

SEVENTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

'17 MAR 13 P5:30

RECEIVED BY: HJM

SENATE

Senate Bill No. 1390

(In substitution of Senate Bill Nos. 376, 393, 631, 1158 and 1215 and Senate Resolution No. 209 )

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Prepared and submitted jointly by the Committees on Health and Demography; Education, Arts and Culture; and Finance with Senators Hontiveros, Legarda, Trillanes IV, Angara, Poe and Binay as authors thereof

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AN ACT

STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS) PREVENTION, TREATMENT, CARE, AND SUPPORT, AND ESTABLISHING THE PHILIPPINE NATIONAL AIDS COUNCIL (PNAC), 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:*

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

3       **SEC. 2. Declaration of Policies.** – The Human Immunodeficiency Virus  
4       (HIV) and Acquired Immunodeficiency Syndrome (AIDS) are public health concerns  
5       that have wide-ranging social, political, and economic repercussions. Responding to  
6       the HIV and AIDS epidemic is therefore imbued with public interest and shall be  
7       anchored on the principles of human rights upholding human dignity. Accordingly, the  
8       State shall:

9              a) Establish policies and programs to prevent the spread of HIV and deliver  
10             treatment, care, and support services to Filipinos living with HIV in accordance  
11             with evidence-based strategies and approaches that follow the principles of

1       human rights, gender-responsiveness, and meaningful participation of  
2       communities affected by the epidemic;

3       b) Adopt a multi-sectoral approach in responding to the HIV epidemic by  
4       ensuring that local communities, civil society organizations (CSOs), and  
5       persons living with HIV are at the center of the process;

6       c) Remove all barriers to HIV and AIDS-related services by eliminating the  
7       climate of stigma that surrounds the epidemic and the people directly and  
8       indirectly affected by it; and

9       d) Positively address and seek to eradicate conditions that aggravate the  
10      spread of HIV infection, which include poverty, gender inequality,  
11      marginalization, and ignorance.

12      Respect for, protection of, and promotion of human rights are the cornerstones  
13      of an effective response to the HIV epidemic. Hence, HIV and AIDS education and  
14      information dissemination should form part of the right to health.

15      The meaningful inclusion and participation of persons directly and indirectly  
16      affected by the epidemic, especially persons living with HIV, are crucial in eliminating  
17      the virus. Thus, unless otherwise provided in this Act, the confidentiality, anonymity,  
18      and non-compulsory nature of HIV testing and HIV-related testing shall always be  
19      guaranteed and protected by the State.

20      Policies and practices that discriminate on the basis of perceived or actual HIV  
21      status, sex, gender, sexual orientation, gender identity, age, economic status,  
22      disability, and ethnicity hamper the enjoyment of basic human rights and freedoms  
23      guaranteed in the Constitution and are deemed inimical to national interest. Towards  
24      this end, the State shall ensure the delivery of non-discriminatory HIV and AIDS  
25      services by government and private HIV and AIDS service providers and develop  
26      redress mechanisms for persons living with HIV to ensure that their civil, political,

1 economic, and social rights are protected.

2       **SEC. 3. *Definition of Terms.*** – For the purposes of this Act, the following  
3 terms shall be defined as follows:

4           a) *Acquired Immunodeficiency Syndrome (AIDS)* - refers to a health condition  
5 where there is a deficiency of the immune system that stems from infection with the  
6 Human Immunodeficiency Virus or HIV, making an individual susceptible to  
7 opportunistic infections;

8           b) *Antiretroviral (ARV)* - refers to the treatment that stops or suppresses viral  
9 replication or replications of a retrovirus like HIV thereby slowing down the  
10 progression of infection;

11           c) *Civil Society Organizations (CSOs)* - refer to groups of non-governmental  
12 and non-commercial individuals or legal entities that are engaged in non-coerced  
13 collective action around shared interests, purpose and values;

14           d) *Community-based research* - refers to research study undertaken in  
15 community settings and which involve community members in the design and  
16 implementation of research projects;

17           e) *Compulsory HIV testing* - refers to HIV testing imposed upon an individual  
18 characterized by lack of consent, use of force or intimidation, the use of testing as a  
19 prerequisite for employment or other purposes, and other circumstances when  
20 informed choice is absent;

21           f) *Discrimination* - refers to unfair or unjust treatment that distinguishes,  
22 excludes, restricts, or shows preferences based on any ground such as sex, gender,  
23 age, sexual orientation, gender identity, economic status, disability, ethnicity, and HIV  
24 status, whether actual or perceived, and which has the purpose or effect of nullifying  
25 or impairing the recognition, enjoyment or exercise by all persons similarly situated,  
26 of all rights and freedoms;

- 1       g) *Evolving capacities of children* - refers to the concept enshrined in Article 5 of  
2                  the Convention on the Rights of the Child recognizing the developmental  
3                  changes and the corresponding progress in cognitive abilities and capacity for  
4                  self-determination undergone by children as they grow up, thus requiring  
5                  parents and others charged with the responsibility for the child to provide  
6                  varying degrees of protection and to allow their participation in opportunities  
7                  for autonomous decision-making in different contexts and across different  
8                  areas of decision-making;
- 9        h) *Gender identity* - refers to the personal sense of identity as characterized,  
10                 among others, by manner of clothing, inclinations, and behavior in relation to  
11                 masculine or feminine conventions. A person may have a male or female  
12                 identity with the physiological characteristics of the opposite sex;
- 13       i) *Harm reduction* - refers to evidence-based policies, programs and approaches  
14                 that aim to reduce transmission of HIV and its harmful consequences on  
15                 health, social relations and economic conditions;
- 16       j) *Health Maintenance Organization (HMO)* - refers to juridical entities legally  
17                 organized to provide or arrange for the provision of pre-agreed or designated  
18                 health care services to its enrolled members for a fixed pre-paid fee for a  
19                 specified period of time;
- 20       k) *High-risk behavior* - refers to a person's frequent involvement in certain  
21                 activities that increase the risk of transmitting or acquiring HIV;
- 22       l) *Human Immunodeficiency Virus (HIV)* - refers to the virus, of the type called  
23                 retrovirus, which infects cells of the human immune system, and destroys or  
24                 impairs the cells' function. Infection with HIV results in the progressive  
25                 deterioration of the immune system, leading to immune deficiency;

