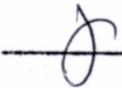




SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

'16 DEC 12 P3:45

SENATE

RECEIVED BY: 

S.B. No. 1276

Introduced by SENATOR SONNY ANGARA

**AN ACT**  
**INCREASING THE MATERNITY LEAVE PERIOD TO NINETY EIGHT (98) DAYS**  
**FOR FEMALE WORKERS IN THE GOVERNMENT SERVICE AND IN THE**  
**PRIVATE SECTOR, AND GRANTING AN OPTION TO FURTHER EXTEND SAID**  
**PERIOD FOR AN ADDITIONAL THIRTY (30) DAYS WITHOUT PAY, AMENDING**  
**FOR THE PURPOSE REPUBLIC ACT NO. 1161, AS AMENDED, AND FOR OTHER**  
**PURPOSES**

Explanatory Note

No less than our Constitution acknowledges the family as the basic social unit of our society, mandating that the sanctity of family life must be protected. The Constitution also affirms that mothers are the foundation of every family, serving as the "Ilaw ng Tahanan" as conceived by the beloved Filipino metaphor. Under Article XIII, Section 14 of the 1987 Constitution, no other than the State "shall protect working women by providing and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation."

As equal opportunities are created and provided for all, there must be corresponding benefits that create an equitable society for women, more so for childbearing mothers at work.

Foremost among these are Maternal Leave Benefits, which have been enacted into law since the creation of the Social Security System, almost seventy years ago. These same laws and regulations must be attuned to the changing demands of present-day life and labor as its complexity grows.

In 2013, the World Health Organization (WHO) reported that Filipino mothers have a measly breastfeeding rate of 34% for infants younger than six (6) months, which failed to meet the 50% target of the 2012 World Health Assembly. One outcome that may be attributable to this unfortunate statistic are the 3.3 million (30%) Filipino children aged 5 years old and younger who are stunted based on the 2013 National Nutrition Survey.

Some argue that our short maternity leave period exacerbates this problem. Currently, the Philippines provides a compensable period of 60 to 78 days for maternity leave depending on the method of delivery. This clearly falls short of the international standard set at no less than 14 weeks or 98 days under the International Labour Organization (ILO) Convention No. 183. In the ASEAN region alone, the average length of maternity leave is at 93 days.

Given these considerations, it is imperative that the legally prescribed duration for maternity leave must be lengthened. A 2016 study by the McGill University and the UCLA Fielding School of Public Health concluded that longer paid maternity leaves reduce infant mortality as the extended period “[represents] a potential instrument for facilitating early-life interventions.” This added time allows mothers not only to sustain the wellbeing of infants, but also to create a stronger bond with their child.

Providing this extra time to mothers is the foremost aim of the foregoing measure, proposing that the maternity leave period be extended to ninety eight (98) days in accordance with international standards.

This measure, in enhancing the welfare of mothers, ultimately improves the wellbeing of all Filipinos. The swift passage of this measure is hence earnestly sought.



**SENATOR SONNY ANGARA**



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FOR THE PURPOSE REPUBLIC ACT NO. 1161, AS AMENDED, AND FOR  
OTHER PURPOSES

*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 “*Expanded Maternity*  
2 *Leave Act.*”

3  
4 **SEC. 2. Declaration of Policy.** – The State has acknowledged the invaluable  
5 contribution of all women to the country as it provided under Article XIII, Section 14  
6 of the Constitution that it “shall protect working women by providing safe and  
7 healthful working conditions, taking into account their maternal functions, and such  
8 facilities and opportunities that will enhance their welfare and enable them to realize  
9 their full potential in the service of the nation.”

10  
11 In accordance to this established State policy, it shall endeavor to enhance and to  
12 preserve women’s welfare through the creation of appropriate and beneficial  
13 mechanisms. Further, while the country leads in gender equality, it must do so with  
14 policies cognizant to established international standards to realize and provide  
15 humane and inclusive economic opportunities for all.

1 **SEC. 3. *Grant of Maternity Leave.*** – All covered female workers in government and  
2 private sector including those in the informal economy, regardless of civil status or  
3 the legitimacy of her child, shall be granted ninety eight (98) days maternity leave  
4 with pay and an option to extend for an additional thirty (30) days without pay.

