropriate information shall be attached to or provided with every prophylactic offered for sale or given as a donation. Such information shall be legibly printed in English and Filipino, and contain literature on the proper use of the prophylactic device or agent, its efficacy against HIV and STI, as well as the importance of sexual abstinence and mutual fidelity.

SEC. 21. *Misinformation on HIV and AIDS.* – Misinformation on HIV and AIDS, which includes false and misleading advertising and claims in any of the multimedia or the promotional marketing of drugs, devices, agents or procedures without prior approval from the DOH through the Food and Drug Authority (FDA) and without 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.

ARTICLE III PREVENTIVE MEASURES AND SAFE PRACTICES AND PROCEDURES

SEC. 22. *Positive Health, Dignity, and Prevention.* – The Council, in coordination with the DOH, local government units, and other relevant government agencies, private sector, civil society organizations, faith-based organizations, and persons living with HIV, shall support preventive measures that shall focus on the positive roles of persons living with HIV. Such preventive measures shall include the following:

- a. Creation of rights-based and community-led behavior modification programs that seek to encourage HIV risk reduction behavior among persons living with HIV;
- b. Establishment and enforcement of rights-based mechanisms to strongly encourage newly tested HIV-positive individuals to conduct partner notification and to promote HIV status disclosure to sexual partners;
- c. Establishment of standard precautionary measures in public and private health facilities;
- d. Accessibility of anti-retroviral treatment, management of opportunistic infections; and
- e. Mobilization of communities of persons living with HIV, for public awareness campaigns and stigma reduction activities.

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

SEC. 23. *Harm Reduction Strategies.* – The DILG and the DOH, in close coordination with the Dangerous Drugs Board and in partnership with the key affected population shall establish a

human rights and evidenced-based HIV prevention policy and program for people who use and inject drugs.

The presence of used or unused condoms, other safer sex paraphernalia and sterile injecting equipment, shall not be used as basis to conduct raids or similar police operations in sites and venues of HIV prevention interventions. The DILG and DOH, in coordination with the Dangerous Drugs Board, shall establish a national policy to guarantee the implementation of this provision.

SEC. 24. Preventing Mother-to-Child HIV Transmission. – The DOH shall integrate a program to prevent mother-to-child HIV transmission that shall be integrated in its maternal and child health services.

SEC. 25. Standard Precaution on the Donation of Blood, Tissue, or Organ. – The DOH shall enforce the following guidelines on donation of blood, tissue or organ:

- a. Donation of tissue or organs, whether gratuitous or onerous, shall be accepted by a laboratory or institution only after a sample from the donor has been tested negative for HIV;
- b. All donated blood shall also be subject to HIV testing. HIV-positive blood shall be disposed of properly and immediately; and
- c. 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 testing positive for HIV may be accepted for research purposes only, and shall be subject to strict sanitary disposal requirements.

SEC. 26. Standard Precaution on Surgical and Other Similar Procedures. – The DOH shall, in consultation with concerned professional organizations and hospital associations, issue guidelines on precautions against HIV transmission during surgical, dental, embalming, tattooing or similar procedures. 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.

ARTICLE IV **TESTING, SCREENING, AND COUNSELING**

SEC. 27. Voluntary 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.

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

- a. If the person is fifteen (15) to below eighteen (18) years of age, consent to voluntary HIV testing shall be obtained from the child.
- b. If the person is below fifteen (15) years of age or is mentally incapacitated, consent to voluntary HIV testing shall be obtained from the child's parents or legal guardian. In cases when the child's parents or legal guardian cannot be found, despite reasonable efforts to locate the parents were undertaken, the consent shall be obtained from the licensed social worker. If the child's parents or legal guardian refuse to give their consent, the consent shall likewise be obtained from the licensed social worker if the latter determines that the child is at higher risk of HIV exposure and the conduct of the voluntary HIV testing is in the best interest of the child.

SEC. 28. *Compulsory HIV Testing.* – Compulsory HIV testing shall be allowed only in the following instances:

- a. When it is necessary to test a person who is charged with any of the offenses punishable under Article 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;
- b. When it is necessary to resolve relevant issues under Executive Order No. 209, otherwise known as Family Code of the Philippines;
- c. As a prerequisite in the donation of blood in compliance with the provisions of Republic Act No. 7170, otherwise known as the Organ Donation Act, and Republic Act No. 7719, otherwise known as the National Blood Services Act.

