

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3978**



Introduced by AKBAYAN Representative Tomasito S. Villarin

EXPLANATORY NOTE

HIV incidence in the country has reached alarming levels. In fact, the World AIDS Report shows that the Philippines is one of only nine (9) countries – out of the 186 covered – that registered a >25% increase in new HIV infections. By 2016, as per the June 2016 HIV/AIDS and ART Registry in the Philippines (Epidemiology Bureau, DOH), the infection rate is now 26 people per day.

From January 1984 to June 2016, there were a total of 34,999 cases HIV cases reported in the Philippines. However, if the current trend in HIV infection were to continue unabated, we would see a total of 57,236 HIV cases by the end of 2017.

The strategies, approaches and mechanisms provided by Republic Act 8504, or the Philippine AIDS Prevention and Control Act of 1998 will no longer suffice. RA 8504 was a policy put in place at a time when we were not yet armed with the foresight over the extent to which infection rates especially among at-risk populations, could be ascertained yet.

But our current context has revealed a weakness in the government's ability to respond to this growing threat. Indicators such as uptake in counseling and testing services, as well as low rates of condom use, translate into a vulnerability which implies the specter of a public health emergency of proportions for which we are not prepared.

The urgency of the situation requires a new and updated legal framework to equip government and all other stakeholders with a refreshed and expanded mandate to institute more comprehensive and inclusive strategies on prevention and treatment.

This proposed new legal framework therefore seeks to address the gaps between the existing HIV and AIDS law and the new realities facing us today. Hence, the prompt passage of this bill is earnestly sought.



TOMASITO S. VILLARIN

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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 Policy. – 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 inequality, prostitution, marginalization, drug abuse and ignorance.
- e. 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.
- f. 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 freedom guaranteed in the Constitution and are deemed inimical to national interest.

SEC. 3. Definition of Terms. – As used in this Act:

- 1. *Acquired Immune Deficiency Syndrome (AIDS)* refers to a health condition where there is a deficiency of the immune system that stems from infection with HIV, making an individual susceptible to opportunistic infections;
- 2. *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;
- 3. *Civil society organizations (CSOs)* refer to groups of nongovernmental and noncommercial individuals or legal entities that are engaged in non-coerced collective action around shared interests, purposes and values;
- 4. *Community-based research* refers to research study undertaken in community settings and which involve community members in the design and implementation of research projects;
- 5. *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;

6. *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;
7. *Evolving capacities of children* refer to the concept enshrined in Article 5 of the Convention of 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 other 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.
8. *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;
9. *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;
10. *High-risk behavior* refers to a person's frequent involvement in certain activities that increase the risk of transmitting or acquiring HIV;
11. *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;
12. *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 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 counseling in the context of a negative HIV test result that focuses on exploring the client's motivation, options, and skills to stay HIV-negative;
13. *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;
 14. *HIV and AIDS monitoring* refers to the documentation and analysis of the number of HIV/AIDS infections and the pattern of its spread;
 15. *HIV and AIDS prevention and control* refers to measures aimed at protecting noninfected persons from contracting HIV and minimizing the impact of the condition of persons living with HIV;
 16. *HIV-negative* refers to the absence of HIV or HIV antibodies upon HIV testing;
 17. *HIV-positive* refers to the presence of HIV infection as documented by the presence of HIV or HIV antibodies in the sample being tested;
 18. *HIV-related testing* refers to any laboratory testing or procedure done on an individual regardless of whether the person is HIV positive or negative;
 19. *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, 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;
 20. *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;
 21. *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;

22. *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;
23. *Laboratory* refers to an area or place, including community-based settings, where research studies are being undertaken to further develop local evidence base for effective HIV programs;
24. *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 physician, 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;
25. *Opportunistic infection* refers to illnesses caused by various organisms, many of which do not cause disease in persons with healthy immune system;
26. *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 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;
27. *Person living with HIV* refers to any individual diagnosed to be infected with HIV;
28. *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;
29. *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;

30. *Prophylactic* refers to any agent or device used to prevent the transmission of a disease;
31. *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;
32. *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;
33. *Safer sex practices* refer to choices made and behaviors adopted by a person to reduce or minimize the risk of HIV transmission. These include postponing sexual debut, non-penetrative sex, correct and consistent use of male or female condoms, and reducing the number of sexual partners;
34. *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;
35. *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;
36. *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;
37. *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 result in discrimination when acted upon;
38. *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;
39. *Vertical transmission* refers to the process of transmission during pregnancy, birth, or breastfeeding;

40. *Voluntary HIV testing* refers to HIV testing of an individual who, after having undergone pre-test counseling, willingly submits to such test;
41. *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;
42. *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; and
43. *Work place* 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 of the Philippine National AIDS Council. –

The Philippine National AIDS Council, hereinafter referred to as the Council, is hereby created and 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 DOH.

