



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

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SENATE

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SENATE BILL No. 1348

Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT
TO PROMOTE POSITIVE, NON-VIOLENT DISCIPLINE OF CHILDREN,
PROHIBITING ALL FORMS OF CORPORAL PUNISHMENT,
HUMILIATING AND DEGRADING TREATMENT, PROVIDING PENALTY
THEREFOR, APPROPRIATING FUNDS AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Article XV, Section 3 (2) of the 1987 Constitution states that:

“The State shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.”

Republic Act No. 7610, “An Act Providing For Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, And For Other Purposes”, or the *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*, reiterates the above constitutional principles by expressly proscribing various forms of abuse and exploitation that adversely and negatively impacts the child’s worth and dignity. To illustrate, the law defines “child abuse” as that which includes any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.

Additionally, it is imperative to underscore that the protection of children against acts that harm their physical and psychological integrity is a treaty commitment of the Philippines as State Party to the Convention of the Rights of the Child (CRC). Under Article 37 of the Convention, no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Article 19 of the same Convention also requires State Parties to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child through legislation and similar government measures. These twin directives constitute prohibition of corporal

punishment and it is wrong to argue that it is not found in the CRC, therefore, it is not a human rights violation.

The Committee on the Rights of the Child, established in Article 43 of the CRC through General Comment No. 8,¹ defines corporal punishment as “xxx any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light.”² The Committee also recognizes that there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention.³ Non-physical forms include punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules children.⁴ Physical forms of corporal punishment are committed through hitting in the form of smacking, slapping, spanking,⁵ by hand, whip, stick, belt, shoe, wooden spoon, and similar means.⁶

Corporal punishment or violent discipline is used in many parts of the world. According to the United Nations Children’s Fund, 6 in 10 children between ages 2 and 14 worldwide which is almost a billion, are subjected to physical punishment by their caregivers on a regular basis.⁷ It can be surmised that the reason for this practice is the belief that violence can instill propriety in children. Many researches however challenge this practice. In 2014, the *Huffington Post* published an article that enumerates Science-based understanding that corporal punishment is adverse to a child’s development.⁸ The following are some of the examples:

1. Physical punishment makes kids more aggressive;
2. Physical punishment encourages kids to continue the cycle of abuse; and
3. Spanking actually alters kids’ brains.

Other countries, however, have taken more positive steps towards child-discipline either through legislation or protection mechanisms. In *Tyrer v. United Kingdom*,⁹ the European Court of Human Rights held that corporal punishment may constitute an assault on a person’s dignity and physical integrity as protected by Article 3 of the European Convention on Human Rights. Fifty (50) States have also enacted laws that prohibit physical violence against children.¹⁰

In the Philippines, there is no specific law that prohibits the use of corporal punishment or physical violence against children. This was noted in the 2nd cycle reporting for the Universal Periodic Review (UPR). The Working Group Report on said UPR reiterated previous recommendation to prohibit through legislation,

¹ CRC/C/GC/8 (02 March 2007).

² *Ibid.*, paragraph 11.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ See <<https://data.unicef.org/topic/child-protection/violence/violent-discipline/>>, 06 November 2016.

⁸ See <http://www.huffingtonpost.com/2014/09/18/adrian-peterson-corporal-punishment-science_n_5831962.html>, 06 November 2016.

⁹ *Tyrer v. the United Kingdom*, Judgment of 25 April 1978.

¹⁰ See <<http://www.endcorporalpunishment.org/progress/prohibiting-states/>>, 06 November 2016.

corporal punishment in all settings,¹¹ and urged the government to pursue the proposed legislation to address the issue.

In 2017, the Philippines is due to submit its combined fifth and sixth periodic reports, hence, this is the most opportune time to enact a law to proscribe corporal punishment. It will also be a historic first in Southeast Asia, and for these reasons the passage of this bill is earnestly sought.



LEILA M. DE LIMA

¹¹ CRC/C/PHL/CO.



