



HOUSE OF REPRESENTATIVES

H. No. 5178

BY REPRESENTATIVES MERCADO-REVILLA, TAMBUNTING, MARCOS, BAGUILAT, RODRIGUEZ (R.), BAG-AO, GUTIERREZ, TAN (A.), VELASCO, BULUT-BEGTANG, DE VENECIA, GARIN (S.), ACOSTA-ALBA, ANGARA-CASTILLO, GERONA-ROBREDO, FORTUNO, CASTRO, DY, GO (A.C.), ALEJANO, MACROHON-NUÑO, ESTRELLA, ARAGONES, VARGAS, BONOAN, PADILLA, OLIVAREZ, DELOSO-MONTALLA, RODRIGUEZ (M.), BELLO (W.), ERIGUEL, TING, KHO, TEJADA, ESPINA, TIANGCO, GARIN (O.), OAMINAL, SUANSING, GUIAO, ROMAN, TEODORO, PICHAY, PAQUIZ, RIDON, SINGSON (E.), BRAVO (A.), ESCUDERO, CRUZ-GONZALES, PERNES, UNGAB, ALMARIO, ANGPING, CUA, LOBREGAT, PIAMONTE, ABU, ABUEG, ADIONG, ALMONTE, ARENAS, BATAOIL, CAYETANO, COLMENARES, DEL ROSARIO (A.G.), FORTUN, GARCIA (G.), GULLAS, HICAP, ILAGAN, MENDOZA (M.), ORTEGA (V.), RAMOS, ROMULO, TINIO, Uy (J.) AND YAP (S.), PER COMMITTEE REPORT NO. 478

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:

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

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

6 (a) Establish policies and programs to prevent the spread of HIV and
7 deliver treatment, care, and support services to Filipinos living with HIV in
8 accordance with evidence-based strategies and approaches that follow the
9 principles of human rights, gender-responsiveness, and meaningful
10 participation of communities affected by the epidemic;

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

14 (c) Remove all barriers to HIV and AIDS-related services by
15 eliminating the climate of stigma that surrounds the epidemic and the people
16 directly and indirectly affected by it; and

17 (d) Positively address and seek to eradicate conditions that aggravate
18 the spread of HIV infection, which include poverty, gender inequality,
19 prostitution, marginalization, drug abuse and ignorance.

20 Respect for, protection of and promotion of human rights are the
21 cornerstones of an effective response to the HIV epidemic. The meaningful
22 inclusion and participation of persons directly and indirectly affected by the
23 epidemic, especially persons living with HIV, are crucial in eliminating the
24 virus. Thus, unless otherwise provided in this Act, the confidentiality,
25 anonymity, and non-compulsory nature of HIV testing and HIV-related testing
26 shall always be guaranteed and protected by the State.

27 Policies and practices that discriminate on the basis of perceived or
28 actual HIV status, sex, gender, sexual orientation, gender identity, age,

1 economic status, disability and ethnicity hamper the enjoyment of basic human
2 rights and freedom guaranteed in the Constitution and are deemed inimical to
3 national interest.

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

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

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

12 (c) *Civil society organizations (CSOs)* refer to groups of
13 nongovernmental and noncommercial individuals or legal entities that are
14 engaged in noncoerced collective action around shared interests, purposes and
15 values;

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

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

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

1 (g) *Gender identity* refers to a person's internal and individual
2 experience of gender that may or may not correspond with the sex assigned at
3 birth, including the person's sense of the body, which may involve, if freely
4 chosen, modification of bodily appearance or function by medical, surgical
5 and other means, and experience of gender, among them, dress, speech, and
6 mannerism;

7 (h) *Harm reduction* refers to evidence-based policies, programs and
8 approaches that aim to reduce transmission of HIV and its harmful
9 consequences on health, social relations and economic conditions;

10 (i) *High-risk behavior* refers to a person's frequent involvement in
11 certain activities that increase the risk of transmitting or acquiring HIV;

12 (j) *Human Immunodeficiency Virus (HIV)* refers to the virus, of the
13 type called retrovirus, which infects cells of the human immune system –
14 mainly CD4positiveT cells and macrophages-key components of the cellular
15 immune system – and destroys or impairs the cells' function. Infection with
16 HIV results in the progressive deterioration of the immune system, leading to
17 immune deficiency;

18 (k) *HIV counseling* refers to the interpersonal, dynamic communication
19 process between a client and a trained counselor, who is bound by a code of
20 ethics and practice, to resolve personal, social, or psychological problems and
21 difficulties, whose objective, in the context of an HIV diagnosis, is to
22 encourage the client to explore important personal issues, identify ways of
23 coping with anxiety and stress, and plan for the future (keeping healthy,
24 adhering to treatment, and preventing transmission) and counseling in the
25 context of a negative HIV test result that focuses on exploring the client's
26 motivation, options, and skills to stay HIV-negative;

27 (l) *HIV and AIDS counselor* refers to any individual trained by an
28 institution or organization accredited by the Department of Health (DOH) to