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:

1. Develop the National Multi-Sectoral HIV and AIDS Strategic Plan in collaboration with relevant government agencies and CSOs;
2. Ensure the operationalization and implementation of the National Multi-Sectoral HIV and AIDS Strategic Plan;
3. Coordinate with government agencies and other entities mandated to implement the provisions of this Act;
4. 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;

5. Monitor the progress of the epidemic;
6. Monitor the implementation of the National Multi-Sectoral HIV and AIDS Strategic Plan, undertake mid-term assessments and evaluate its impact;
7. Mobilize sources of fund for the National Multi-Sectoral HIV and AIDS Strategic Plan;
8. 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;
9. Advocate for policy reforms to Congress and other government agencies to strengthen the country's response to the epidemic; and
10. Submit an annual report to the Office of the President, Congress, and the members of the Council.

SEC. 6. Membership, Composition, Appointment, Quorum and Term of Office. – The following member agencies and CSOs shall be represented in the Council:

1. The Secretary of the Department of Health (DOH);
2. The Secretary of the Department of Education (DepED);
3. The Secretary of the Department of Labor and Employment (DOLE);
4. The Secretary of the Department of Social Welfare and Development (DSWD);
5. The Secretary of the Department of the Interior and Local Government (DILG); The Secretary of the Department of Justice (DOJ);
6. The Secretary/Director-General of the Department of Budget and Management (DBM)/National Economic and Development Authority (NEDA);
7. The Chairperson of the National Youth Commission (NYC);
8. Four (4) members of the League of City Mayors, each one representing the local government unit (LGU) with the highest number of HIV and AIDS cases in the National Capital Region, Luzon, Visayas and Mindanao;

9. Two (2) representatives from nongovernmental organizations (NGOs) which have expertise in standard setting and service delivery;
10. Seven (7) representatives from NGOs working for the welfare of identified key populations; and
11. 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 CSOs 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:

1. Coordinate and manage the day-to-day affairs of the Council;
2. Assist in the formulation, monitoring, and evaluation of the National Multi-Sectoral HIV and AIDS Strategic Plan and policies;
3. Provide technical assistance, support, and advisory services to the Council and its external partners;
4. Assist the Council in identifying and building internal and external networks and partnerships;
5. Coordinate and support the efforts of the Council and its members to mobilize resources;
6. Serve as the clearing house and repository of HIV and AIDS-related information;

7. Disseminate updated, accurate, relevant, and comprehensive information about the epidemic to Council members, policy makers, and the media;
8. Provide administrative support to the Council; and
9. Act as spokesperson and representative for and in behalf of the Council.

SEC. 8. National Multi-Sectoral HIV and AIDS Strategic Plan. – A six (6)-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 (6)-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 existing National HIV and AIDS and STI Prevention and Control Program (NASPCP) of the DOH, which is 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 the 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 DOJ and the Commission on Human Rights (CHR), shall ensure the delivery of nondiscriminatory HIV and AIDS services by government and private HIV and AIDS service providers. Further, the DOH and the 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 an HIV and AIDS prevention program that shall educate the public on these and other sexually transmitted infections, with the goal of reducing risky behavior, lowering vulnerabilities, and promoting the human rights of persons living with HIV. The Council shall promote and adopt a range of measures and interventions, in partnership with CSOs 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;
- (d) Sexual abstinence and sexual fidelity; and
- (e) Consistent and correct condom use.

SEC. 12. Education in Learning Institutions. – Using standardized information and data from the Council, the 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, the CHED and the 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 DOH. 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 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, the DOLE 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 causes, modes of transmission, prevention, consequences of HIV infection and list of HIV counseling and testing facilities shall be adequately provided at all international and local ports of entry and exit. The Department of Tourism (DOT), the DFA, the Department of Transportation and Communications (DOTC) and the Bureau of Immigration, in coordination with the Council and stakeholders in the tourism industry, shall lead in the implementation of this section.

SEC. 17. Education in Communities. – The DILG, the League of Provinces, the League of Cities and the 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 about it and ways to curtail its transmission. Gender and Development (GAD) funds and other sources may be utilized for these purposes.

The DILG, in coordination with the DSWD, shall also conduct age-appropriate HIV and AIDS education for out-of-school youths.

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 LGUs and CSOs engaged in HIV and AIDS programs and projects, 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, craft the guidelines and standardized information messages for peer education, support group and outreach activities.

SEC. 19. Prevention in Prisons and in Other Closed Settings. – 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 shall, in coordination with the DILG, the DOJ, and the DSWD, develop HIV and AIDS comprehensive program and policies which include the HIV counseling and testing procedures.

Persons living with HIV in prisons and in other closed settings 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 settings.

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 Administration (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, SAFE PRACTICES AND PROCEDURES

SEC. 22. Positive Health, Dignity and Prevention. – The Council, in coordination with the DOH, LGUs, and other relevant government

agencies, private sector, CSOs, 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 ARV treatment and 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 the DOH, in coordination with the Dangerous Drugs Board, shall establish a national policy to guarantee the implementation of this provision.

