

[REPUBLIC ACT NO. 11166, December 20, 2018]

AN ACT STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) PREVENTION, TREATMENT, CARE, AND SUPPORT, AND RECONSTITUTING 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:

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

SEC. 2. *Declaration of Policies.* - The Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS.) are public health concerns that have wide-ranging social, political, and economic repercussions. Responding to the country's HIV and AIDS situation is therefore imbued with public interest and shall be anchored on the principles of human rights upholding human dignity.

Policies and practices that discriminate on the basis of perceived or actual HIV status, sex, gender, sexual orientation, gender identity and expression, age, economic status, disability, and ethnicity hamper the enjoyment of basic human rights and freedoms guaranteed in the Constitution and are deemed inimical to national interest.

The State shall respect, protect, and promote human rights as the cornerstones of an effective response to the country's HIV and AIDS situation. Hence, HIV and AIDS education and information dissemination should form part of the right to health.

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

Towards this end, the State shall ensure the delivery of non-discriminatory HIV and AIDS services by government and private HIV and AIDS service providers, and develop redress mechanisms for persons living with HIV to ensure that their civil, political, economic, and social rights are protected.

Accordingly, the State shall:

(a) Establish policies and programs to prevent the spread of HIV and deliver treatment, care, and support services to Filipinos living with HIV in accordance with evidence-based strategies and approaches that uphold the principles of human rights, gender-responsiveness, and age-appropriateness, including meaningful participation of communities affected by the country's HIV and AIDS situation:

(b) Adopt a multi-sectoral approach in responding to the Country's HIV and AIDS situation by ensuring that the whole of government approach, local communities, civil society organizations (CSOs) and persons living with HIV are at the center of the process:

(c) Ensure access to HIV- and AIDS-related services by eliminating the climate of stigma and discrimination that surrounds the country's HIV and AIDS situation, and the people directly and indirectly affected by it: and

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

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

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

(b) *Anti-retroviral Therapy (ART)* refers to the treatment that stops or suppresses viral replication or replications of a retrovirus like HIV. 'thereby slowing down the progression of infection;

(c) *Bullying* refers to any severe or repeated use by one or more persons of a written, verbal or electronic expression, or a physical act or gesture, or any combination thereof, directed at another person that has the effect of actually causing or placing the latter in reasonable fear of physical or emotional harm or damage to one's property: creating a hostile environment for the other person: infringing on the rights of another person: or materially and substantially disrupting the processes or orderly operation of an institution or organization;

(d) *Civil Society Organizations (CSOs)* refer to groups of nongovernmental and noncommercial individuals or legal entities that are engaged in non-coerced collective action around shared interests, purpose and values;

(e) *Community-Based Research* refers to studies undertaken in community settings, which involve community members in the design and implementation of research projects;

(f) *Comprehensive Health Intervention for Key Populations* refer to evidence-based policies, programs, and approaches that aid to reduce transmission of HIV and its harmful consequences on health, social relations and economic conditions;

(g) *Compulsory HIV Testing* refer to HIV testing imposed upon an individual characterized by lack of consent, use of force or intimidation, the use of testing as a prerequisite for employment or other purposes, and other circumstances when informed choice is absent:

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

(i) *Evolving Capacities of the Child* refer to the concept enshrined in Article 5 of the Convention on the Rights of the Child recognizing the developmental changes and the corresponding progress in cognitive abilities and capacity for self-determination undergone by children as they grow up, thus requiring parents and others charged with the responsibility for the child to provide varying degrees of protection, and to allow their participation in opportunities for autonomous decision-making in different contexts and across different areas of decision-making;

(j) *Gender Expression* refers to the way a person communicates gender identity to others through behavior, clothing, hairstyles, communication or speech pattern, or body characteristics;

(k) *Gender Identity* refers to the personal sense of identity as characterized among others, by manner of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have a male or female identity with the physiological characteristics of the opposite sex;

(l) *Health Maintenance Organizations (HMO)* refer juridical entities legally organized to provide or arrange for the provision of pre-agreed or designated health care services to its enrolled members for a fixed pre-paid fee for a specified period of time;

(m) *High-risk Behavior* refers to a person's involvement in certain activities that increase the risk of transmitting or acquiring HIV;

(n) *Human Immunodeficiency Virus (HIV)* refers to the virus of the type called retrovirus, which infects cells of the human immune system, and destroys or impairs the cells function. Infection with HIV results in the progressive deterioration of the immune system, leading to immune deficiency;

(o) *HIV Counseling* refers to the interpersonal and dynamic communication process between a client and a trained counselor, who is bound by a code of ethics and practice to resolve personal, social, or psychological problems and difficulties, and whose objective in counseling in the context, of an HIV diagnosis is to encourage the client to explore important personal issues, identify ways of coping with anxiety and stress, plan for the future (keeping healthy, adhering to treatment, and preventing transmission) and in the context of a negative HIV test result, to encourage the client to explore motivations, options and skills to stay HIV-negative;