1 provide counseling services on HIV and AIDS with emphasis on behavior
2 modification;

3 (m) *HIV and AIDS monitoring* refers to the documentation and analysis
4 of the number of HIV/AIDS infections and the pattern of its spread;

5 (n) *HIV and AIDS prevention and control* refers to measures aimed at
6 protecting noninfected persons from contracting HIV and minimizing the
7 impact of the condition of persons living with HIV;

8 (o) *HIV-negative* refers to the absence of HIV or HIV antibodies upon
9 HIV testing;

10 (p) *HIV-positive* refers to the presence of HIV infection as documented
11 by the presence of HIV or HIV antibodies in the sample being tested;

12 (q) *HIV-related testing* refers to any laboratory testing or procedure
13 done on an individual regardless of whether the person is HIV positive or
14 negative;

15 (r) *HIV testing* refers to any facility-based or mobile medical
16 procedure that is conducted to determine the presence or absence of HIV in a
17 person's body. HIV testing is confidential, voluntary in nature and must be
18 accompanied by counseling prior to, and after the testing, and conducted only
19 with the informed consent of the person;

20 (s) *HIV testing facility* refers to any DOH-accredited in-site or mobile
21 testing center, hospital, clinic, laboratory and other facility that has the
22 capacity to conduct voluntary HIV counseling and HIV testing;

23 (t) *HIV transmission* refers to the transfer of HIV from one infected
24 person to an uninfected individual, most commonly through sexual
25 intercourse, blood transfusion, sharing of intravenous needles, and vertical
26 transmission;

27 (u) *Key affected populations at higher risk of HIV exposure or key*
28 *populations* refer to those groups of persons, as determined by the Philippine

1 National AIDS Council whose behavior make them more likely to be exposed
2 to HIV or to transmit the virus;

3 (v) *Laboratory* refers to an area or place, including community-based
4 settings, where research studies are being undertaken to further develop local
5 evidence base for effective HIV programs;

6 (w) *Medical confidentiality* refers to the relationship of trust and
7 confidence created or existing between a patient or a person living with HIV
8 and his attending physician, consulting medical specialist, nurse, medical
9 technologist and all other health workers or personnel involved in any
10 counseling, testing or professional care of the former. It also applies to any
11 person who, in any official capacity, has acquired or may have acquired such
12 confidential information;

13 (x) *Opportunistic infection* refers to illnesses caused by various
14 organisms, many of which do not cause disease in persons with healthy
15 immune system;

16 (y) *Partner notification* refers to the process by which the “index
17 client”, “source” or “patient”, who has a sexually transmitted infection (STI)
18 including HIV, is given support in order to notify and advise the partners that
19 have been exposed to infection. Support includes giving the index client a
20 mechanism to encourage the client’s partner to attend counseling, testing and
21 other prevention and treatment services. Confidentiality shall be observed in
22 the entire process;

23 (z) *Person living with HIV* refers to any individual diagnosed to be
24 infected with HIV;

25 (aa) *Pre-test counseling* refers to the process of providing an
26 individual information on the biomedical aspects of HIV/AIDS and emotional
27 support to any psychological implications of undergoing HIV testing and the
28 test result itself before the individual is subjected to the test;

1 (bb) *Post-test counseling* refers to the process of providing
2 risk-reduction information and emotional support to a person who submitted to
3 HIV testing at the time the result is released;

4 (cc) *Prophylactic* refers to any agent or device used to prevent the
5 transmission of a disease;

6 (dd) *Provider-initiated counseling and testing* refers to a health care
7 provider initiating HIV anti-body testing to a person practicing high-risk
8 behavior or vulnerable to HIV after conducting HIV pre-test counseling.
9 A person may elect to decline or defer testing such that consent is conditional;

10 (ee) *Routine HIV testing* refers to HIV testing recommended at health
11 care facilities as a standard component of medical care. It is part of the normal
12 standard of care offered irrespective of whether or not the patient has signs and
13 symptoms of underlying HIV infection or has other reasons for presenting to
14 the facility: *Provided*, That a patient may elect to decline or defer testing;

15 (ff) *Safer sex practices* refer to choices made and behaviors adopted
16 by a person to reduce or minimize the risk of HIV transmission. These include
17 postponing sexual debut, non-penetrative sex, correct and consistent use of
18 male or female condoms, and reducing the number of sexual partners;

19 (gg) *Sexually transmitted infections (STIs)* refer to infections that are
20 spread through the transfer of organisms from one person to another as a result
21 of sexual contact;

22 (hh) *Sexual orientation* refers to a person's sexual and emotional
23 attraction to, or intimate and sexual relationship with, individuals of different,
24 the same, or both sexes;

25 (ii) *Social protection* refers to a set of policies and programs designed
26 to reduce poverty and vulnerability by promoting efficient labor markets,
27 diminishing people's exposure to risks, and enhancing their capacity to protect
28 themselves against hazards and interruptions/loss of income;