5  
6 Enjoyment of maternity leave cannot be deferred but should be availed of either  
7 before or after the actual period of delivery in a continuous and uninterrupted  
8 manner, not exceeding ninety eight (98) calendar days, as the case maybe.  
9 Maternity leave shall be granted to female workers in every instance of pregnancy or  
10 miscarriage, regardless of its frequency.

11  
12 **SEC. 4. *Maternity Leave for Female Workers in Government Service.*** – Any  
13 pregnant female worker in the government service, regardless of employment status,  
14 in any National Government Agencies (NGAs), Local Government Units (LGUs),  
15 Government Owned and Controlled Corporations (GOCCs) or State Universities and  
16 Colleges (SUCs), shall be granted a maternity leave of ninety eight (98) days, with  
17 full pay based on her average weekly or regular wages, regardless if the delivery  
18 was normal or caesarian. An additional maternity leave of thirty (30) days, without  
19 pay, can be availed of, at the option of the female worker: *Provided*, That the head of  
20 the agency shall be given due notice, in writing, at least forty five (45) days before  
21 the end of her ordinary maternity leave.

22  
23 **SEC. 5. *Maternity Leave for Female Workers in the Private Sector.*** – Any  
24 pregnant female worker in the private sector shall be granted a maternity leave of  
25 ninety eight (98) days, regardless of whether she gave birth via caesarian section or  
26 natural delivery.

27  
28 (a) A female member who has paid at least three (3) monthly contributions in the  
29 twelve-month period immediately preceding the semester of her childbirth or  
30 miscarriage shall be paid her daily maternity benefit which shall be computed based  
31 on the average monthly salary credit, for ninety eight (98) days, regardless of  
32 whether she gave birth via caesarian section or natural delivery, subject to the  
33 following conditions:

- 1) That the female worker shall have notified her employer of her pregnancy and the probable date of her childbirth, which notice shall be transmitted to the Social Security System (SSS) in accordance with the rules and regulations it may provide;
  - 2) That the full payment shall be advanced by the employer within thirty (30) days from the filing of the maternity leave application: *Provided*, That in the event where the employer fails or refuses to advance the full payment, the female worker may claim directly with the SSS subject to the rules and regulations of this Act;
  - 3) That payment of daily maternity benefits shall be a bar to the recovery of sickness benefits provided under Republic Act No. 1161, as amended, for the same period for which daily maternity benefits have been received;
  - 4) That the SSS shall immediately reimburse the employer of one hundred percent (100%) of the amount of maternity benefits advanced to the female worker by the employer upon receipt of satisfactory and legal proof of such payment; and
  - 5) That if a female worker should give birth or suffer a miscarriage without the required contributions having been remitted for her by her employer to the SSS, or without the latter having been previously notified by the employer of the time of the pregnancy, the employer shall pay to the SSS damages equivalent to the benefits which said female member would otherwise have been entitled to.
- (b) An additional maternity leave of thirty (30) days, without pay, can be availed of, at the option of the female worker: *Provided*, That the employer shall be given due notice, in writing, at least forty five (45) days before the end of her ordinary maternity leave.

1 (c) Workers availing of the maternity leave period and benefits must receive not less  
2 than two-thirds (2/3) of their regular monthly wages. Employers from the private  
3 sector shall be responsible to pay the salary differential between the actual cash  
4 benefits received from the Social Security System (SSS) by the covered female  
5 workers and their average weekly or regular wages, for the entire duration of the  
6 ordinary maternity leave, with the following exceptions, subject to the guidelines to  
7 be issued by the Department of Labor and Employment (DOLE):

- 8 1) Those operating distressed establishments;
- 9 2) Those retail/service establishments employing not more than ten (10)  
10 workers;
- 11 3) Those who pay their workers on a purely commission, boundary, or task  
12 basis, and those who are paid a fixed amount for performing a specific  
13 work;
- 14 4) Those considered as micro business enterprises and engaged in the  
15 production, processing, or manufacturing of products or commodities  
16 including agro-processing, trading, and services whose total assets are not  
17 more than three million pesos (P3,000,000.00); and
- 18 5) Those who are already providing similar or more than the benefits herein  
19 provided.