- 1       m) *HIV counseling* - refers to the interpersonal and dynamic communication  
2                  process between a client and a trained counselor, who is bound by a code of  
3                  ethics and practice, to resolve personal, social, or psychological problems and  
4                  difficulties, whose objective in counseling, in the context of an HIV diagnosis,  
5                  is to encourage the client to explore important personal issues, identify ways  
6                  of coping with anxiety and stress, and plan for the future (keeping healthy,  
7                  adhering to treatment, and preventing transmission); and in the context of a  
8                  negative HIV test result, is to encourage the client to explore motivations,  
9                  options, and skills to stay HIV-negative;
- 10       n) *HIV and AIDS Core Team (HACT)* - refers to a team of doctors, nurses,  
11                  medical technologists, social workers, dentists, and other health care  
12                  personnel in charge of HIV and AIDS management in the hospital;
- 13       o) *HIV and AIDS counselor* - refers to any individual trained by an institution or  
14                  organization accredited by the Department of Health (DOH) to provide  
15                  counseling services on HIV and AIDS with emphasis on behavior modification;
- 16       p) *HIV and AIDS monitoring* - refers to the documentation and analysis of the  
17                  number of HIV/AIDS infections and the pattern of its spread;
- 18       q) *HIV and AIDS prevention and control* - refers to measures aimed at protecting  
19                  non-infected persons from contracting HIV and minimizing the impact of the  
20                  condition of persons living with HIV;
- 21       r) *HIV-Negative* - refers to the absence of HIV or HIV antibodies upon HIV  
22                  testing;
- 23       s) *HIV-Positive* - refers to the presence of HIV infection as documented by the  
24                  presence of HIV or HIV antibodies in the sample being tested;
- 25       t) *HIV-related testing* - refers to any laboratory testing or procedure done on an  
26                  individual regardless of whether the person is HIV positive or negative;

- 1       u) *HIV testing* - refers to any facility-based or mobile medical procedure that is  
2                  conducted to determine the presence or absence of HIV in a person's body.  
3                  HIV testing is confidential and voluntary in nature and must be accompanied  
4                  by counseling prior to and after the testing, and conducted only with the  
5                  informed consent of the person;
- 6       v) *HIV testing facility* - refers to any DOH accredited in-site or mobile testing  
7                  center, hospital, clinic, laboratory and other facility that has the capacity to  
8                  conduct voluntary HIV counseling and HIV testing;
- 9       w) *HIV transmission* - refers to the transfer of HIV from one infected person to an  
10                 uninfected individual, most commonly through sexual intercourse, blood  
11                 transfusion, sharing of intravenous needles, and vertical transmission;
- 12      x) *Key affected populations at higher risk of HIV exposure or key populations* -  
13                 refer to those groups of persons, as determined by the Philippine National  
14                 AIDS Council (PNAC), whose behavior make them more likely to be exposed  
15                 to HIV or to transmit the virus;
- 16      y) *Laboratory* - refers to area or place, including community-based settings,  
17                 where research studies are being undertaken to develop local evidence for  
18                 effective HIV programs;
- 19      z) *Medical confidentiality* - refers to the relationship of trust and confidence  
20                 created or existing between a patient or a person living with HIV and his  
21                 attending physical, consulting medical specialist, nurse, medical technologist  
22                 and all other health workers or personnel involved in any counseling, testing or  
23                 professional care of the former. It also applies to any person who, in any  
24                 official capacity, has acquired or may have acquired such confidential  
25                 information;

- 1 aa)*Opportunistic infection* - refers to illnesses caused by various organisms, many  
2 of which do not cause disease in persons with healthy immune system;
- 3 bb)*Partner notification* - refers to the process by which the 'index client' or 'source'  
4 'patient', who has a sexually transmitted infection (STI) including HIV, is given  
5 support in order to notify and advise the partners that they have been exposed  
6 to infection. Support includes giving the index client a mechanism to  
7 encourage the client's partner to attend counseling, testing and other  
8 prevention and treatment services. Confidentiality shall be observed in the  
9 entire process;
- 10 cc)*Person living with HIV* - refers to any individual diagnosed to be infected with  
11 HIV;
- 12 dd)*Pre-exposure Prophylaxis* - refers to the use of prescription drugs as a  
13 strategy for the prevention of HIV infection by people who do not have  
14 HIV/AIDS. It is an optional treatment which may be taken by people who are  
15 HIV-negative but who have substantial, higher-than-average risk of contracting  
16 an HIV infection;
- 17 ee)*Pre-test counseling* - refers to the process of providing an individual  
18 information on the biomedical aspects of HIV/AIDS and emotional support to  
19 any psychological implications of undergoing HIV testing and the test result  
20 itself before the individual is subjected to the test;
- 21 ff) *Post-exposure Prophylaxis* - refers to a preventive medical treatment started  
22 immediately after exposure to a pathogen (HIV) in order to prevent infection by  
23 the pathogen and the development of the disease;
- 24 gg)*Post-test counseling* - refers to the process of providing risk-reduction  
25 information and emotional support to a person who submitted to HIV testing at  
26 the time the result is released;

- 1       hh) *Prophylactic* - refers to any agent or device used to prevent the transmission  
2           of a disease;
- 3       ii) *Provider-initiated counseling and testing* - refers to a health care provider  
4           initiating HIV anti-body testing to a person practicing high-risk behavior or  
5           vulnerable to HIV after conducting HIV pre-test counseling. A person may elect  
6           to decline or defer testing such that consent is conditional;
- 7       jj) *Routine HIV testing* - refers to HIV testing recommended at health care  
8           facilities as a standard component of medical care. It is part of the normal  
9           standard of care offered irrespective of whether or not the patient has signs  
10          and symptoms of underlying HIV infection or has other reasons for presenting  
11          to the facility provided that a patient may elect to decline or defer testing.
- 12      kk) *Safer sex practices* - refer to choices made and behaviors adopted by a  
13          person to reduce or minimize the risk of HIV transmission. It include  
14          postponing sexual debut, non-penetrative sex, correct and consistent use of  
15          male or female condoms, and reducing the number of sexual partners;
- 16      ll) *Sexually Transmitted Infections (STIs)* - refer to infections that are spread  
17          through the transfer of organisms from one person to another as a result of  
18          sexual contact;
- 19      mm) *Sexual orientation* - refers to the direction of emotional sexual attraction or  
20          conduct. This can be towards people of the same sex (homosexual orientation)  
21          or towards people of both sexes (bisexual orientation) or towards people of the  
22          opposite sex (heterosexual orientation);
- 23      nn) *Social protection* - refers to a set of policies and programs designed to reduce  
24          poverty and vulnerability by promoting efficient labor markets, diminishing  
25          people's exposure to risks, and enhancing their capacity to protect themselves  
26          against hazards and interruptions/loss of income;