1 (jj) *Stigma* refers to the dynamic devaluation and dehumanization of
2 an 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 result in
4 discrimination when acted upon;

5 (kk) *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 (ll) *Vertical transmission* refers to the process of transmission during
9 pregnancy, birth, or breastfeeding;

10 (mm) *Voluntary HIV testing* refers to HIV testing of an individual who,
11 after having undergone pre-test counseling, willingly submits to such test;

12 (nn) *Vulnerable communities* refer to communities and groups
13 suffering from vulnerabilities such as unequal opportunities, social exclusion,
14 poverty, unemployment, and other similar social, economic, cultural and
15 political conditions, making them more susceptible to HIV infection and to
16 developing AIDS;

17 (oo) *Window period* refers to the period of time, usually lasting from
18 two (2) weeks to six (6) months during which an infected individual will test
19 “negative” upon HIV testing but can actually transmit the infection; and

20 (pp) *Work place* refers to the office, premise or work site where
21 workers are habitually employed and shall include the office or place where
22 workers, with no fixed or definite work site, regularly report for assignment in
23 the course of their employment.

24 ARTICLE I

25 PHILIPPINE NATIONAL AIDS COUNCIL

26 SEC. 4. *Establishment of the Philippine National AIDS Council.* –

27 The Philippine National AIDS Council, hereinafter referred to as the Council,
28 is hereby created and shall be the policy-making, planning, coordinating and

1 advisory body of the Philippine National HIV and AIDS Program. It shall be
2 an agency attached to the DOH.

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

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

8 (a) Develop the National Multi-Sectoral HIV and AIDS Strategic Plan
9 in collaboration with relevant government agencies and CSOs;

10 (b) Ensure the operationalization and implementation of the National
11 Multi-Sectoral HIV and AIDS Strategic Plan;

12 (c) Coordinate with government agencies and other entities mandated
13 to implement the provisions of this Act;

14 (d) Develop and ensure the implementation of the guidelines and
15 policies provided in this Act, including other policies that may be necessary to
16 implement the National Multi-Sectoral HIV and AIDS Strategic Plan;

17 (e) Monitor the progress of the epidemic;

18 (f) Monitor the implementation of the National Multi-Sectoral HIV
19 and AIDS Strategic Plan, undertake mid-term assessments and evaluate its
20 impact;

21 (g) Mobilize sources of fund for the National Multi-Sectoral HIV and
22 AIDS Strategic Plan;

23 (h) Coordinate, organize, and work in partnership with foreign and
24 international organizations regarding funding, data collection, research, and
25 prevention and treatment modalities on HIV and AIDS, and ensure
26 foreign-funded programs are aligned to the national response;

27 (i) Advocate for policy reforms to Congress and other government
28 agencies to strengthen the country's response to the epidemic; and

1 (j) Submit an annual report to the Office of the President, Congress,
2 and the members of the Council.

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

6 (a) The Secretary of the Department of Health (DOH);

7 (b) The Secretary of the Department of Education (DepED);

8 (c) The Secretary of the Department of Labor and Employment
9 (DOLE);

10 (d) The Secretary of the Department of Social Welfare and
11 Development (DSWD);

12 (e) The Secretary of the Department of the Interior and Local
13 Government (DILG);

14 (f) *The Secretary of the Department of Justice (DOJ);*

15 (g) The Secretary/Director-General of the Department of Budget and
16 Management/National Economic and Development Authority;

17 (h) Four (4) members of the League of City Mayors, each one
18 representing the local government unit (LGU) with the highest number of HIV
19 and AIDS cases in the National Capital Region, Luzon, Visayas and
20 Mindanao;

21 (i) Two (2) representatives from nongovernmental organizations
22 (NGOs) which have expertise in standard setting and service delivery;

23 (j) Seven (7) representatives from NGOs working for the welfare of
24 identified key populations; and

25 (k) A representative of an organization of persons living with HIV.

26 Except for the *ex officio* members, the other members of the Council
27 shall be appointed by the President of the Philippines. The heads of
28 government agencies may be represented by an official duly designated by

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

3 The presence of the Chairperson or the Vice Chairperson of the
4 Council, and at least seven (7) other Council members and/or permanent
5 alternates shall constitute a quorum to do business, and a majority vote of
6 those present shall be sufficient to pass resolutions or render decisions. The
7 Secretary of Health shall be the permanent Chairperson of the Council.
8 However, the Vice Chairperson shall be elected from the government agency
9 members, and shall serve for a term of six (6) years.

10 Members representing the CSOs shall serve for a term of three (3)
11 years, renewable upon recommendation of the Council for a maximum of two
12 (2) consecutive terms.

13 *SEC. 7. Secretariat.* – The Council shall be supported by a Secretariat
14 consisting of personnel with the necessary technical expertise and capability
15 that shall be conferred permanent appointments, subject to Civil Service rules
16 and regulations. The Secretariat shall be headed by an Executive Director,
17 who shall be under the direct supervision of the Chairperson of the Council.