(p) *HIV and AIDS Counselor* refers to any individual trained by an institution or organization accredited by the Department of Health (DOH) to provide counseling services on HIV and AIDS with emphasis on behavior modification;

(q) *HIV and AIDS Monitoring* refers to the documentation and analysis of the number of HIV and AIDS infections and the pattern of its spread;

(r) *HIV and AIDS Prevention and Control* refers to measures aimed at protecting non-infected persons from contracting HIV and minimizing the impact of the

condition on persons living with HIV;

(s) *HIV-Negative* refers to the absence of HIV or HIV antibodies upon HIV testing;

(t) *HIV-Positive* refers to the presence of HIV infection as documented by the presence of HIV or HIV antibodies in the sample being tested;

(u) *HIV Testing* refers to any facility-based, mobile medical procedure, or community-based screening modalities that are conducted to determine the presence or absence of HIV in a person's body. HIV testing is confidential, voluntary in nature and must be accompanied by counseling prior to, and after the testing, and conducted only with the informed consent of the person;

(v) *HIV-related Testing* refers to any laboratory testing or procedure done on an individual in relation to a person's HIV condition;

(w) *HIV Testing Facility* refers to any DOH accredited on-site or mobile testing center, hospital, clinic, laboratory, and other facility that has the capacity to conduct voluntary HIV counseling and HIV testing;

(x) *HIV Transmission* refers to the transfer of HIV from one infected person to an uninfected individual, through unprotected sexual intercourse, blood transfusion, sharing of contaminated intravenous needles, or which may occur during pregnancy, delivery, and breastfeeding;

(y) *Informed Consent* refers to the voluntary agreement of a person to undergo or be subjected to a procedure based on full information, whether such permission is written or conveyed verbally;

(z) *Key Affected Populations* refer to those groups or persons at higher risk of HIV exposure, or affected populations whose behavior make them more likely to be exposed to HIV or to transmit the virus;

(aa) *Laboratory* refers to an area or place, including community-based settings, where research studies are being undertaken to develop local evidence for effective HIV response;

(bb) *Mature Minor Doctrine* refers to the legal principle that recognizes the capacity of some minors to consent independently to medical procedures, if they have been assessed by qualified health professionals to understand the nature of procedures and their consequences to make a decision on their own;

(cc) *Medical Confidentiality* refers to the core duty of medical practice where the information provided by the patient to health practitioners and his/her health status is kept private and is not divulged to third parties. The patient's health status can, however, be shared with other medical practitioners involved in the professional care of the patient, who will also be bound by medical confidentiality. Medical confidentiality applies to the attending physician, consulting medical specialist, nurse, medical technologist and all other health workers or personnel involved in any counseling testing or professional care of the patient. It also applies to any person who, in any official capacity, has acquired or may have acquired such confidential information;

(dd) *Opportunistic infections* refer to illnesses caused by various organisms, many of which do not cause diseases in persons with healthy immune system;

(ee) *Partner Notification* refers to the process by which the "index client", 'source", or "patient" who has a sexually transmitted infection (STI) including HIV, is given support in order to notify and advise the partners that have been exposed to infection. Support includes giving the index client a mechanism to encourage the client's partner to attend counseling, testing and other prevention and treatment services. Confidentiality shall be observed in the entire process;

(ff) *Person Living with HIV {PLHIV}* refers to any individual diagnosed to be infected with HIV;

(gg) *Pre-exposure Prophylaxis* refers to the use of prescription drugs as a strategy for the prevention of HIV infection by people who do not have HIV and AIDS. It is an optional treatment, which may be taken by people who are HIV-negative but who have substantial, higher-than-average risk of contracting an HIV infection;

(hh) *Pre-test Counseling* refers to the process of providing an individual with information on the biomedical aspects of HIV and AIDS and emotional support to any psychological implications of undergoing HIV testing and the test result itself before the individual is subjected to the test;

(ii) *Post-exposure Prophylaxis* refers to a preventive medical treatment started immediately after exposure to a pathogen (HIV) in order to prevent infection by the pathogen and the development of the disease;

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

(kk) *Prophylactic* refers to any agent or device used to prevent the transmission of an infection;

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

(mm) *Redress* refers to an act of compensation for unfairness, grievance, and reparation;

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

(oo) *Sexually Transmitted Infections (STIs)* refer to infections that are spread through the transfer of organisms from one person to another as a result of sexual contact;

(pp) *Sexual Orientation* refers to the direction of emotional, sexual attraction, or conduct towards people of the same sex (homosexual orientation) or toward people of both sexes (bisexual orientation) or towards people of the opposite sex (heterosexual orientation) or to the absence of sexual attraction (asexual orientation);