- 1        oo) *Stigma* - refers to the dynamic devaluation and dehumanization of an  
2                  individual in the eyes of others which may be based on attributes that are  
3                  arbitrarily defined by others as discreditable or unworthy and which results in  
4                  discrimination when acted upon;
- 5        pp) *Treatment hubs* - refer to private and public hospitals or medical  
6                  establishments accredited by the DOH to have the capacity and facility to  
7                  provide anti-retroviral treatment;
- 8        qq) *Vertical transmission* - refers to the process of transmission during pregnancy,  
9                  birth, or breastfeeding;
- 10      rr) *Voluntary HIV testing* - refers to HIV testing done on an individual who, after  
11                  having undergone pre-test counseling, willingly submits to such test;
- 12      ss) *Vulnerable communities* - refer to communities and groups suffering from  
13                  vulnerabilities such as unequal opportunities, social exclusion, poverty,  
14                  unemployment, and other similar social, economic, cultural and political  
15                  conditions, making them more susceptible to HIV infection and to developing  
16                  AIDS;
- 17      tt) *Window period* - refers to the period of time, usually lasting from two (2) weeks  
18                  to six (6) months, during which an infected individual will test 'non-reactive'  
19                  upon HIV testing but can actually transmit the infection; and
- 20      uu) *Workplace* - refers to the office, premise or work site where workers are  
21                  habitually employed and shall include the office or place where workers, with  
22                  no fixed or definite work site, regularly report for assignment in the course of  
23                  their employment.

24                  **ARTICLE I**

25                  **THE PHILIPPINE NATIONAL AIDS COUNCIL**

26      **SEC. 4. Establishment.** – The Philippine National AIDS Council, hereinafter

1 referred to as the "PNAC", shall be the policy-making, planning, coordinating and  
2 advisory body of the Philippine National HIV and AIDS Program. It shall be an  
3 independent agency attached to the Department of Health (DOH), with a separate  
4 budget under the General Appropriations Act.

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

8 **SEC. 5. Functions.** – The PNAC shall perform the following functions:

- 9 a) Develop the AIDS Medium Term Plan (AMTP) in collaboration with relevant  
10 government agencies and CSOs;
- 11 b) Ensure the operationalization and implementation of the AMTP;
- 12 c) Coordinate with government agencies and other entities mandated to  
13 implement the provisions of this Act;
- 14 d) Develop and ensure the implementation of the guidelines and policies  
15 provided in this Act, including other policies that may be necessary to  
16 implement the AMTP;
- 17 e) Monitor the progress of the epidemic;
- 18 f) Monitor the implementation of the AMTP, undertake mid-term assessments  
19 and evaluate its impact;
- 20 g) Mobilize sources of fund for the AMTP;
- 21 h) Mobilize its members to conduct monitoring and evaluation of HIV-related  
22 programs, policies, and services within their mandate;
- 23 i) Coordinate, organize and work in partnership with foreign and international  
24 organizations regarding funding, data collection, research, and prevention and  
25 treatment modalities on HIV and AIDS and ensure foreign funded programs  
26 are aligned to the national response;

- 1       j) Advocate for policy reforms to Congress and other government agencies to  
2           strengthen the country's response to the epidemic;
- 3       k) Submit an annual report to the Office of the President and to both Houses of  
4           Congress; and
- 5       l) Serve as clearing house of HIV and AIDS-related standards on messaging,  
6           programming, and service delivery.

7       In addition to the powers and functions enumerated under the preceding  
8       paragraph, the members of the PNAC shall also develop and implement individual  
9       action plans which shall be anchored to and integrated in the AMTP. Such action  
10      plans shall be based on the duties, powers, and functions of the individual agencies  
11      as identified in Articles II to VII of this Act.

12      **SEC. 6. *Membership and Composition.*** – The following agencies and CSOs  
13      shall be represented in the PNAC:

- 14       1) Department of Health (DOH);  
15       2) Department of Education (DepEd);  
16       3) Department of Labor and Employment (DOLE);  
17       4) Department of Social Welfare and Development (DSWD);  
18       5) Department of the Interior and Local Government (DILG);  
19       6) National Economic and Development Authority (NEDA);  
20       7) Civil Service Commission (CSC);  
21       8) Commission on Higher Education (CHED);  
22       9) National Youth Commission (NYC);  
23       10) Union of Local Authorities of the Philippines (ULAP);  
24       11) Two (2) representatives from non-government organizations (NGOs)  
25            who have expertise in standard setting and service delivery;

1           12) Seven (7) representatives from NGOs working for the welfare of  
2           identified key populations; and

3           13) A representative of an organization of persons living with HIV.

4         Except for members from government agencies, the members of the PNAC shall  
5         be appointed by the President of the Philippines. The heads of government agencies  
6         may be represented by an official duly designated as permanent representative(s) of  
7         their respective agencies.

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

10       The PNAC shall meet at least once (1) every quarter. The presence of the  
11       Chairperson or the Vice Chairperson of the PNAC, and at least seven (7) other  
12       PNAC members and/or permanent representatives shall constitute a quorum to do  
13       business, and a majority vote of those present shall be sufficient to pass resolutions  
14       or render decisions.

15       The Secretary of the DOH shall be the permanent Chairperson of the PNAC. The  
16       Vice Chairperson shall be elected from the government agency members and shall  
17       serve for a term of six (6) years. Members representing the CSOs shall serve for a  
18       term of six (6) years and may serve for a maximum of two consecutive terms.

19       **SEC. 7. Secretariat.** – The PNAC shall be supported by a secretariat consisting  
20       of personnel with the necessary technical expertise and capability that shall be  
21       conferred permanent appointments, subject to Civil Service rules and regulations.  
22       The Secretariat shall be headed by an Executive Director, who shall be under the  
23       direct supervision of the Chairperson of the PNAC.