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AN ACT
TO PROMOTE POSITIVE, NON-VIOLENT DISCIPLINE OF CHILDREN,
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Be it enacted by the Senate and House of Representatives of the Republic of the Philippines in Congress assembled:

1 **SECTION 1.** *Short Title.* — This Act shall be known as “*Anti-Corporal Punishment*
2 *Act of 2017.*”

3 **Sec. 2.** *Declaration of State Policy.* — The State shall observe, protect, and fulfil the
4 right of children to special protection from all forms of neglect, abuse, cruelty,
5 exploitation, and other conditions prejudicial to their development. Their best interest
6 shall be the principal consideration in the design of measures, initiatives, programs,
7 including budgeting, to ascertain that their development towards adulthood
8 contributes to their physical, moral, spiritual, intellectual and social well-being.

9 **Sec. 3.** *Definition of Terms.* —

10 a. “*Child*” refers to an individual below eighteen (18) years of age, or those over
11 eighteen but are unable to look after or protect themselves from abuse, neglect,

1 cruelty, exploitation or discrimination because of a physical or mental disability
2 or condition.

3 b. *“Positive Discipline”* or *“Non-Violent Discipline”* refers to assisting children
4 understand and abide by rules, and in the process build their competence and
5 confidence, foster healthy and respectful relationships, equip children with life-
6 long skills, and teach respect for human rights.

7 c. *“Corporal punishment”* refers to any punishment in which physical force is
8 used and intended to cause some degree of pain or discomfort, however light.
9 It involves hitting through smacking, slapping, spanking of children, with the
10 hand or with an implement such as but not limited to a whip, stick, belt, shoe,
11 wooden spoon. Kicking, shaking or throwing children, scratching, pinching,
12 biting, pulling hair or boxing ears, forcing children to stay in uncomfortable
13 positions, burning, scalding or forced ingestion also constitute corporal
14 punishment. Corporal punishment includes the following:

- 15 1. Blows including beating, kicking, slapping, lashing on any part of a
16 child’ s body, with or without the use of an instrument such as cane,
17 broom, stick, whip, or belt; and
- 18 2. Pulling hair, shaking, twisting joints, cutting or piercing skin,
19 dragging or throwing a child.

20 d. *“Parents”* refers to biological parents and adoptive parents, including the
21 person whom the latter lives with.

22 e. *“Foster parents”* refers to persons duly licensed by the Department of Social
23 Welfare and Development to provide temporary or substitute parental care to
24 children.

- 1 f. “*Guardians*” refers to legal guardians and other persons, including relatives,
2 with physical custody of the child.
- 3 g. “*Persons legally responsible for the child*”, including those exercising special or
4 substitute parental authority, refers to those provided under Presidential
5 Decree No. 603, “Child and Youth Welfare Code”, Executive Order No. 209,
6 “Family Code of the Philippines”, and Republic Act No. 7610, “An Act Providing
7 For Stronger Deterrence And Special Protection Against Child Abuse,
8 Exploitation and Discrimination, And For Other Purposes”.
- 9 h. “*Service provider*” refers to an individual who, in a residential or non-
10 residential setting, provides services to children. It includes social workers,
11 center administrations and personnel, house parents, health service providers,
12 day care center officers and staff including volunteers, and security personnel.
13 It also includes law enforcement officers, Barangay officials and Tanods, and
14 officers in detention facilities.
- 15 i. “*Teachers, school officials and administrators*” refer to persons exercising
16 authority over students, including guidance counselors, prefects of discipline,
17 physical education instructors, school personnel, and officers in charge for
18 scouting activities.
- 19 j. “*Yayas*”, “*housemaids*” and “*caregivers*” refer to individuals employed in
20 domestic work who have direct engagement with the child, including
21 babysitters, *au pairs* and governesses.
- 22 k. “*Institution*” refers to residential and non-residential child-caring agencies,
23 including youth homes, rehabilitation centers, temporary shelters, including
24 Bahay Pag-asa facilities.

1 1. "*Forensic Interview*" refers to the multi-disciplinary process of information
2 gathering from the child which takes into consideration age, culture, experience,
3 gender and other personal attributes.

4 **Sec. 4. *Prohibition of Corporal Punishment.*** —All corporal punishment and all other
5 forms of humiliating or degrading punishment of children is hereby prohibited at
6 home, at school, in institutions, at alternative care systems, in employment and at all
7 other settings.