18 The Secretariat shall perform the following functions:

- 19 (a) Coordinate and manage the day-to-day affairs of the Council;
20 (b) Assist in the formulation, monitoring, and evaluation of the
21 National Multi-Sectoral HIV and AIDS Strategic Plan and policies;
22 (c) Provide technical assistance, support, and advisory services to the
23 Council and its external partners;
24 (d) Assist the Council in identifying and building internal and
25 external networks and partnerships;
26 (e) Coordinate and support the efforts of the Council and its members
27 to mobilize resources;

1 (f) Serve as the clearing house and repository of HIV and
2 AIDS-related information;

3 (g) Disseminate updated, accurate, relevant, and comprehensive
4 information about the epidemic to Council members, policy makers, and the
5 media;

6 (h) Provide administrative support to the Council; and

7 (i) Act as spokesperson and representative for and in behalf of the
8 Council.

9 SEC. 8. *National Multi-Sectoral HIV and AIDS Strategic Plan.* –

10 A six (6)-year National Multi-Sectoral HIV and AIDS Strategic Plan or an
11 AIDS Medium-Term Plan (AMTP) shall be formulated and periodically
12 updated by the Council. The AMTP shall include the following:

13 (a) The country's targets and strategies in addressing the epidemic;

14 (b) The prevention, treatment, care and support, and other components
15 of the country's response;

16 (c) The six (6)-year operationalization of the program and
17 identification of the government agencies that shall implement the program,
18 including the designated office within each agency responsible for overseeing,
19 coordinating, facilitating and/or monitoring the implementation of its AIDS
20 program from the national to the local levels; and

21 (d) The budgetary requirements and a corollary investment plan that
22 shall identify the sources of funds for its implementation.

23 SEC. 9. *National HIV and AIDS and STI Prevention and Control*
24 *Program of the DOH.* – The existing National HIV and AIDS and STI

25 Prevention and Control Program (NASPCP) of the DOH, which is composed
26 of qualified medical specialists and support personnel with permanent
27 appointments and with adequate yearly budget, shall coordinate with the
28 Council for the implementation of the health sector's HIV and AIDS and STI

1 response, as identified in the National Multi-Sectoral HIV and AIDS Strategic
2 Plan or the AMTP.

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

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

14 ARTICLE II

15 EDUCATION AND INFORMATION

16 SEC. 11. *Prevention Program.* – There shall be an HIV and AIDS
17 prevention program that shall educate the public on these and other sexually
18 transmitted infections, with the goal of reducing risky behavior, lowering
19 vulnerabilities, and promoting the human rights of persons living with HIV.
20 The Council shall promote and adopt a range of measures and interventions, in
21 partnership with CSOs that aim to prevent, halt, or control the spread of HIV
22 in the general population, especially among the key populations and
23 vulnerable communities. These measures shall likewise promote the rights,
24 welfare, and participation of persons living with HIV and the affected
25 children, young people, families and partners of persons living with HIV.

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

- 1 (a) Safer sex practices among the general population, especially among
2 key populations;
- 3 (b) Safer sex practices that reduce risk of HIV infection;
- 4 (c) Universal access to evidence-based and relevant information and
5 education, and medically safe, legally affordable, effective and quality
6 treatment;
- 7 (d) Sexual abstinence and sexual fidelity; and
- 8 (e) Consistent and correct condom use.

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

19 The DepED, the CHED and the TESDA shall ensure the development
20 and provision of psychosocial support and counseling in learning institutions
21 for the development of positive health, promotion of values and behavior
22 pertaining to reproductive health in coordination with the DOH. For this
23 purpose, funds shall be allocated for the training and certification of teachers
24 and school counselors.

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

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

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

12 SEC. 15. *Education for Filipinos Going Abroad.* – The Department
13 of Foreign Affairs (DFA) shall, in coordination with the Commission on
14 Filipino Overseas, the DOLE and the Council, ensure that all overseas Filipino
15 workers, including diplomatic, military, trade, labor officials, and personnel
16 and their families to be assigned overseas, shall undergo or attend a seminar on
17 HIV and AIDS, and shall be provided with information on how to access
18 on-site HIV-related services and facilities before certification for overseas
19 assignment.

20 SEC. 16. *Information for Tourists and Transients.* – Educational
21 materials on the causes, modes of transmission, prevention, consequences of
22 HIV infection and list of HIV counseling and testing facilities shall be
23 adequately provided at all international and local ports of entry and exit. The
24 Department of Tourism (DOT), the DFA, the Department of Transportation
25 and Communications (DOTC) and the Bureau of Immigration, in coordination
26 with the Council and stakeholders in the tourism industry, shall lead in the
27 implementation of this section.