24       The Secretariat shall perform the following functions:

- 25       a) Coordinate and manage the day-to-day affairs of the PNAC;
- 26       b) Assist in the formulation, monitoring, and evaluation of policies and the AMTP;

- c) Provide technical assistance, support, and advisory services to the PNAC and its external partners;
- d) Assist the PNAC in identifying and building internal and external networks and partnerships;
- e) Coordinate and support the efforts of the PNAC 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 PNAC members, policy makers, and the media;
- h) Provide administrative support to the PNAC; and
- i) Act as spokesperson and representative for and in behalf of the PNAC.

**SEC. 8. AIDS Medium Term Plan (AMTP).** – The PNAC shall formulate and

periodically update the AMTP, a national multi-sectoral strategic plan to prevent and control the spread of HIV/AIDs in the country. 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.

1       **SEC. 9. National HIV and AIDS and STI Prevention and Control Program of**  
2       **the DOH.** – The National HIV and AIDS and STI Prevention and Control Program  
3       (NASPCP) of the DOH, which shall be composed of qualified medical specialists and  
4       support personnel with permanent appointments and with adequate yearly budget,  
5       shall coordinate with the PNAC for the implementation of the health sector's HIV and  
6       AIDS and STI response, as identified in the AMTP.

7       Moreover, the DOH shall maintain a comprehensive HIV and AIDS monitoring and  
8       evaluation program that shall serve the following purposes:

- 9       a) Determine and monitor the magnitude and progression of HIV and AIDS in the  
10       Philippines to help the PNAC evaluate the adequacy and efficacy of HIV  
11       prevention and treatment programs being employed;
- 12       b) Receive, collate, process, and evaluate all HIV and AIDS-related medical  
13       reports from all hospital, clinics, laboratories and testing centers, including  
14       HIV-related deaths and relevant data from public and private hospitals, various  
15       databanks or information systems: *Provided*, That it shall adopt a coding  
16       system that ensures anonymity and confidentiality; and
- 17       c) Submit, through its Secretariat, quarterly and annual reports to the PNAC  
18       containing the findings of its monitoring and evaluation activities in compliance  
19       with this mandate.

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

24       Towards this end, the members of the PNAC, in cooperation with CSOs, and in  
25       collaboration with the Department of Justice (DOJ) and the Commission on Human  
26       Rights (CHR), shall ensure the delivery of non-discriminatory HIV and AIDS services

1 by government and private HIV and AIDS service providers. Further, the DOJ and  
2 CHR, in coordination with the PNAC, shall take the lead in developing redress  
3 mechanisms for persons living with HIV to ensure that their civil, political, economic,  
4 and social rights are protected. The PNAC shall cooperate with local government  
5 units (LGUs) to strengthen existing mediation and reconciliation mechanisms at the  
6 local level.

7

## ARTICLE II

8

### EDUCATION AND INFORMATION

9       **SEC. 11. *Prevention Program.*** – There shall be a HIV and AIDS prevention  
10 program that will educate the public on HIV and AIDS and other sexually transmitted  
11 infections, with the goal of reducing risky behavior, lowering vulnerabilities, and  
12 promoting the human rights of persons living with HIV.

13       It shall promote and adopt a range of measures and interventions, in partnership  
14 with CSOs that aim to prevent, halt, or control the spread of HIV in the general  
15 population, especially among the key populations and vulnerable communities.  
16 These measures shall likewise promote the rights, welfare, and participation of  
17 persons living with HIV and the affected children, young people, families and partners  
18 of persons living with HIV.

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

- 21       a) safer sex practices among the general population, especially among key  
22              populations;
- 23       b) safer sex practices that reduce risk of HIV infection; and
- 24       c) universal awareness of and access to evidence-based and relevant  
25              information and education, and medically safe, legally affordable, effective  
26              and quality treatment.

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

9       The learning modules that shall be developed to implement this provision shall be  
10 done in coordination with the PNAC and stakeholders in the education sector.  
11 Referral mechanisms, including but not limited to the DSWD Referral System, shall  
12 be included in the modules for key populations and vulnerable communities.

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

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

21       **SEC. 14. *Education in the Workplace.*** – All public and private employers and  
22 employees shall be provided with standardized basic information and instruction on  
23 HIV and AIDS, including topics on confidentiality in the workplace and reduction or  
24 elimination of stigma and discrimination.

25       The DOLE for the private sector and the CSC for the public sector shall  
26 implement this provision. The members of the Armed Forces of the Philippines (AFP)

1 and the Philippine National Police (PNP) shall likewise be provided with standardized  
2 basic information and instruction on HIV and AIDS by the DOH in partnership with  
3 appropriate agencies.

4       **SEC. 15. *Education for Filipinos Going Abroad.*** – The Department of Foreign  
5 Affairs (DFA), shall in coordination with the Commission on Filipino Overseas (CFO),  
6 DOLE and the PNAC, ensure that all overseas Filipino workers, including diplomatic,  
7 military, trade, labor officials, and personnel and their families to be assigned  
8 overseas, shall undergo or attend a seminar on HIV and AIDS and shall be provided  
9 with information on how to access on-site HIV-related services and facilities before  
10 certification for overseas assignment.

11       **SEC. 16. *Information for Tourists and Transients.*** – Educational materials on  
12 the cause, modes of transmission, prevention, and consequences of HIV infection  
13 and list of HIV counseling testing facilities shall be adequately provided at all  
14 international and local ports of entry and exit. The Department of Tourism (DOT), the  
15 Department of Transportation (DOTr), the Bureau of Quarantine and International  
16 Health Surveillance (BQIHS) of the DOH, and the DFA in coordination with the PNAC  
17 and stakeholders in the tourism industry, shall lead the implementation of this  
18 Section.

19       **SEC. 17. *Education in Communities.*** – The DILG, the ULAP, the League of  
20 Provinces, League of Cities, and League of Municipalities, through the Local HIV and  
21 AIDS PNAC (LAC) or the Local Health Boards and, in coordination with the PNAC,  
22 shall implement a locally based, multi-sectoral community response to HIV and AIDS  
23 through various channels on evidence-based, gender-responsive, age-appropriate,  
24 and human rights-oriented prevention tools to stop the spread of HIV. Gender and  
25 Development (GAD) funds and other sources may be utilized for these purposes.

26       The DILG shall, in coordination with the DSWD and the NYC shall also conduct

1 age-appropriate HIV and AIDS education for out-of-school youth.