8 Parents, *yayas*, housemaids and caregivers, foster parents, guardians, relatives
9 who have custody of the child, or other persons legally responsible for the child,
10 including those exercising special or substitute parental authority, teachers,
11 instructors and school officials and administrators of both public and private academic
12 and vocational institutions, employers and supervisors, service providers, priests,
13 nuns, pastors and other members of religious congregations or churches, or any other
14 person who has the care of the child who inflicts corporal punishment or humiliating
15 or degrading punishment on the child shall be liable in accordance with existing penal
16 laws.

17 **Sec. 5. *Penalty.*** —The penalty found in existing applicable laws shall be imposed in
18 the maximum period, except where a higher penalty is provided under Act No. 3815,
19 as amended, otherwise known as the "Revised Penal Code", Republic Act No. 7610,
20 otherwise known as the "Special Protection of Children Against Child Abuse,
21 Exploitation and Discrimination Act," or Republic Act No. 18 9262, otherwise known
22 as the "Anti-Violence Against Women and their Children Act"; *Provided*, that if the act
23 is not penalized under the above-mentioned laws, the penalty shall be *arresto mayor*
24 in its maximum period.

1 If the penalty imposable for the act is only *arresto menor* or *arresto mayor*, the
2 prosecutor may, instead of filing the case, refer the accused to the local social welfare
3 and development office fur assessment and intervention; *Provided*, that the offender
4 has not been previously charged under this Act.

5 The interventions shall include seminars on children's rights and positive and
6 non-violent discipline of children, counselling, anger management and referrals to
7 other rehabilitative services.

8 If the offender is the parent or a person exercising parental authority, the court
9 may suspend parental authority in accordance with Executive Order No. 209, as
10 amended, otherwise known as the "Family Code of the Philippines."

11 If any of the acts prohibited under this Act is committed against a student in an
12 educational institution by a person exercising special parental authority, the liability
13 of school officials and administrators shall be governed by Article 2180 of the Civil
14 Code.

15 **Sec. 6. *Who May File Complaint.*** — Complaints on cases of corporal punishment or
16 humiliating or degrading treatment of children may be filed by the following:

- 17 a. Offended party;
- 18 b. Parents or guardians;
- 19 c. Ascendant or collateral relative within the third degree of consanguinity or
20 affinity;
- 21 d. Officer, social worker or representative of a licensed private child-caring
22 institution;

- 1 e. Officer or social worker of the Department of Social Welfare and Development
- 2 or the local social welfare and development office;
- 3 f. Police officers, preferably those in charge of the Women and Children's Desk;
- 4 g. Barangay Chairman or Kagawad;
- 5 h. Teacher, NGO worker, health provider, day care worker; or
- 6 i. At least two (2) concerned persons from the place where the act occurred who
- 7 have personal knowledge of the act.

8 **Sec. 7. *Legal Assistance in Filing Complaints.*** — The person or persons filing
9 complaint may seek the assistance of officers in Barangay VAW Desks, Regional
10 Offices or Sub-offices of the Commission on Human Rights, PNP- Women and
11 Children Protection Center, and DOJ offices in various cities and provinces.

12 **Sec. 8. *Philippine Model for Forensic Interview.*** — The Council for the Welfare of
13 Children shall lead in the development of the *Philippine Model of Forensic Interview*
14 to be used in corporal punishment cases and other types of abuse against children.

15 The development of the Module on Forensic Interview shall be undertaken with
16 a Committee to be convened by CWC, which shall include the Commission on Human
17 Rights, Department of Justice, Department of Welfare and Development, Department
18 of the Interior and Local Government, and National Youth Commission. CWC may
19 include not more than three other members from government or non-governmental
20 organization.

21 **Sec. 9. *Safe Community for Children.*** — The CWC, CHR and DILG shall jointly
22 undertake an annual audit and grant of recognition entitled “Safe Community for
23 Children”, to local government units which exemplify empowering environment for

1 children. These agencies shall formulate the standards of audit and set indicators for
2 appropriate assessment of each LGU. *Provided* that, for each LGU, there shall be an
3 ordinance that encourages parents including individuals who are not married but
4 exercise parental authority and provide care for children, to participate in seminars or
5 training on positive discipline and human rights of children. Modules for the seminar
6 and training shall also be developed by CWC, CHR and DILG.

