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Senate Bill No. 1477

(In substitution of Senate Bill Nos. 1136, 1170, 1189 and 1348)

Prepared and submitted jointly by the Committees on Women, Children, Family Relations and Gender Equality; Youth; and Finance, with Senators Poe, Binay, Hontiveros and De Lima as authors thereof

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

Be it enacted by the Senate and House of Representatives of the Republic of the Philippines in Congress assembled:

SECTION 1. *Short Title.* – This Act shall be known as the "*Positive Discipline of Children Act of 2017*".

SEC. 2. *Declaration of Policy.* – In upholding Article XV, Section 3 of the Philippine Constitution, the State recognizes the vital role of children and youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual, and social wellbeing. Pursuant thereto, no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Such treatment or punishment violates the rights of the child, their human dignity and physical integrity. As such, the State shall:

(a) Recognize and uphold the right of children as human beings, individuals, and members of a family and community, to equal protection of the law;

(b) Promote positive and non-violent discipline of children at home, in school, in institutions, in alternative care systems, in workplaces and in all other settings by encouraging behavior change in adults and rejecting social norms that accept corporal

punishment; and establish the necessary structures and mechanisms and mobilize resources to make this possible;

(c) 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;

(d) Protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those expressed in international conventions and treaties to which the Philippines is a party to, particularly the UN Convention on the Rights of a Child;

(e) Respect the responsibilities, rights and duties of parents, guardians or other persons legally responsible for the child, including those exercising special or substitute parental authority, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise of the child's rights;

(f) Assist parents in the fulfilment of their parental obligations including protecting their children from all forms of violence, particularly corporal punishment in the home;

(g) Ensure that school discipline is administered in a manner consistent with the child's human dignity;

(h) Promote principles of restorative justice in cases involving parents/guardians and other adults caring for children; and

(i) Protect the child from all forms of physical or mental violence, injury from abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the custody of parents, guardians or any other person under whose care the child is entrusted. Such protective measures shall include effective procedures for the establishment of social programs to provide necessary support for the child and for those who care for the child, as well as for other forms of prevention and for

identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment, and, as appropriate, for legal or judicial action.

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

(a) *Child* - refers to a person who is below eighteen (18) years of age, or one over 18 but is unable to fully take care of one's self or protect one's self from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition;

(b) *Corporal punishment* - refers to an act or acts which involve physical force and humiliating or degrading acts imposed upon a child as punishment for an alleged or actual offense inflicted by an adult or by another child, who has been given or has assumed authority or responsibility for punishment or discipline. It includes physical, humiliating or degrading forms of punishment, such as:

(1) blows, including beating, kicking, slapping, lashing on any part of a child's body, with or without the use of an instrument such as cane, broom, stick, whip or belt;

(2) pulling hair, shaking, twisting joints, cutting or piercing skin, dragging or throwing a child;

(3) forcing a child, through the use of power, authority or threats, to perform physically painful or damaging acts, such as squatting; standing or sitting in a contorted position; holding a weight or weights for an extended period; kneeling on stones, salt or pebbles;

(4) refusal to provide the child's physical needs;

(5) use of or exposure to substances that can cause discomfort or threaten the child's health including fire, ice, water, smoke, pepper, alcohol, or dangerous chemicals such as bleach or insecticides, excrement, or urine;

(6) tying up a child;

(7) imprisoning a child;

(8) verbal abuse, or assaults including intimidation or threat of bodily harm, swearing or cursing, ridiculing or denigrating the child;

(9) making a child look or feel foolish in front of one's peers or the public such as shaving his or her hair; and

(10) other analogous acts.

(c) *Foster parents* - refer to persons duly licensed by the Department of Social Welfare and Development (DSWD) to provide planned, temporary, or substitute parental care to children;

(d) *Guardians* - refer to legal guardians and other persons, including relatives, with physical custody of the child;

(e) *Institutions* - refer to residential and nonresidential child-caring agencies, including youth homes, youth rehabilitation centers, drop-in centers, temporary shelters and orphanages; and churches or religious centers, including places of worship and parish centers;

(f) *Parents* - refer to biological parents, stepparents, adoptive parents, and the common-law spouse or partner of the parent;

(g) *Persons legally responsible for the child, including those exercising special or substitute parental authority* - refer to those provided for under Executive Order 209 otherwise known as the Family Code of the Philippines as amended, namely, the parents. In case of death, absence or unsuitability of the parents, the following shall exercise substitute parental authority in this order: (1) surviving grandparent; (2) the oldest brother or sister, over twenty-one years of age; and (3) the child's actual custodian, over twenty one years old.