2       **SEC. 18. *Education for Key Populations and Vulnerable Communities.*** – To  
3 ensure that HIV services reach key populations at higher risk, the PNAC, in  
4 collaboration with the LGUs and CSOs engaged in HIV and AIDS program and  
5 project, shall support and provide funding for HIV and AIDS education programs,  
6 such as peer education, support groups, outreach activities and community-based  
7 research that target these populations and other vulnerable communities. The DOH  
8 shall, in coordination with appropriate agencies and the PNAC shall craft the  
9 guidelines, and standardized information messages for peer education, support  
10 group and outreach activities.

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

19       Persons living with HIV in prisons, rehabilitation centers, and other closed-setting  
20 institutions shall be provided HIV treatment, which includes antiretroviral drugs, care,  
21 and support in accordance with the national guidelines. Efforts should be undertaken  
22 to ensure the continuity of care at all stages, from admission or imprisonment to  
23 release. The provision on informed consent and confidentiality shall also apply in  
24 closed-setting institutions.

25      **SEC. 20. *Information on Prophylactics.*** – Appropriate information shall be  
26 attached to or provided with every prophylactic offered for sale or given as a

1 donation. Such information shall be legibly printed in English and Filipino, and  
2 contain literature on the proper use of the prophylactic device or agent, its efficacy  
3 against HIV and STI.

4 **SEC. 21. *Misinformation on HIV and AIDS.*** – Misinformation on HIV and AIDS,  
5 which includes false and misleading advertising and claims in any of the multimedia  
6 or the promotional marketing of drugs, devices, agents or procedures without prior  
7 approval from the DOH through the Food and Drug Authority (FDA) and without the  
8 requisite medical and scientific basis, including markings and indications in drugs and  
9 devices or agents, purporting to be a cure or a fail-safe prophylactic for HIV infection,  
10 shall be prohibited.

### 11 ARTICLE III

#### 12 PREVENTIVE MEASURES AND SAFE PRACTICES AND PROCEDURES

13 **SEC. 22. *Positive Health, Dignity, and Prevention.*** – The PNAC, in  
14 coordination with the DOH, LGUs, and other relevant government agencies, private  
15 sector, CSOs, faith-based organizations, and persons living with HIV, shall support  
16 preventive measures that shall focus on the positive roles of persons living with HIV.

17 Such preventive measures shall include the following:

- 18 a) Creation of rights-based and community-led behavior modification programs  
19 that seek to encourage HIV risk reduction behavior among persons living with  
20 HIV;
- 21 b) Establishment and enforcement of rights-based mechanisms to strongly  
22 encourage newly tested HIV-positive individuals to conduct partner notification  
23 and to promote HIV status disclosure to sexual partners;
- 24 c) Establishment of standard precautionary measures in public and private health  
25 facilities;

1       d). Accessibility of antiretroviral treatment, management of opportunistic  
2           infections; and

3       e). Mobilization of communities of persons living with HIV, for public awareness  
4           campaigns and stigma reduction activities.

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

7       **SEC. 23. *Harm Reduction Strategies.*** – The DILG and the DOH, in close  
8           coordination with the Dangerous Drugs Board (DDB) and in partnership with the key  
9           affected population shall establish a human rights and evidenced-based HIV  
10          prevention policy and program for people who use and inject drugs.

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

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

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

21       a) Donation of tissue or organs, whether gratuitous or onerous, shall be accepted  
22           by a laboratory or institution only after a sample from the donor has been  
23           tested negative for HIV;

24       b) All donated blood shall also be subject to HIV testing. HIV-positive blood shall  
25           be disposed of properly and immediately; and

1           c) A second testing may be demanded as a matter of right by the blood, tissue,  
2           or organ recipient or his immediate relatives before transfusion or transplant,  
3           except during emergency cases.

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

6           **SEC. 26. Standard Precaution on Surgical and Other Similar Procedures. –**

7           The DOH shall, in consultation with concerned professional organizations and  
8           hospital associations, issue guidelines on precautions against HIV transmission  
9           during surgical, dental, embalming, tattooing or similar procedures. The necessary  
10          protective equipment such as gloves, goggles and gowns shall be prescribed and  
11          required, and made available to all physicians and health care providers, tattoo  
12          artists, and similarly exposed personnel at all times.

13           **ARTICLE IV**

14           **TESTING, SCREENING, AND COUNSELING**

15           **SEC. 27. Voluntary HIV Testing. –** As a policy, the State shall encourage  
16          voluntary HIV testing. Written consent from the person taking the test must be  
17          obtained before HIV testing.

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

- 21           a) A person aged fifteen (15) or over shall be entitled to access HIV testing and  
22           counseling without the need of consent from a parent or guardian;
- 23           b) Any young person aged below fifteen (15) who is pregnant or engaged in high-  
24           risk behavior shall, with the assistance of a licensed social worker, be eligible  
25           for HIV testing and counseling;

1       c) If the person is below fifteen (15) years of age or has impaired legal capacity,  
2           consent to voluntary HIV testing shall be obtained from the child's parents or  
3           legal guardian. In cases when the child's parents or legal guardian cannot be  
4           found despite reasonable efforts to locate the parents were undertaken, the  
5           consent shall be obtained from a licensed social worker. If the child's parents  
6           or legal guardian refuse to give their consent, the consent shall likewise be  
7           obtained from a licensed social worker if the latter determines that the child is  
8           at higher risk of HIV exposure and the conduct of the voluntary HIV testing is  
9           in the best interest of the child. The assent of the minor is also required prior to  
10          the testing;

11       HIV testing guidelines issued by the DOH shall include guidance for testing  
12          minors and for the involvement of parents of guardians in HIV testing of minors.

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

- 15       a) When it is necessary to test a person who is charged with any of the offenses  
16           punishable under Article 264, 266, 335 and 338 of the Revised Penal Code,  
17           as amended by Republic Act No. 8353, otherwise known as the Anti-Rape Law  
18           of 1997;
- 19       b) When it is necessary to resolve relevant issues under Executive Order No.  
20           209, otherwise known as Family Code of the Philippines;
- 21       c) As a prerequisite in the donation of blood in compliance with the provisions of  
22           Republic Act No. 7170, otherwise known as the Organ Donation Act, and  
23           Republic Act No. 7719, otherwise known as the National Blood Services Act.