7 **Sec. 10. *Other Remedies and Intervention.*** — If the penalty imposed is higher than
8 *Arresto Mayor*, the violator shall also:

- 9 1. Undergo seminars on positive discipline, anger management and children's
10 human rights and gender equality;
- 11 2. Undergo counselling or therapy; and
- 12 3. Directed to avail or other rehabilitative services if necessary.

13 If the penalty imposable for the act is only *Arresto Menor* or *Arresto Mayor*,
14 the prosecutor may, instead of filing the case, refer the accused to the local Social
15 Welfare and Development Office (SWDO) for assessment and intervention such as
16 seminars and counselling on children's rights and positive and non-violent discipline
17 of children, anger management, and referrals to other rehabilitative services: *Provided*,
18 That the offender has not been previously charged under this Act.

19 If the offender is a person exercising parental authority but is not a parent, and
20 has been previously charged under this Act, the court may suspend parental authority
21 in accordance with the Family Code of the Philippines, as amended.

22 If the offender is a parent of the child, the prosecutor shall refer the parent to
23 the local SWDO for assessment and intervention such as seminars and counselling on

1 children's rights and positive and non-violent discipline of children, anger
2 management, and referral to other providers of rehabilitative services.

3 The remedies available to the victim under Republic Act No. 7610 and Republic
4 Act No. 9262 shall be available to the child when applicable.

5 **Sec. 11. *Role of Government Agencies.*** —

6 a. Council for the Welfare of Children (CWC) as lead agency of government in the
7 implementation and enforcement of all laws relative to the promotion of child
8 and youth shall develop policies for this law. As such, it shall also perform
9 monitoring and oversight functions to ascertain that State Policy on positive
10 discipline and prohibition of corporal punishment is achieved through
11 government programs.

12 b. Department of Social Welfare and Development (DSWD) shall provide Social
13 Welfare Development Officer training on interview, counselling, case
14 management and other concerns relevant to the corporal punishment.

15 c. Social Welfare Development Officer (SWDO) shall perform the following
16 functions:

17 1. Adopt and implement programs and services to promote the positive
18 discipline of children and the prevention of the use of corporal
19 punishment on children;

20 2. Provide assistance to victims of corporal punishment and their
21 families.

22 3. Where there is initial finding of corporal punishment, conduct an
23 assessment of every reported instance and determine the appropriate
24 interventions, considering the best interest of the child at all times.

1 The assessment shall be completed within three (3) calendar days,
2 without prejudice to the conduct of a more comprehensive case study
3 report. The interventions may include psychosocial interventions for
4 the child and the family; protective custody by the social worker;
5 temporary placement for the child; medical and legal services;
6 counselling and seminars on children's rights, positive and
7 nonviolent discipline of children and anger management; and
8 referrals to other rehabilitative services for the perpetrator. The
9 assessment shall be conducted and interventions shall be provided
10 by the local SWDO whether or not a criminal case is filed.

- 11 d. Commission on Human Rights or CHR shall ensure that the status, rights and
12 interests of children are upheld in accordance with the Constitution and
13 international instruments on human rights. It shall strengthen its monitoring
14 on state compliance as regards corporal punishment.
- 15 e. Department of Justice or DOJ through its National Prosecution Service shall
16 ensure that violators of this law are prosecuted. At no instance shall prosecutors
17 file a Motion to Dismiss on account of an Affidavit of Desistance executed by
18 the parents, guardian of the child-victim.
- 19 f. Department of Health or DOH through its Women and Children Protection
20 Unit shall provide relevant medical intervention to children who are victims of
21 corporal punishment.
- 22 g. The LGUs shall mobilize, strengthen and support local structures, such as the
23 Local Councils for the Protection of Children, local special bodies, Lupong
24 Tagapamayapa, and children's welfare and protection organizations in
25 facilitating the reporting of, prevention of, and response to instances of corporal
26 punishment, and promotion of positive discipline in their respective localities.

1 It shall, together with the DSWD and the local SWDO, ensure the delivery of
2 intervention programs such as seminars and counselling for offenders.