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

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

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

11 SEC. 18. *Education for Key Populations and Vulnerable*
12 *Communities.* – To ensure that HIV services reach key populations at higher
13 risk, the Council, in collaboration with the LGUs and CSOs engaged in HIV
14 and AIDS programs and projects, shall support and provide funding for HIV
15 and AIDS education programs, such as peer education, support groups,
16 outreach activities and community-based research that target these populations
17 and other vulnerable communities. The DOH shall, in coordination with
18 appropriate agencies and the Council, craft the guidelines and standardized
19 information messages for peer education, support group and outreach
20 activities.

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

1 (a) Creation of rights-based and community-led behavior modification
2 programs that seek to encourage HIV risk reduction behavior among persons
3 living with HIV;

4 (b) Establishment and enforcement of rights-based mechanisms to
5 strongly encourage newly tested HIV-positive individuals to conduct partner
6 notification and to promote HIV status disclosure to sexual partners;

7 (c) Establishment of standard precautionary measures in public and
8 private health facilities;

9 (d) Accessibility of ARV treatment and management of opportunistic
10 infections; and

11 (e) Mobilization of communities of persons living with HIV for public
12 awareness campaigns and stigma reduction activities.

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

15 *SEC. 23. Harm Reduction Strategies.* – The DILG and the DOH, in
16 close coordination with the Dangerous Drugs Board and in partnership with
17 the key affected population, shall establish a human rights and evidenced-
18 based HIV prevention policy and program for people who use and inject
19 drugs.

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

26 *SEC. 24. Prevention of Mother-to-Child HIV Transmission.* – The
27 DOH shall implement a program to prevent mother-to-child HIV transmission
28 that shall be integrated into its maternal and child health services.

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

4 (a) A donation of tissue or organ, whether gratuitous or onerous, shall
5 be accepted by a laboratory or institution only after a sample from the donor
6 has been tested negative for HIV;

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

9 (c) A second testing may be demanded, as a matter of right, by the
10 blood, tissue, or organ recipients or their immediate relatives before
11 transfusion or transplant, except during emergency cases.

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

15 SEC. 26. *Standard Precaution on Surgical and Other Similar*
16 *Procedures.* – The DOH shall, in consultation with concerned professional
17 organizations and hospital associations, issue guidelines on precautions against
18 HIV transmission during surgical, dental, embalming, body painting or
19 tattooing that require the use of needles or similar procedures. The necessary
20 protective equipment such as gloves, goggles and gowns shall be prescribed
21 and required, and made available to all physicians and health care providers,
22 tattoo artists, and similarly exposed personnel at all times.

ARTICLE IV

TESTING, SCREENING AND COUNSELING

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2
3 SEC. 27. *Voluntary HIV Testing.* – As a policy, the State shall
4 encourage voluntary HIV testing. Written consent from the person taking the
5 test must be obtained before HIV testing. If the person is below fifteen (15)
6 years of age or is mentally incapacitated, such consent shall be obtained from
7 the child’s parents, legal guardian or, whenever applicable, from the licensed
8 social worker, licensed health service provider or a DOH-accredited health
9 service provider assigned to provide health services to the child.

10 HIV testing and counseling shall be made available to a child who is
11 fifteen (15) years old but below eighteen (18) years of age, who requests to
12 undergo these procedures and counseling and other related services under any
13 of the following conditions:

14 (a) The child expresses the intention to submit to HIV testing and
15 counseling and other related services;

16 (b) Reasonable efforts were undertaken to locate, provide counseling
17 to, and obtain consent of parents, but the parents are absent or cannot be
18 located, or otherwise refuse to give their consent. In this case, consent shall
19 be obtained from the child’s legal guardian or, whenever applicable, from
20 licensed social worker, licensed health service provider or a DOH-accredited
21 health service provider assigned to provide health services to the child. The
22 licensed social worker, health care provider or other health care professional
23 shall determine if the child is “at higher risk of HIV exposure” as defined in
24 this Act, and that the conduct of the testing and counseling is in the child’s
25 best interest and welfare; and

26 (c) In every circumstance, proper counseling shall be conducted by a
27 social worker, a health care provider or other health care professional
28 accredited by the DOH or the DSWD.

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

3 (a) When it is necessary to test a person who is charged with any of the
4 offenses punishable under Articles 264, 266, 335 and 338 of “The Revised
5 Penal Code”, as amended by Republic Act No. 8353, otherwise known as
6 “The Anti-Rape Law of 1997”;

7 (b) When it is necessary to resolve relevant issues under Executive
8 Order No. 209, otherwise known as “The Family Code of the Philippines”;
9 and

10 (c) As a prerequisite in the donation of blood in compliance with the
11 provisions of Republic Act No. 7170, otherwise known as the “Organ
12 Donation Act of 1991”, and Republic Act No. 7719, otherwise known as the
13 “National Blood Services Act of 1994”.