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

- 1       a) Accredit public and private HIV testing facilities based on capacity to deliver  
2           testing services including HIV counseling. *Provided, That* only DOH-accredited  
3           HIV testing facilities shall be allowed to conduct HIV testing;
- 4       b) Develop the guidelines for HIV testing and counseling, including mobile HIV  
5           testing and counseling and routine provider-initiated HIV counseling and  
6           testing that shall ensure, among others, that HIV testing is based on informed  
7           consent, is voluntary and confidential, and is available at all times and  
8           provided by qualified persons and DOH-accredited providers;
- 9       c) Accredit institutions or organizations that train HIV and AIDS counselors in  
10          coordination with DSWD;
- 11      d) Accredit competent HIV and AIDS counselors for persons with disability,  
12          including but not limited to translator for the hearing-impaired and Braille for  
13          the visually-impaired clients in coordination with the National PNAC for  
14          Disability Affairs; and
- 15      e) Set the standards for HIV counseling and shall work closely with HIV and AIDS  
16          CSOs that train HIV and AIDS counselors and peer educators in coordination  
17          and participation of NGOs, government organizations (GOs), and Civil Society  
18          Organizations of People Living with HIV (CSO-PLHIV).

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

24       Pre-test counseling and post-test counseling shall be done by the HIV and AIDS  
25          counselor, licensed social worker, licensed health service provider, or a DOH-  
26          accredited health service: *Provided, That* for the government HIV testing facilities,

1 pre-test and post-test counseling shall be provided for free.

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

4 **ARTICLE V**

5 **HEALTH AND SUPPORT SERVICES**

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

13 **SEC. 31. Economic Empowerment and Support.** – Persons living with HIV  
14 shall not be deprived of any employment, livelihood, micro-finance, self-help, and  
15 cooperative programs by reason of their HIV status. The DSWD, in coordination with  
16 the DILG, DOLE, and TESDA, shall develop enabling policies and guidelines to  
17 ensure economic empowerment and independence designed for persons living with  
18 HIV.

19 **SEC. 32. Care and Support for Persons Living with HIV.** – The DSWD in  
20 coordination with the DOH and TESDA shall develop care and support programs for  
21 persons living with HIV, which shall include peer-led counseling and support, social  
22 protection, welfare assistance, and mechanisms for case management. These  
23 programs shall include care and support for the affected children, families, and  
24 partners of persons living with HIV.

25 **SEC. 33. Care and Support for Overseas Workers Living with HIV.** – The  
26 Overseas Workers Welfare Administration (OWWA), in coordination with the DSWD,

1 the DFA, CFO and the Bureau of Quarantine and International Health Surveillance,  
2 shall develop a program to provide a stigma-free comprehensive reintegration, care,  
3 and support program, including economic, social, and medical support, for overseas  
4 workers, regardless of employment status and stage in the migration process.

5       **SEC. 34. Care and Support for Affected Families, Intimate Partners,**  
6       **Significant Others and Children of People Living with HIV.** – The DSWD, DOH,  
7       LGUs, in consultation with CSOs, and affected families of persons living with HIV  
8       shall develop care and support programs for affected families, intimate partners,  
9       significant others and children of people living with HIV, which shall include the  
10      following:

- 11       a) Education programs that reduce HIV-related stigma, including counseling, to  
12            prevent HIV-related discrimination within the family;  
13       b) Educational assistance for children infected with HIV and children orphaned by  
14            HIV and AIDS;  
15       c) HIV treatment and management of opportunistic infections for minors living  
16            HIV who are not eligible under the Outpatient HIV/AIDS Treatment (OHAT)  
17            Package of the Philippine Health Insurance Corporation (PhilHealth).

18       **SEC. 35. Non-Discriminatory HIV and AIDS Services.** – The members of the  
19      PNAC, in cooperation with CSOs, and in collaboration with DOJ and CHR, shall  
20      ensure the delivery of non-discriminatory HIV and AIDS services by government and  
21      private HIV and AIDS service providers.

22       **SEC. 36. Testing of Organ Donation.** – Lawful consent to HIV testing of a  
23      donated human body, organ, tissue, or blood shall be considered as having been  
24      given when:

- 25       a) A person volunteers or freely agrees to donate one's blood, organ, or tissue for  
26            transfusion, transplantation, or research; and

1        b) A legacy and a donation are executed in accordance with Sections 3 and 4  
2                         respectively, of Republic Act No. 7170 otherwise known as the Organ  
3                         Donation Act of 1991.

4        **SEC. 37. HIV Anti-Body Testing for Pregnant Women.** – A health care provider  
5                         who offers pre-natal medical care shall routinely conduct HIV screening with an opt-  
6                         out HIV testing for pregnant women. The DOH shall provide the necessary guidelines  
7                         for healthcare providers in the conduct of the screening procedure.

8        **SEC. 38. Immunity for HIV Educators, Licensed Social Workers, Health**  
9                         **Workers and Other HIV and AIDS Service Providers.** – Any person involved in the  
10                        provision of HIV and AIDS services, including peer educators, shall be immune from  
11                        suit, arrest, or prosecution, and from civil, criminal or administrative liability, on the  
12                        basis of their delivery of such services in HIV prevention, or in relation to the  
13                        legitimate exercise of protective custody of children, whenever applicable. This  
14                        immunity does not include acts which are committed in violation of this Act.

15        **SEC. 39. Health Insurance and Similar Health Services.** – The PhilHealth shall:  
16                        a) Develop an insurance package for persons living with HIV that shall include  
17                        coverage for in-patient and out-patient medical and diagnostic services,  
18                        including medication and treatment;  
19                        b) Introduce benefits to the unborn and newborn child from infected mothers;  
20                        c) Set a reference price for HIV services in government hospitals; and  
21                        d) Conduct programs to educate the human resource units of companies on the  
22                        PhilHealth package on HIV and AIDS.

23        The PhilHealth shall enforce confidentiality in the provision of these packages to  
24                        persons living with HIV. No person living with HIV shall be denied or deprived of  
25                        private health insurance under a Health Maintenance Organization (HMO) and  
26                        private life insurance coverage under a life insurance company on the basis of the

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

4 **SEC. 40. *Treatment for Persons Living with HIV and AIDS.*** –The DOH shall  
5 establish a program that will provide free and accessible anti-retroviral treatment and  
6 medication for opportunistic infections to all PLHIVs who are enrolled in the program,  
7 particularly those who are poor or indigent. It shall likewise designate public and  
8 private hospitals to become treatment hubs with an established HIV and AIDS Core  
9 Team (HACT). A manual of procedures for management of PLHIV shall be developed  
10 by the DOH.