In case of foundlings, abandoned, neglected, or abused children, parental authority are entrusted to heads of children's homes, orphanages and similar institutions duly accredited by the proper government agency.

School administrators and teachers, or the individual, entity or institution engaged in child care shall have parental authority and responsibility of the minor child while under their supervision, instruction and custody.

(h) *Positive and non-violent discipline* - refers to a holistic, constructive and pro-active approach to parenting or teaching that helps children develop appropriate thinking and behavior in the short and long terms by providing tools that build self-discipline and emotional control, and to build a good relationship with the child by understanding the child's needs and capabilities at various ages and the behavior that is usual for a child at each stage of development. This is achieved by providing children a warm and caring environment and assisting them in understanding and abiding by rules, and in the process build their competence and confidence, foster healthy relationships, equip them with life-long skills, and teach respect for human rights. Positive discipline is based on the principles of children's rights, child development and effective teaching.

(i) *Service providers* - refer to persons who, whether in public or private settings, provide services to children. These include social workers, center administrators and personnel, interns, parent-teacher association officers, house parents, health care providers, day care workers, volunteers, security guards in schools and centers, guards in a youth detention home, law enforcement officers, *barangay* officials and *tanods*, and jail officers.

(j) *School teacher, personnel, and officers* - refer to persons exercising authority over students, including administrators, student teachers, guidance counselors, prefects of discipline, instructors, school personnel, scout masters, and Citizen's Advancement Training (CAT) and Citizen's Military Training (CMT) or Reserved Officers Training Corps (ROTC) commandants, tactical officers and student officers.

(k) *Yayas, house helpers and caregivers* - refer to domestic workers who have direct contact with the child.

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

SEC. 4. *Promotion of Positive and Non-Violent Discipline* – The DSWD shall, in consultation with the Council for the Welfare of Children (CWC), Department of the Interior and Local Government (DILG), Department of Education (DepEd), Commission on (CHED), Technical Education and Skills Development Authority (TESDA), Department of Health (DOH), Department of Justice (DOJ), and Department of Labor and Employment (DOLE), formulate a comprehensive program that shall be implemented to promote positive and non-violent discipline instead of corporal punishment of children. This program will include prevention, response and reintegration interventions including programs for offenders and violators of this Act. A continuing information dissemination campaign shall be conducted nationwide on how to practice positive discipline.

The positive and non-violent ways of disciplining children shall include:

(a) Acting as a positive role model to children and assuming the role of a mentor or guide rather than someone who owns and controls children;

(b) Using difficult or challenging situations with children as an opportunity to teach values and skills including how to manage stress, communicate respectfully, handle conflict without hitting, consider other people's feelings, and achieve goals without physically or emotionally harming others;

(c) Providing warmth to children such as showing that they are still loved even when they made a mistake, spending time with them, comforting them when they are hurt or afraid, listening to them, looking at the situation from their point of view, encouraging and motivating them when they are facing difficult or challenging situations, and recognizing their efforts and successes;

(d) Providing structure such as setting and explaining rules and hearing their point of view, setting clear guidelines for behavior, preparing children for difficult situations

by telling them what to expect and how they can cope, helping them find ways to fix their mistakes, teaching them about the effects of their actions on other people, and giving them the information they need to make good decisions;

(e) Controlling anger and managing stress, and avoiding threats of hitting, taking away love, scaring them with monsters or other things that children are fearful of, as a way to control or correct children's behavior;

(f) Considering the children's capacity, interests and need for support according to their stages of development;

(g) Taking a problem-solving approach by ensuring that these processes are observed:

(1) it leads to achievement of long-term goals for the child;

(2) the child is assured of the adult's love, respect and support;

(3) child and adult both reflect on the causes and consequences of the problem, and discuss and agree on possible solutions; and

(4) the solutions identified address the root cause of the problems and are appropriate to the child's level of understanding and development;

(h) Other similar ways of promoting positive and non-violent discipline approach.

SEC. 5. *Prohibition of Corporal Punishment.* – Corporal punishment of children as defined in Sec. 3 (b) is hereby prohibited in homes, schools, institutions, alternative care systems, workplaces, the juvenile welfare system, places of religious worship, and in all other settings.