SEC. 29. *HIV Counseling and Testing.* – To ensure access to voluntary and confidential HIV testing, which shall include client-initiated HIV testing and routine provider-initiated testing, the DOH shall:

- a. Accredit public and private HIV testing facilities based on capacity to deliver testing services including HIV counseling. *Provided, That* only DOH-accredited HIV testing facilities shall be allowed to conduct HIV testing;
- b. Develop the guidelines for HIV testing and counseling, including mobile HIV testing and counseling and routine provider-initiated HIV counseling and testing that shall ensure, among others, that HIV testing is based on informed consent, is voluntary and confidential, and is available at all times and provided by qualified persons and DOH-accredited providers;
- c. Accredit institutions or organizations that train HIV and AIDS counselors in coordination with DSWD; and
- d. 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 in

coordination and participation of non-government organizations (NGOs), government organizations (GOs), and Civil Society Organizations of People Living with HIV (CSO-PLHIV).

All HIV testing facilities shall provide free pre-test and post-test HIV counseling to individuals who wish to avail of HIV testing, which shall likewise be confidential. No HIV testing shall be conducted without informed consent. The State shall ensure that specific approaches to HIV counseling and testing are adopted based on the nature and extent of HIV and AIDS incidence in the country.

The DOH shall also ensure access to routine HIV testing as part of clinical care in all health care settings.

ARTICLE V **HEALTH AND SUPPORT SERVICES**

SEC. 30. Access to Treatment by Indigents. – The DOH shall establish a program that will provide free and accessible anti-retroviral treatment to all indigents living with HIV who are enrolled in the program. Free medication for opportunistic infections shall be made available to all indigents in the government treatment hubs. It shall likewise designate public and private hospitals to become satellite hubs with an established HIV and AIDS Core Team (HAUT). A manual of procedures for management of people living with HIV shall be developed by the DOH.

SEC. 31. 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 DSWD, in coordination with the DILG, DOLE, and TESDA, shall develop enabling policies and guidelines to ensure economic empowerment and independence designed for persons living with HIV.

SEC. 32. Care and Support for Persons Living with HIV. – The DSWD in coordination with DOH and TESDA 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.

SEC. 33. Care and Support for Overseas Workers Living with HIV. – The Overseas Workers Welfare Administration (OWWA), in coordination with the DSWD, the DFA, Commission on Filipinos Overseas and the Bureau of Quarantine, shall develop a program to provide a stigma-free comprehensive reintegration, care, and support program, including economic, social, and medical support, for overseas workers, regardless of employment status and stage in the migration process.

SEC. 34. *Non-Discriminatory HIV and AIDS Services.* – The members of the Council, in cooperation with civil society organizations, and in collaboration with DOJ and CHR, shall ensure the delivery of non-discriminatory HIV and AIDS services by government and private HIV and AIDS service providers.

SEC. 35. *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:

- a. A person volunteers or freely agrees to donate one's blood, organ, or tissue for transfusion, transplantation, or research; and
- b. A legacy and a donation are executed in accordance with Sections 3 and 4 respectively, of Republic Act No. 7170 otherwise known as the Organ Donation Act of 1991.

SEC. 36. *HIV Anti-Body Testing for Pregnant Women.* – A health care provider who offers pre-natal medical care shall routinely conduct HIV screening with an opt-out HIV testing for pregnant women. The DOH shall provide the necessary guidelines for healthcare providers in the conduct of the screening procedure.

SEC. 37. *Immunity for HIV Educators, Licensed Social Workers, Health 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 HIV prevention, or in relation to the legitimate exercise of protective custody of children, whenever applicable. This immunity does not include acts which are committed in violation of this Act.

SEC. 38. *Health Insurance.* – The Philippine Health Insurance Corporation (PhilHealth) shall:

- a. 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;
- b. Introduce benefits to the unborn and newborn child from infected mothers;
- c. Set a reference price for HIV services in government hospitals; and
- d. Conduct programs to educate the human resource units of companies on the PhilHealth package on HIV and AIDS.

The PhilHealth shall enforce confidentiality in the provision of these packages to persons living with HIV.

No person living with HIV shall be denied or deprived of private health insurance under a Health Maintenance Organization (HMO) and private life insurance coverage under a life insurance

company on the basis of the person's HIV status. The Insurance Commission shall enforce the provision of life insurance coverage of persons applying for such services and shall develop the necessary policies to ensure compliance.

SEC. 39. *HIV and AIDS Monitoring and Evaluation.* – The DOH shall maintain 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 government evaluate the adequacy and efficacy of HIV prevention and treatment programs being employed;
- 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 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, through its Secretariat, an annual report to the Council containing the findings of its monitoring and evaluation activities in compliance with this mandate.