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

17 (a) Accredite public and private HIV testing facilities based on capacity
18 to deliver testing services including HIV counseling: *Provided,* That only
19 DOH-accredited HIV testing facilities shall be allowed to conduct HIV
20 testing;

21 (b) Develop the guidelines for HIV counseling and testing, including
22 mobile HIV counseling and testing and routine provider-initiated HIV
23 counseling and testing that shall ensure, among others, that HIV testing is
24 based on informed consent, is voluntary and confidential, is available at all
25 times, and provided by qualified persons and DOH-accredited providers;

26 (c) Accredite institutions or organizations that train HIV and AIDS
27 counselors in coordination with the DSWD; and

1 (d) Set the standards for HIV counseling and work closely with HIV
2 and AIDS CSOs that train HIV and AIDS counselors and peer educators in
3 coordination and participation of NGOs, government organizations (GOs) and
4 Civil Society Organization-People Living with HIV (CSO-PLHIV).

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

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

13 ARTICLE V

14 HEALTH AND SUPPORT SERVICES

15 SEC. 30. *Access to Treatment by Indigents.* – The DOH shall
16 establish a program that will provide free and accessible ARV treatment to all
17 indigents living with HIV who are enrolled in the program. Free medication
18 for opportunistic infections shall be made available to all indigents in the
19 government treatment hubs. It shall likewise designate public and private
20 hospitals to become satellite hubs with an established HIV and AIDS Core
21 Team (HACT). A manual of procedures for management of PLHIV shall be
22 developed by the DOH.

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

1 SEC. 32. *Care and Support for Persons Living with HIV.* – The
2 DSWD, in coordination with the DOH and the TESDA, shall develop care and
3 support programs for persons living with HIV, which shall include peer-led
4 counseling and support, social protection, welfare assistance, and mechanisms
5 for case management. These programs shall include care and support for the
6 affected children, families and partners of persons living with HIV.

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

14 SEC. 34. *Testing of Organ Donation.* – Lawful consent to HIV testing
15 of a donated human body, organ, tissue or blood shall be considered as having
16 been given when:

17 (a) A person volunteers or freely agrees to donate one's blood, organ,
18 or tissue for transfusion, transplantation, or research; and

19 (b) A legacy and a donation are executed in accordance with Sections
20 3 and 4, respectively, of Republic Act No. 7170, otherwise known as the
21 "Organ Donation Act of 1991".

22 SEC. 35. *HIV Anti-Body Testing for Pregnant Women.* – A health
23 care provider who offers pre-natal medical care shall routinely conduct HIV
24 screening with an opt-out HIV testing for pregnant women. The DOH shall
25 provide the necessary guidelines for health care providers in the conduct of the
26 screening procedure.

1 SEC. 36. *Immunity from Suit for HIV Educators, Licensed Social*
2 *Workers, Health Workers and Other HIV and AIDS Service Providers.* – Any
3 person involved in the provision of HIV and AIDS services, including peer
4 educators, shall be immune from suit, arrest or prosecution, and from civil,
5 criminal or administrative liability, on the basis of their delivery of such
6 services in HIV prevention, or in relation to the legitimate exercise of
7 protective custody of children, whenever applicable. This immunity does not
8 cover acts which are committed in violation of this Act.

9 SEC. 37. *Health Insurance.* – The Philippine Health Insurance
10 Corporation (PhilHealth) shall develop an insurance package for persons
11 living with HIV that shall include coverage for inpatient and outpatient
12 medical and diagnostic services, including medication and treatment, and a set
13 of benefits to the unborn and newborn child infected by their mothers.
14 Additionally, it shall set a reference price for HIV services in government
15 hospitals and conduct programs to educate the human resource units of
16 companies on the PhilHealth package on HIV and AIDS.

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

19 No person living with HIV shall be denied or deprived of private health
20 insurance by a Health Maintenance Organization (HMO) and private life
21 insurance coverage by a life insurance company on the basis of the person's
22 HIV status. The Insurance Commission shall enforce the provision of life
23 insurance coverage by persons applying for such services and shall develop
24 the necessary policies to ensure compliance.

25 SEC. 38. *HIV and AIDS Monitoring and Evaluation.* – The DOH
26 shall maintain a comprehensive HIV and AIDS monitoring and evaluation
27 program that shall serve the following purposes:

1 (a) Determine and monitor the magnitude and progression of HIV and
2 AIDS in the Philippines to help the national government evaluate the adequacy
3 and efficacy of HIV prevention and treatment programs being employed;

4 (b) Receive, collate, process and evaluate all HIV and AIDS-related
5 medical reports from all hospitals, clinics, laboratories and testing centers,
6 including HIV-related deaths and relevant data from public and private
7 hospitals, various databanks or information systems: *Provided*, That it shall
8 adopt a coding system that ensures anonymity and confidentiality; and

9 (c) Submit, through its Secretariat, an annual report to the Council
10 containing the findings of its monitoring and evaluation activities in
11 compliance with this mandate.