- 3 h. Local Council for the Protection of Children (LCPC) shall support programs that
4 promote the positive and non-violent discipline of children, prevent the use of
5 corporal punishment on children, and coordinate with the local SWDO in
6 responding to such cases.

7 **Sec. 12.** *Suspension of parental authority.* — If the offender is a person exercising
8 parental authority but is not a parent, and has been previously charged under this Act,
9 the court may suspend parental authority in accordance with the Family Code of the
10 Philippines, as amended.

11 **Sec. 13.** *Intervention for the Parent who is an Offender.* — If the offender is a parent
12 of the child, the prosecutor shall refer the parent to the local SWDO for assessment
13 and intervention such as seminars and counselling on children's rights and positive
14 and non-violent discipline of children, anger management, and referral to other
15 providers of rehabilitative services.

16 **Sec. 14.** *Other Remedies.* — The remedies available to the victim under Republic Act
17 No. 7610 and Republic Act No. 9262 shall be available to the child where applicable.

18 **Sec. 15.** *Reporting.* — All instances of corporal punishment of children brought to
19 the attention of the Barangay or the police, or a healthcare provider, shall be reported
20 to the local SWDO within eight (8) hours from the time of the complaint, without
21 prejudice to the continuation of the investigation or the filing of the appropriate
22 criminal case. Failure to report within the prescribed period shall be a ground for
23 administrative action against the Barangay official or police officer, or healthcare

1 provider. *Provided*, that any person who is found to have reported a case of corporal
2 punishment that is proven baseless or malicious shall be criminally, civilly, or
3 administratively liable.

4 **Sec. 16.** *Exemption from Liability of Person Intervening for the Child.* — In every
5 case of corporal punishment, any person who, acting in good faith, responds or
6 intervenes without using violence or restraint greater than necessary to ensure the
7 safety of the victim, shall not be criminally, civilly, or administratively liable.

8 **Sec. 17.** *Jurisdiction.* — The Regional Trial Court (RTC) designated as a Family Court
9 shall have original and exclusive jurisdiction over cases of corporal punishment of
10 children. In the absence of such court in the place where the offense was committed,
11 the case shall be filed with the RTC in the place where the crime or any of its elements
12 was committed at the option of the complainant.

13 **Sec. 18.** *Confidentiality.* — All records pertaining to cases of corporal punishment
14 including those in the *Barangay* shall be confidential and all public officers and
15 employees and public or private clinics to hospitals shall respect the right to privacy of
16 the victim. Whoever publishes or causes to be published, in any format, the name,
17 address, telephone number, school, business address, employer, or other identifying
18 information of a victim or an immediate family member, without the latter's consent,
19 shall be liable to the contempt power of the court.

20 Any person who violates this provision shall suffer the penalty of one (1) year
21 imprisonment and a fine of not more than Five Hundred Thousand Pesos
22 (P500,000.00).

1 **Sec. 19. *Implementing Rules and Regulations.*** — The Council for the Welfare
2 Children will lead the drafting committee for the crafting of the Implementing Rules
3 and Regulations. The drafting committee shall include the Department of Social
4 Welfare and Development, Department of Education, Commission on Higher
5 Education, Commission on Human Rights, the Department of Interior and Local
6 Government, the Department of Health, and Department of Justice as well as other
7 relevant government agencies, leagues of local government officials, nongovernmental
8 organizations, and children's organizations. The Implementing Rules and Regulations
9 of this Act shall be effective within three (3) months from its approval.

10 **Sec. 20. *Funding Requirement.*** — Funding requirements for all programs shall be
11 charged to the current General Appropriations, thereafter shall be included in annual
12 appropriations of each agency with respective mandates.

13 **Sec. 21. *Separability Clause.*** — If any section or provision of this Act is held
14 unconstitutional or invalid, the other sections or provisions shall not be affected.

15 **Sec. 22. *Repealing Clause.*** — All laws, presidential decrees, executive orders and
16 rules and regulations, or parts thereof, inconsistent with the provisions of this Act are
17 hereby repealed or modified accordingly.

18 **Sec. 23. *Effectivity.*** — This Act shall take effect fifteen (15) days from the date of its
19 complete publication in at least two (2) newspapers of general circulation.

Approved,