ARTICLE VI

CONFIDENTIALITY

SEC. 40. *Confidentiality.* – 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 was treated for HIV-related illnesses shall be guaranteed. The following acts violate confidentiality and privacy:

- a. *Disclosure of confidential HIV and AIDS information* – Unless otherwise provided in Section 41 of this Act, it shall be unlawful to disclose, without written consent, information that a person had HIV-related test and AIDS, has HIV infection or HIV-related illnesses, or has been exposed to HIV.

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

- b. *Media disclosure* – It shall be unlawful for any editor, publisher, reporter, or columnist in the case of printed materials, announcer or producer in the case of television and radio broadcasting, producer and director of films in the case of the film industry, to disclose

the name, picture, or any information that would reasonably identify any person living with HIV or AIDS, or any confidential HIV and AIDS information, without the prior written consent of their subject.

- c. *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 shall face liability under Articles 19, 20, 21 and 26 of the new Civil Code of the Philippines.

SEC. 41. *Exceptions.* – Confidential HIV and AIDS information may be released by HIV testing facilities without written consent in the following instances:

- a. When complying with reportorial requirements of the national active and passive surveillance system of the DOH: *Provided, That* the information related to a person's identity shall remain confidential;
- b. When informing other health workers directly involved in the treatment or care of a person living with HIV: *Provided, That* such worker shall be required to perform the duty of shared medical confidentiality; and
- c. When responding to a *subpoena duces tecum* and *subpoena ad testificandum* issued by a court with jurisdiction over a legal proceeding where the main issue is the HIV status of an individual: *Provided, That* the confidential medical record, after having been verified for accuracy by the head of the office or department, shall remain anonymous and unlinked and shall be properly sealed by its lawful custodian, hand delivered to the court, and personally opened by the judge: *Provided, further, That* the judicial proceedings be held in executive session.

SEC. 42. *Release of HIV-Related Test Results.* – The result of any test related to HIV shall be released by the attending physician, who provides pre- and post-test counseling only to the individual who submitted to the test. If the patient is below fifteen (15) years old, an orphan, or is mentally incapacitated, the result may be released to either of the patient's parents, legal guardian, or a duly assigned licensed social worker, whichever is applicable.

SEC. 43. *Disclosure to Sexual Partners.* – Any person who, after having been tested, is found to be infected with HIV, is strongly encouraged to disclose this health condition to the spouse or sexual partner prior to engaging in penetrative sex or any potential exposure to HIV. A person living with HIV may opt to seek help from qualified professionals including medical professionals, health workers, peer educators, or social workers to support him in disclosing this health condition to one's partner or spouse. Confidentiality shall likewise be observed. Further, the DOH, through the Council, shall establish an enabling environment to encourage newly tested HIV-positive individuals to disclose their status to sexual partners.

SEC. 44. *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 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 thereof; and
- b. Create a permanent committee on the investigation of discrimination cases. The committee shall conduct meetings to increase the members' 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.

ARTICLE VII

DISCRIMINATORY ACTS AND PRACTICES AND CORRESPONDING PENALTIES

SEC. 45. *Discriminatory Acts and Practices.* – The following discriminatory acts and practices shall be prohibited:

- a. *Discrimination in the Workplace* – The 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 is a discriminatory act and is prohibited.
- b. *Discrimination in Learning Institutions* – Refusal of admission, expulsion, segregation, imposition of harsher disciplinary actions, or denial of benefits or services of a student or a prospective student solely or partially on the basis of actual, perceived or suspected HIV status is a discriminatory act and is prohibited.
- c. *Restriction on Travel and Habitation* – Restrictions on travel within the Philippines, refusal of lawful entry to Philippine territory, deportation from the Philippines, or the quarantine or enforced isolation of travelers solely or partially on account of actual, perceived, or suspected HIV status is a discriminatory act and is prohibited. The same standard of protection shall be afforded to migrants, visitors, and residents who are not Filipino citizens.

- d. *Restrictions on Shelter* – Restrictions on housing or lodging, whether permanent or temporary, solely or partially on the basis of actual, perceived, or suspected HIV status is a discriminatory act and is prohibited.
- e. *Inhibition from Public Service* – Prohibition on the right to seek an elective or appointive public office solely or partially on the basis of actual, perceived, or suspected HIV status is a discriminatory act and is prohibited.
- f. *Exclusion from Credit and Insurance Services* – 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 is prohibited: *Provided, That* the person living with HIV has not misrepresented the fact to the insurance company or loan or credit service provider upon application.
- g. *Discrimination in Hospitals and Health Institutions* – Denial of health services, or be charged with a higher fee, on the basis of actual, perceived or suspected HIV status is a discriminatory act and is prohibited.
- h. *Denial of Burial Services* – Denial of embalming and burial services for a deceased person who had HIV and AIDS or who was known, suspected, or perceived to be HIV positive is a discriminatory act and is prohibited.