Parents, *yayas*, house helpers and caregivers, foster parents, guardians, relatives who have custody of the child, or other persons legally responsible for the child, including those exercising special or substitute parental authority, school teachers, personnel, and officers of both public and private academic and vocational institutions, employers and supervisors, service providers, priests, nuns, pastors and other members of religious congregations or churches, or any other person under whose care the child has been entrusted to and who

inflicts corporal punishment on the child, or causes another to inflict corporal punishment on the child, shall be liable in accordance with existing penal laws and this Act.

SEC. 6. *Penalties*. The penalties under existing penal laws shall be imposed in the maximum period, except where a higher penalty is provided for under Act No. 3815, as amended, otherwise known as the Revised Penal Code, under Republic Act No. 7610, otherwise known as Special Protection of Children Against Abuse, Exploitation and Discrimination Act, or under Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and their Children Act.

If the act is not penalized under the abovementioned laws, the penalty shall be *arresto mayor* in its maximum period.

If the act committed (physical and non-physical) constitutes a crime under the Revised Penal Code, the penalty provided therein shall be imposed in its maximum period, and shall be applicable to parents who committed the offense. Otherwise, the following citation system shall apply:

(a) First infraction – A written citation by the Barangay Chairperson or his/her representative indicating that the parent/guardian or any adult should desist, stop, refrain from using corporal punishment, and a mediation and reconciliation meeting should be conducted;

(b) Second infraction – A written citation referencing the first citation with mandatory counselling and positive discipline seminar; and

(c) Third infraction – The Barangay Council for the Protection of Children (BCPC), through the barangay Chair shall initiate and file the necessary complaint against the parent/guardian or any adult for violating Section 5 before law enforcement authorities, and a mediation and reconciliation meeting should again be conducted.

If the offender or accused is a parent, the prosecution and other protective temporary legal remedies should only proceed when they are regarded both as necessary to protect the child from significant harm and as being in the best interest of the affected child.

Penalties for teachers and other school personnel who commit corporal punishment shall be subject to administrative sanctions as provided for in the DepEd Administrative Order 40, s. 2012, or the Child Protection Policy.

SEC. 7. *Interventions.* If the penalty imposed is higher than *arresto mayor*, the offender/violator shall also: (1) undergo seminars on positive discipline, anger management and children's rights; (2) undergo counselling or therapy; and (3) be directed to avail of other rehabilitative services if necessary.

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

All offenders shall be referred to the local SWDO for assessment and interventions such as counselling, seminars on children's rights and positive discipline, anger management, and referrals for psychological or rehabilitative services. The offenders shall also be referred to the Barangay Justice system for mediation, reconciliation, circles of support, and positive discipline support groups. If the offender has been previously charged under this Act, he or she shall be referred to the local SWDO for further assessment and interventions.

All children who have experienced corporal or humiliating punishment shall be referred to the local SWDO for intervention such as counselling, psychosocial support, orientations on children's rights and available services for children, shelter if needed; and referral for medical treatment or legal aid. The SWDO shall refer children victims to the Women and Children Protection Units (WCPUs) in all local government units (LGU) and DOH hospitals for proper medical evaluation, management of injuries and other medical conditions. This will include the psychosocial evaluation of both child and the offender which shall be conducted in coordination of the SWDO.

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

SEC. 9. *Interventions for a Parent who is an Offender.* If the offender is a parent of the child, the prosecutor shall refer the parent to the local SWDO for assessment and intervention such as seminars and counselling on children's rights and positive and non-violent discipline of children, anger management, and referral to other providers of rehabilitative services.

SEC. 10. *Other Remedies.* – The remedies available to the victim under Republic Act No. 7610 and Republic Act No. 9262 shall be available to the child where applicable:

(a) Protective Custody;

(b) Protection Orders;

(c) Support;

(d) Confidentiality; and

(e) Special Court Proceedings.

SEC. 11. *Reporting* – All instances of corporal punishment of children brought to the attention of the *barangay* or the police, or a healthcare provider, shall be reported to the local SWDO within eight (8) hours from the time of the complaint, without prejudice to the continuation of the investigation or the filing of the appropriate criminal case. Failure to report within the prescribed period shall be a ground for administrative action against the *barangay* official or police officer, or healthcare provider. *Provided,* That any person who is found to have reported a case of corporal punishment that is proven baseless or malicious shall be criminally, civilly, or administratively liable.