12 ARTICLE VI

13 CONFIDENTIALITY

14 SEC. 39. *Confidentiality*. – The confidentiality and privacy of any
15 individual who has been tested for HIV, exposed to HIV, has HIV infection or
16 HIV and AIDS-related illnesses, or was treated for HIV-related illnesses shall
17 be guaranteed. The following acts violate confidentiality and privacy:

18 (a) Disclosure of Confidential HIV and AIDS Information – Unless
19 otherwise provided in Section 40 of this Act, it shall be unlawful to disclose,
20 without written consent, information that a person had HIV-related test and
21 AIDS, has HIV infection or HIV-related illnesses, or has been exposed to
22 HIV.

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

1 information, have subsequently been granted access to the same confidential
2 information.

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

10 SEC. 40. *Exceptions.* – Confidential HIV and AIDS information may
11 be released by HIV testing facilities without written consent in the following
12 instances:

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

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

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

27 SEC. 41. *Release of HIV-Related Test Results.* – The result of any test
28 related to HIV shall be released by the attending physician who provides

1 pre- and post-test counseling only to the individual who submitted to the test.
2 If the patient is below fifteen (15) years old, an orphan, or is mentally
3 incapacitated, the result may be released to either of the patient's parents, legal
4 guardian, or a duly assigned licensed social worker, whichever is applicable.

5 SEC. 42. *Disclosure to Sexual Partners.* – Any person who, after
6 having been tested, is found to be infected with HIV, is strongly encouraged to
7 disclose this health condition to the spouse or sexual partner prior to engaging
8 in penetrative sex or any potential exposure to HIV. A person living with HIV
9 may opt to seek help from qualified professionals including medical
10 professionals, health workers, peer educators, or social workers to support him
11 in disclosing this health condition to one's partner or spouse. Confidentiality
12 shall likewise be observed. Further, the DOH, through the Council, shall
13 establish an enabling environment to encourage newly tested HIV-positive
14 individuals to disclose their status to sexual partners.

15 SEC. 43. *Duty of Employers, Heads of Government Offices, Heads of*
16 *Public and Private Schools or Training Institutions, and Local Chief*
17 *Executives.* – It shall be the duty of private employers, heads of government
18 offices, heads of public and private schools or training institutions, and local
19 chief executives over all private establishments within their territorial
20 jurisdiction to prevent or deter acts of discrimination against persons living
21 with HIV, and to provide procedures for the resolution, settlement, or
22 prosecution of acts of discrimination. Towards this end, the employer, head of
23 office, or local chief executive shall:

24 (a) Promulgate rules and regulations prescribing the procedure for the
25 investigation of discrimination cases and the administrative sanctions thereof;
26 and

27 (b) Create a permanent committee on the investigation of
28 discrimination cases. The committee shall conduct meetings to increase the

1 members' knowledge and understanding of HIV and AIDS, and to prevent
2 incidents of discrimination. It shall also conduct the administrative
3 investigation of alleged cases of discrimination.

4 ARTICLE VII

5 DISCRIMINATORY ACTS AND PRACTICES

6 SEC. 44. The following are discriminatory acts and practices and
7 shall be prohibited:

8 (a) Discrimination in the Workplace – The rejection of job
9 application, termination of employment, or other discriminatory policies in
10 hiring, provision of employment and other related benefits, promotion or
11 assignment of an individual solely or partially on the basis of actual, perceived,
12 or suspected HIV status;

13 (b) Discrimination in Learning Institutions – Refusal of admission,
14 expulsion, segregation, imposition of harsher disciplinary actions, or denial of
15 benefits or services of a student or a prospective student solely or partially on
16 the basis of actual, perceived, or suspected HIV status;

17 (c) Restriction on Travel and Habitation. – Restrictions on travel
18 within the Philippines, refusal of lawful entry to Philippine territory,
19 deportation from the Philippines, or the quarantine or enforced isolation of
20 travelers solely or partially on account of actual, perceived, or suspected HIV
21 status is discriminatory; the same standard of protection shall be afforded to
22 migrants, visitors and residents who are not Filipino citizens.

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

25 (d) Inhibition from Public Services – Prohibition on the right to seek
26 an elective or appointive public office solely or partially on the basis of actual,
27 perceived, or suspected HIV status;

1 (e) Exclusion from Credit and Insurance Services – Exclusion from
2 health, accident, or life insurance, credit and loan services, including the
3 extension of such loan or insurance facilities, of an individual solely or
4 partially on the basis of actual, perceived, or suspected HIV status: *Provided*,
5 That the person living with HIV has not misrepresented the fact to the
6 insurance company or loan or credit service provider upon application;

7 (f) Discrimination in Hospitals and Health Institutions – Denial of
8 health services, or be charged with a higher fee, on the basis of actual,
9 perceived, or suspected HIV status; and

10 (g) Denial of Burial Services – Denial of embalming and burial
11 services for a deceased person who had HIV and AIDS or who was known,
12 suspected or perceived to be HIV-positive.