11 **ARTICLE VI**

12 **CONFIDENTIALITY**

13 **SEC. 41. *Confidentiality.*** – The confidentiality and privacy of any individual who  
14 has been tested for HIV, has been exposed to HIV, has HIV infection or HIV and  
15 AIDS-related illnesses, or was treated for HIV-related illnesses shall be guaranteed.  
16 The following acts violate confidentiality and privacy:

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

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

1       b) *Media disclosure* – It shall be unlawful for any editor, publisher, reporter, or  
2       columnist in the case of printed materials, announcer or producer in the case of  
3       television and radio broadcasting, producer and director of films in the case of the  
4       film industry, to disclose the name, picture, or any information that would  
5       reasonably identify any person living with HIV or AIDS, or any confidential HIV  
6       and AIDS information, without the prior written consent of their subject.

7       c) *Civil liability* – Any person who has obtained knowledge of confidential HIV and  
8       AIDS information and has used such information to malign or cause damage,  
9       injury or loss to another person shall face liability under Articles 19, 20, 21 and 26  
10      of the new Civil Code of the Philippines.

11      Confidential HIV and AIDS information may be released by HIV testing facilities  
12      without written consent in the following instances:

13      a) When complying with reportorial requirements of the national active and  
14      passive surveillance system of the DOH: *Provided*, That the information related to  
15      a person's identity shall remain confidential;

16      b) When informing other health workers directly involved in the treatment or care  
17      of a person living with HIV: *Provided*, That such worker shall be required to  
18      perform the duty of shared medical confidentiality; and

19      c) When responding to a *subpoena duces tecum* and *subpoena ad testificandum*  
20      issued by a court with jurisdiction over a legal proceeding where the main issue is  
21      the HIV status of an individual: *Provided*, That the confidential medical record,  
22      after having been verified for accuracy by the head of the office or department,  
23      shall remain anonymous and unlinked and shall be properly sealed by its lawful  
24      custodian, hand delivered to the court, and personally opened by the judge:  
25      *Provided, further*, That the judicial proceedings be held in executive session.

26      **SEC. 42. Release of HIV-Related Test Results.** – The result of any test related

1 to HIV shall be released by the attending physician, who provides pre- and post-test  
2 counseling only to the individual who submitted to the test. If the patient is below  
3 fifteen (15) years old, an orphan, or has mental health conditions, the result may be  
4 released to either of the patient's parents, legal guardian, or a duly assigned licensed  
5 social worker, whichever is applicable. If the person is fifteen (15) years of age and  
6 above, the results shall be released only to the person tested after he/she has  
7 received post-testing counseling.

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

17 **SEC. 44. *Duty of Employers, Heads of Government Offices, Heads of Public***  
18 ***and Private Schools or Training Institutions, and Local Chief Executives.*** – It  
19 shall be the duty of private employers, heads of government offices, heads of private  
20 and public schools or training institutions, and local chief executives over all private  
21 establishments within their territorial jurisdiction, to prevent or deter acts of  
22 discrimination against persons living with HIV, and to provide for procedures for the  
23 resolution, settlement, or prosecution of acts of discrimination. Towards this end, the  
24 employer, head of office or local chief executive shall:

1       a) Promulgate rules and regulations prescribing the procedure for the  
2            investigation of discrimination cases and the administrative sanctions thereof;  
3            and

4       b) Create a permanent committee on the investigation of discrimination cases.

5           The committee shall conduct meetings to increase the members' knowledge  
6            and understanding of HIV and AIDS, and to prevent incidents of discrimination.  
7           It shall also conduct the administrative investigation of alleged cases of  
8            discrimination.

## 9                      ARTICLE VII

### 10          DISCRIMINATORY ACTS AND PRACTICES AND CORRESPONDING PENALTIES

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

13       a) *Discrimination in the Workplace* – The rejection of job application, termination  
14           of employment, or other discriminatory policies in hiring, provision of  
15           employment, and other related benefits, promotion, or assignment of an  
16           individual solely or partially on the basis of actual, perceived, or suspected  
17           HIV;

18       b) *Discrimination in Learning Institutions* – Refusal of admission, expulsion,  
19           segregation, imposition of harsher disciplinary actions, or denial of benefits or  
20           services of a student or a prospective student solely or partially on the basis of  
21           actual, perceived or suspected HIV status;

22       c) *Restriction on Travel and Habitation* – Restrictions on travel within the  
23           Philippines, refusal of lawful entry to Philippine territory, deportation from the  
24           Philippines, or the quarantine or enforced isolation of travelers solely or  
25           partially on account of actual, perceived, or suspected HIV status is

1 discriminatory. The same standard of protection shall be afforded to migrants,  
2 visitors, and residents who are not Filipino citizens.

- 3 d) *Restrictions on Shelter* – Restrictions on housing or lodging, whether  
4 permanent or temporary, solely or partially on the basis of actual, perceived, or  
5 suspected HIV status is a discriminatory act;
- 6 e) *Prohibition from Seeking or Holding Public Office* – Prohibition on the right to  
7 seek an elective or appointive public office solely or partially on the basis of  
8 actual, perceived, or suspected HIV status;
- 9 f) *Exclusion from Credit and Insurance Services* – Exclusion from health,  
10 accident, or life insurance, credit and loan services, including the extension of  
11 such loan or insurance facilities, of an individual solely or partially on the basis  
12 of actual, perceived, or suspected HIV status: *Provided*, That the person living  
13 with HIV has not misrepresented the fact to the insurance company or loan or  
14 credit service provider upon application;
- 15 g) *Discrimination in Hospitals and Health Institutions* – Denial of health services,  
16 or be charged with a higher fee, on the basis of actual, perceived or  
17 suspected HIV status is a discriminatory act and is prohibited;
- 18 h) *Denial of Burial Services* – Denial of embalming and burial services for a  
19 deceased person who had HIV and AIDS or who was known, suspected, or  
20 perceived to be HIV positive; and
- 21 i) Other similar or analogous discriminatory acts.