SEC. 46. *Penalties.* –

- a. Any person who commits the prohibited act under Section 21 of this Act shall upon conviction, suffer the penalty of imprisonment of two (2) months to two (2) years, without prejudice to the imposition of fines and administrative sanctions, such as suspension or revocation of professional or business license;
- b. Any person who violates the last paragraph of Section 23 of this Act shall, upon conviction, suffer the penalty of imprisonment of 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). *Provided, That* the law enforcement agents found guilty shall be removed from public service;
- c. Any person who knowingly or negligently causes another to get infected with HIV in the course of the practice of profession through unsafe and unsanitary practice and procedure shall, upon conviction, suffer the penalty of imprisonment of six (6) years to twelve (12) years, without prejudice to the imposition of fines and administrative sanctions, such as suspension or revocation of professional license.

The permit or license of the business entity and the accreditation of the HIV testing centers may be cancelled or withdrawn if the said establishments fail to maintain safe practices and procedures as may be required by the guidelines formulated in compliance with Sections 25 and 26 of this Act;

- d. Any person who violates the provision in Section 37 of this Act shall, upon conviction, suffer the penalty of imprisonment of 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 person who violates this provision is a law enforcement agent or a public official, administrative sanctions may be imposed in addition to imprisonment and/or fine, at the discretion of the court;
- e. Any person, natural or juridical, who denies life insurance coverage of any person living with HIV in violation of Section 38 of this Act shall, upon conviction, suffer the penalty of imprisonment of six (6) months to five (5) years and /or a fine of not less than fifty thousand pesos (P 50,000.00), at the discretion of the court, and without prejudice to the imposition of administrative sanctions such as fines, suspension or revocation of business permit, business license or accreditation, and professional license.
- f. Any person, natural or juridical, who violates the provisions in subparagraphs (a), (b), or (c) of Section 40 of this Act shall, upon conviction, suffer the penalty of imprisonment of 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 (P500,000.00), or both imprisonment and fine, at the discretion of the court, and without prejudice to the imposition of administrative sanctions such as suspension or revocation of business permit, business license or accreditation, and professional license.
- g. Any person, natural or juridical, who shall violate any of the provisions in Sections 45 shall, upon conviction, suffer the penalty of imprisonment of six (6) months to five (5) years and /or a fine of not less than fifty thousand pesos (P 50,000.00) but not more than five hundred thousand (P500,000.00), at the discretion of the court, and without prejudice to the imposition of administrative sanctions such as fines, suspension or revocation of business permit, business license or accreditation, and professional license;
- h. Any person who has obtained knowledge of confidential HIV and AIDS information and uses such information to malign or cause damage, injury, or loss to another person shall face liability under Articles 19, 20, 21, and 26 of the new Civil Code of the Philippines.

Fines and penalties collected pursuant to this Section shall be deposited in the National Treasury.

ARTICLE VIII

FINAL PROVISIONS

SEC. 47. Appropriations. – The amount needed for the initial implementation of this Act shall be charged against the appropriations for 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.

The funding requirement needed to provide for the health insurance package and other services for persons living with HIV as stated in Section 38 hereof shall be charged against the PhilHealth's corporate funds.

SEC. 48. Transitory Provision. – The personnel designated by the DOH as Secretariat of the Council under Section 7 of this Act shall be absorbed as permanent personnel to fill the positions of the Secretariat as provided in this Act.

SEC. 49. Implementing Rules and Regulations. – The Council within ninety (90) days from the effectivity of this Act shall promulgate the necessary implementing rules and regulations for the effective implementation of the provisions of this Act.

SEC. 50. Repealing Clause. – Republic Act No. 8504, otherwise known as the Philippine AIDS Prevention and Control Act of 1998, is hereby repealed.

All decrees, executive orders, proclamations and administrative regulations or parts thereof, particularly in the Republic Act No. 3815, otherwise known as the Revised Penal Code, Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997, Executive Order No. 209, otherwise known as the Family Code of the Philippines, Republic Act No. 7719, otherwise known as the National Blood Services Act, Republic Act No. 9165, otherwise known as the Dangerous Drugs Act and Republic Act No. 7170, otherwise known as the Organ Donation Act of 1991, inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 51. Separability Clause. – If any provision or part of this Act is declared unconstitutional the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 52. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a national newspaper of general circulation.

Approved,