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

15 (a) Any person who commits the prohibited act under Section 21 of
16 this Act shall upon conviction, suffer the penalty of imprisonment of two (2)
17 months to two (2) years, without prejudice to the imposition of fines and
18 administrative sanctions, such as suspension or revocation of professional or
19 business license;

20 (b) Any person who violates the last paragraph of Section 23 of this
21 Act shall, upon conviction, suffer the penalty of imprisonment of one (1) year
22 to five (5) years and a fine of not less than one hundred thousand pesos
23 (P100,000.00) but not more than five hundred thousand pesos (P500,000.00):
24 *Provided*, That the law enforcement agents found guilty shall be removed from
25 public service;

26 (c) Any person who knowingly or negligently causes another to get
27 infected with HIV in the course of the practice of profession through unsafe
28 and unsanitary practice and procedure shall, upon conviction, suffer the

1 penalty of imprisonment of six (6) years to twelve (12) years, without
2 prejudice to the imposition of fines and administrative sanctions, such as
3 suspension or revocation of professional license.

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

8 (d) Any person who violates Section 36 of this Act shall, upon
9 conviction, suffer the penalty of imprisonment of six (6) months to five (5)
10 years and/or a fine of not less than one hundred thousand pesos (P100,000.00)
11 but not more than five hundred thousand pesos (P500,000.00): *Provided*, That
12 if the person who violates this provision is a law enforcement agent or a public
13 official, administrative sanctions may be imposed in addition to imprisonment
14 and/or fine, at the discretion of the court;

15 (c) Any person, natural or juridical, who denies life insurance coverage
16 of any person living with HIV in violation of Section 37 of this Act shall, upon
17 conviction, suffer the penalty of imprisonment of six (6) months to five (5)
18 years and/or a fine of not less than fifty thousand pesos (P50,000.00) but not
19 more than five hundred thousand pesos (P500,000.00), at the discretion of the
20 court, and without prejudice to the imposition of administrative sanctions such
21 as fines, suspension or revocation of business permit, business license or
22 accreditation, and professional license;

23 (f) Any person, natural or juridical, who violates the provisions of
24 Section 39 of this Act shall, upon conviction, suffer the penalty of
25 imprisonment of six (6) months to five (5) years and/or a fine of not less than
26 fifty thousand pesos (P50,000.00) but not more than five hundred thousand
27 pesos (P500,000.00), or both imprisonment and fine, at the discretion of the
28 court, and without prejudice to the imposition of administrative sanctions such

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

3 (g) Any person, natural or juridical, who shall violate any of the
4 provisions in Section 44 shall, upon conviction, suffer the penalty of
5 imprisonment of six (6) months to five (5) years and/or a fine of not less than
6 fifty thousand pesos (P50,000.00) but not more than five hundred thousand
7 pesos (P500,000.00), at the discretion of the court, and without prejudice to
8 the imposition of administrative sanctions such as fines, suspension or
9 revocation of business permit, business license or accreditation, and
10 professional license; and

11 (h) Any person who has obtained knowledge of confidential HIV and
12 AIDS information and uses such information to malign or cause damage,
13 injury or loss to another person shall face liability under Articles 19, 20, 21
14 and 26 of the new Civil Code of the Philippines.

15 Fines and penalties collected pursuant to this section shall be deposited
16 in the National Treasury.

17 SEC. 46. *Appropriations* – The amount needed for the initial
18 implementation of this Act shall be charged against the appropriations for the
19 DOH. Thereafter, such sums as may be necessary for the continued
20 implementation of this Act shall be included in the annual General
21 Appropriations Act.

22 The funding requirement needed to provide for the health insurance
23 package and other services for persons living with HIV as stated in Section 37
24 hereof shall be charged against the PhilHealth's corporate funds.

25 SEC. 47. *Transitory Provision*. – The personnel designated by the
26 DOH as Secretariat of the Council under Section 7 of this Act shall be
27 absorbed as permanent personnel to fill the positions of the Secretariat as
28 provided in this Act.

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

5 SEC. 49. *Repealing Clause.* – Republic Act No. 8504, otherwise
6 known as the “Philippine AIDS Prevention and Control Act of 1998”, is
7 hereby repealed.

8 All decrees, executive orders, proclamations and administrative
9 regulations or parts thereof, particularly in Republic Act No. 3815, otherwise
10 known as “The Revised Penal Code”; Republic Act No. 8353, otherwise
11 known as “The Anti-Rape Law of 1997”; Executive Order No. 209, otherwise
12 known as “The Family Code of the Philippines”; Republic Act No. 7719,
13 otherwise known as the “National Blood Services Act of 1994”; Republic Act
14 No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of
15 2002”; and Republic Act No. 7170, otherwise known as the “Organ Donation
16 Act of 1991”, inconsistent with the provisions of this Act are hereby repealed,
17 amended or modified accordingly.

18 SEC. 50. *Separability Clause.* – If any provision or part of this Act is
19 declared unconstitutional, the remaining parts or provisions not affected shall
20 remain in full force and effect.

21 SEC. 51. *Effectivity.* – This Act shall take effect fifteen (15) days after
22 its complete publication in the *Official Gazette* or in a newspaper of general
23 circulation.

Approved,

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