22 **SEC. 46. *Penalties.* –**

- 23 a) Any person who commits the prohibited act under Section 21 of this Act shall  
24 upon conviction, suffer the penalty of imprisonment ranging from one (1) year  
25 but not more than ten (10) years a fine of not less than Fifty thousand pesos  
26 (P50,000) but not more than Five hundred thousand pesos (P500,000), or

both, at the discretion of the Court: *Provided*, That if the offender is a manufacturer, importer or distributor of any drugs, devices, agents, and other health products, the penalty of at least five (5) years imprisonment but not more than ten (10) years and a fine of at least Five hundred thousand pesos (P500,000) but not more than Five million pesos (P5,000,000) shall be imposed: *Provided, further*, That drugs, devices, agents, and other health products found in violation of Section 21 of this Act may be seized and held in custody when the FDA Director-General has reasonable cause to believe facts found by him/her or an authorized officer or employee of the FDA that such health products may cause injury or prejudice to the consuming public;

- 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;

- 1       d) Any person who violates the provision in Section 38 of this Act shall, upon  
2           conviction, suffer the penalty of imprisonment of six (6) months to five (5)  
3           years and a fine of not less than One hundred thousand pesos (P100,000.00)  
4           but not more than Five hundred thousand pesos (P500,000.00). *Provided,*  
5           That if the person who violates this provision is a law enforcement agent or a  
6           public official, administrative sanctions may be imposed in addition to  
7           imprisonment and/or fine, at the discretion of the court;
- 8       e) Any person, natural or juridical, who denies life insurance coverage of any  
9           person living with HIV in violation of Section 39 of this Act shall, upon  
10          conviction, suffer the penalty of imprisonment of six (6) months to five (5)  
11          years and /or a fine of not less than Fifty thousand pesos (P 50,000.00), at the  
12          discretion of the court, and without prejudice to the imposition of administrative  
13          sanctions such as fines, suspension or revocation of business permit,  
14          business license or accreditation, and professional license;
- 15      f) Any person, natural or juridical, who violates the provisions of Section 41 of  
16          this Act shall, upon conviction, suffer the penalty of imprisonment of six (6)  
17          months to five (5) years, and/or a fine of not less than Fifty thousand pesos  
18          (P50,000.00) but not more than Five hundred thousand (P500,000.00), or both  
19          imprisonment and fine, at the discretion of the court, and without prejudice to  
20          the imposition of administrative sanctions such as suspension or revocation of  
21          business permit, business license or accreditation, and professional license;
- 22      g) Any person, natural or juridical, who shall violate any of the provisions in  
23          Section 45 shall, upon conviction, suffer the penalty of imprisonment of six (6)  
24          months to five (5) years and /or a fine of not less than Fifty thousand pesos  
25          (P50,000.00) but not more than Five hundred thousand (P500,000.00), at the  
26          discretion of the court, and without prejudice to the imposition of administrative

1           sanctions such as fines, suspension or revocation of business permit,  
2           business license or accreditation, and professional license; and

3           h) Any person who has obtained knowledge of confidential HIV and AIDS  
4           information and uses such information to malign or cause damage, injury, or  
5           loss to another person shall face liability under Articles 19, 20, 21, and 26 of  
6           the new Civil Code of the Philippines and relevant provisions of Republic Act  
7           No.10174, otherwise known as the Data Privacy Act of 2012.

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

10          If the offender is a corporation, association, partnership or any other juridical  
11         person, the penalty of imprisonment shall be imposed upon the responsible officers  
12         and employees, as the case may be, who participated in, or allowed by their gross  
13         negligence, the commission of the crime, and the fine shall be imposed jointly and  
14         severally on the juridical person and the responsible officers/employees.

15          Furthermore, the Court may suspend or revoke its license or business permit.

16          If the offender is an alien, he/she shall, in addition to the penalties prescribed  
17         herein, be deported without further proceedings after serving penalties herein  
18         prescribed.

19          If the offender is a public official or employee, he/she shall, in addition to the  
20         penalties herein, suffer perpetual or temporary absolute disqualification from office,  
21         as the case may be.

## 22                              ARTICLE VIII

### 23                              FINAL PROVISIONS

24          **SEC. 47. Appropriations.** – The amount needed for the initial implementation

25         of this Act shall be charged against the appropriations for the DOH. Thereafter, such  
26         sums as maybe necessary for the continued implementation of this Act shall be

1 included in the annual General Appropriations Act.

2       The Department of Budget and Management, in coordination with the  
3 Department of Finance and the DOH, shall consider the incidence of HIV and AIDS,  
4 in determining the annual appropriations for the implementation of this Act. A  
5 separate budget item in the annual appropriations of LGUs shall be allocated for their  
6 action plans specified in this Act.

7       The funding requirement needed to provide for the health insurance package  
8 and other services for persons living with HIV as stated in Section 39 hereof shall be  
9 charged against the PhilHealth's corporate funds.

10       The funding needed to upgrade or construct government administered HIV  
11 testing and treatment centers shall be charged against the revenues from excise  
12 taxes on alcohol which are earmarked for the health enhancement facilities program  
13 of the DOH under Section 8 (c) of R.A. No. 8424, otherwise known as the National  
14 Internal Revenue Code, as amended by R.A. No. 10351.

15       The funds to be appropriated for the operations of the PNAC shall be a distinct  
16 and separate budget item from the regular appropriation for the DOH and shall be  
17 administered by the Secretary of Health. In no circumstance shall the appropriations,  
18 savings, and other resources of the PNAC be realigned to the programs and projects  
19 of the DOH or any other government agency, unless such program or project is  
20 related to the implementation of the provisions under this Act.

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

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

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

3           All decrees, executive orders, proclamations and administrative regulations or  
4 parts thereof, particularly in the Republic Act No. 3815, otherwise known as the  
5 “Revised Penal Code”, Republic Act No. 8353, otherwise known as the “Anti-Rape  
6 Law of 1997”, Executive Order No. 209, otherwise known as the “Family Code of the  
7 Philippines”, Republic Act No. 7719, otherwise known as the “National Blood  
8 Services Act”, Republic Act No. 9165, otherwise known as the “Comprehensive  
9 Dangerous Drugs Act of 2002”, and Republic Act No. 7170, otherwise known as the  
10 “Organ Donation Act of 1991”, inconsistent with the provisions of this Act are hereby  
11 repealed, amended or modified accordingly.

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

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

18           Approved,