SEC. 24. Prevention of Mother-to-Child HIV Transmission. – The DOH shall implement a program to prevent mother-to-child HIV transmission that shall be integrated into 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) A donation of tissue or organ, 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 recipients or their 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, body painting or tattooing that require the use of needles or similar procedures. The necessary protective equipment such as gloves, goggles and gowns shall be prescribed and required, and made available to all physicians and health care providers, tattoo artists, 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 "evolving capacities of children" as defined in Section 3 (g) of this Act, HIV testing shall be made available under the following circumstances:

The child expresses the intention to submit to HIV testing and counseling and other related services;

- 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 Articles 264, 266, 335 and 338 of “The Revised Penal Code”, as amended by Republic Act No. 8353, otherwise known as “The Anti-Rape Law of 1997”;
- b. When it is necessary to resolve relevant issues under Executive Order No. 209, otherwise known as “The Family Code of the Philippines”; and (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 of 1991”, and Republic Act No. 7719, otherwise known as the “National Blood Services Act of 1994”.

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) Accredite 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 counseling and testing, including mobile HIV counseling and testing 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, is available at all times, and provided by qualified persons and DOH-accredited providers;
- (c) Accredite institutions or organizations that train HIV and AIDS counselors in coordination with the DSWD; and
- (d) Set the standards for HIV counseling and work closely with HIV and AIDS CSOs that train HIV and AIDS counselors and peer educators in coordination and participation of NGOs, government organizations (GOs) and Civil Society Organization-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/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 ARV 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 (HACT). A manual of procedures for management of PLHIV 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, the DOLE and the 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 the DOH and the 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, the Commission on Filipino 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. 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. 35. 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 health care providers in the conduct of the screening procedure.

SEC.36. Immunity from Suit 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 cover acts which are committed in violation of this Act.

SEC.37. Health Insurance. – The Philippine Health Insurance Corporation (PhilHealth) shall develop an insurance package for persons living with HIV that shall include coverage for inpatient and outpatient medical and diagnostic services, including medication and treatment, and a set of benefits to the unborn and newborn child infected by their mothers. Additionally, it shall set a reference price for HIV services in government hospitals and 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 by a Health Maintenance Organization (HMO) and private life insurance coverage by a life insurance company on the basis of the person's HIV status. The Insurance Commission shall enforce the provision of life insurance coverage by persons applying for such services and shall develop the necessary policies to ensure compliance.

SEC. 38. 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. 39. Confidentiality. – The confidentiality and privacy of any individual who has been tested for HIV, 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 40 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 case of printed materials, announcer or producer in case of television and radio broadcasting, producer and director of films in case of the movie 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.

SEC. 40. 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 shall be held in executive session.

SEC. 41. 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. 42. 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. 43. 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 public and private 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 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

SEC.44. The following are discriminatory acts and practices and 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;
- (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;
- (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 discriminatory; the same standard of protection shall be afforded to migrants, visitors and residents who are not Filipino citizens.

Restrictions on housing or lodging solely or partially on the basis of actual, perceived, or suspected HIV status;

- (d) Inhibition from Public Services – 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;
- (e) 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: Provided, That the person living with HIV has not misrepresented the fact to the insurance company or loan or credit service provider upon application;

- (f) 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; and
- (g) 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.
- (e) Discrimination on the basis of sexual orientation or gender identity – Any act of discrimination on the basis of sexual orientation or gender identity against any person, regardless of HIV status, is considered to aggravate HIV-related stigma and shall also be prohibited. The denial or impairment of the enjoyment of the right to education; right to work; right to health; right to freedom of travel; right to housing; right to organize; right to access goods and services, including insurance; and of civil, political and cultural rights on the basis of sexual orientation or gender identity is considered discriminatory and shall be prohibited.

SEC. 45. Penalties. – The corresponding penalties shall be imposed upon:

- (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 these 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;

- (c) Any person who violates Section 36 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 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;
- (d) Any person, natural or juridical, who denies life insurance coverage of any person living with HIV in violation of Section 37 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 pesos (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;
- (e) Any person, natural or juridical, who violates the provisions of Section 39 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 pesos (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;
- (f) Any person, natural or juridical, who shall violate any of the provisions in Section 44 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 pesos (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; and
- (g) 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.

SEC. 46. Appropriations. – The amount needed for the initial implementation of this Act shall be charged against the appropriations for the DOH. Thereafter, such sums as may be 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 37 hereof shall be charged against the PhilHealth's corporate funds.

SEC. 47. 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. 48. Implementing Rules and Regulations. – The Council, within ninety (90) days from the effectivity of this Act, shall promulgate the necessary rules and regulations for the effective implementation of the provisions of this Act.

SEC. 49. 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 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 of 1994"; Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002"; 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. 50. 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. 51. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

Approved,