20  
21 **SEC. 6. Maternity Leave With Pay in Case of Childbirth or Miscarriage After**  
22 **Termination.** – Maternity leave with pay shall be granted even if the childbirth or  
23 miscarriage occurs not more than fifteen (15) calendar days after the termination of  
24 an worker's service, as her right thereto has already accrued.

25  
26 **SEC. 7. Maternity Leave Credits.** – The maternity leave can be credited as  
27 combinations of pre-natal and post-natal leave as long as it does not exceed ninety  
28 eight (98) days and provided that compulsory postnatal leave shall not be less than  
29 sixty (60) days.

30  
31 **SEC. 8. Maternity Leave Benefits for Women in the Informal Economy and**  
32 **Voluntary Contributors to the SSS.** – Maternity benefits shall cover all married and  
33 unmarried women, including female workers in the informal economy.

1 Female workers in the informal economy and those who have voluntarily contributed  
2 are entitled to maternity leave benefits if they have remitted to the SSS at least three  
3 (3) monthly contributions in the twelve (12) month period immediately preceding the  
4 semester of her childbirth or miscarriage.

5  
6 **SEC. 9. Maternity Benefits for a Female Worker with Pending Administrative**  
7 **Case.** – The maternity leave benefits granted under this Act shall be enjoyed by a  
8 female worker in the government service and in the private sector even if she has a  
9 pending administrative case.

10  
11 **SEC. 10. Maternity Benefits for Female Workers Who are Non-Members of the**  
12 **Social Security System.** – Female workers who are neither voluntary nor regular  
13 members of the Social Security System (SSS) shall be governed by PhilHealth  
14 Circular No. 022-2014, otherwise known as the “Social Health Insurance Coverage  
15 and Benefits for Women About to Give Birth.”

16  
17 **SEC. 11. Non-Diminution of Benefits.** – Nothing in this Act shall be construed as to  
18 diminish existing maternity benefits currently enjoyed whether or not these are  
19 granted under collective bargaining agreements (CBA) or present laws, if the same  
20 are more beneficial to the female worker. Any other working arrangement which the  
21 female worker shall agree to, during the additional maternity leave period, shall be  
22 allowed: *Provided*, That this shall be consented to in writing by the female worker  
23 and shall primarily uphold her maternal functions and the requirements of post-natal  
24 care.

25  
26 **SEC. 12. Security of Tenure.** – Those who shall avail of the ordinary maternity  
27 leave and the additional 30-day maternity leave, whether in the government service  
28 or private sector, shall be assured of security of tenure. As such, the exercise of this  
29 option by them shall not be used as basis for demotion in employment or  
30 termination. The transfer to a parallel position or reassignment from one  
31 organizational unit to another in the same agency shall be allowed: *Provided*, That it  
32 shall not involve a reduction in rank, status or salary.

1 **SEC. 13. *Periodic Review.*** – The Civil Service Commission (CSC) and the SSS  
2 shall immediately conduct a review of the maternity leave benefits of female workers  
3 in the government service and the private sector, respectively. Thereafter, both CSC  
4 and SSS shall include maternity leave benefits in their valuation report conducted  
5 every four (4) years for the SSS and every three (3) years for the CSC, or more  
6 frequently as may be necessary, with the end in view of meeting the needs of  
7 pregnant women and improving their welfare by increasing existing maternal  
8 benefits.

9  
10 **SEC. 14. *Implementing Rules and Regulation.*** – The CSC, DOLE, and the SSS  
11 shall issue the necessary rules and regulations for the grant of this expanded  
12 maternity leave for all female workers within six (6) months from the effectivity of this  
13 Act.

14  
15 **SEC. 15. *Separability Clause.*** – If any clause, sentence, paragraph or part of this  
16 Act shall be declared unconstitutional or invalid, such judgment shall not affect,  
17 invalidate or impact any other part of this Act.

18  
19 **SEC. 16. *Repealing Clause.*** – Any provision of laws, orders, agreements, rules, or  
20 regulations contrary to and inconsistent with this Act is hereby repealed, amended or  
21 modified accordingly.

22  
23 **SEC. 17. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication  
24 in the Official Gazette or in any two (2) newspapers of general circulation in the  
25 Philippines.

*Approved,*