SEC. 12. *Persons Intervening Exempt from Liability.* – In every case of corporal punishment, any person who, acting in good faith, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall not be criminally, civilly or administratively liable.

SEC. 13. *Who May File a Complaint.* – Complaints on acts of corporal punishment against a child may be filed by the following:

(a) Offended party assisted by an adult;

(b) Parent or guardian;

(c) Ascendant or collateral relative within the third degree of consanguinity or affinity;

(d) Officer, social worker or representative of a licensed child-caring institution;

(e) Officer or social worker of the DSWD or the local SWDO;

(f) Police officer;

(g) The National Bureau of Investigation;

(h) *Barangay* official;

(i) Teacher, non-governmental organization (NGO) worker, health provider, day care worker; or

(j) At least two (2) concerned persons from the place where the act occurred who have personal knowledge of the act.

SEC. 14. *Legal Assistance in Filing Complaints.* – The persons filing a complaint may seek the assistance of officers of the Barangay VAW Desks, Regional Offices or Sub-offices of the Commission on Human Rights (CHR), Philippine National Police (PNP) Women and Children Protection Center, and DOJ offices in various cities and provinces.

SEC. 15. *Philippine Model for Forensic Interview.* – The Council for the Welfare of Children shall lead in the development of the Philippine Model of Forensic Interview to be used in corporal punishment cases and other types of abuse against children.

The development of the Module on Forensic Interview shall be undertaken with a Committee to be convened by CWC, which shall include the CHR, DOJ, DSWD, DILG, and the National Youth Commission (NYC). CWC may include not more than three (3) other members from government or non-government organizations.

SEC. 16. *Jurisdiction.* – The Regional Trial Court (RTC) designated as a Family Court shall have original and exclusive jurisdiction over cases of corporal punishment of children.

In the absence of such court in the place where the offense was committed, the case shall be filed with the RTC in the place where the crime or any of its elements was committed at the option of the complainant.

SEC. 17. *Confidentiality.* – All records pertaining to cases of corporal punishment of children, including those in the *barangay*, the police, school, or public or private healthcare facility shall be kept confidential and the right to privacy of the victim shall be respected.

Whoever publishes or causes to be published, in any format, the name, address, telephone number, school or any identifying information of a victim or immediate family member of the victim, without consent, shall be penalized with a fine of not more than two hundred thousand pesos (P 200,000.00).

SEC. 18. *Duties and Responsibilities of Government Agencies.* - To achieve the policy and objectives of this Act, the duties and responsibilities of the implementing agencies are as follows:

(a) The DSWD, in coordination with the DepEd, other relevant government agencies, the private sector, including academic institutions, NGOs, and parents-teachers-community associations shall formulate a comprehensive program to promote the positive and non-violent discipline of children and the prevention of the use of corporal punishment on children. The program shall include capacity building of service providers, parenting education on positive and non-violent discipline of children, child-friendly reporting mechanisms, child protection services and support, and documentation, data management and monitoring systems.

(b) The DSWD shall integrate positive and non-violent discipline of children in the training of officials and staff of child-caring institutions. It shall ensure that officials and staff of institutions do not use corporal punishment on any child under their custody. It shall also ensure that appropriate action is taken against erring officials and staff of the institutions.

(c) The DSWD shall integrate positive discipline in the capacity building activities for the local SWDO to enable them to provide counselling and appropriate intervention program for both offended child and offender.

(d) All local SWDOs shall adopt and implement programs and services to promote the positive discipline of children and the prevention of the use of corporal punishment on children. They shall also provide assistance to victims of corporal punishment and their families. It shall, together with the DSWD and the LGUs, ensure the delivery of intervention programs such as seminars and counselling for offenders.

(e) The local SWDO shall immediately conduct an assessment of every reported instance of corporal punishment on a child, and determine the appropriate interventions, considering the best interest of the child at all times. The assessment shall be completed within three (3) calendar days, without prejudice to the conduct of a more comprehensive case study report. The interventions may include psychosocial interventions for the child and the family; protective custody by the social worker; temporary placement for the child; medical and legal services; counselling and seminars on children's rights, positive and non-violent discipline of children and anger management; and referrals to other rehabilitative services for the perpetrator. The assessment shall be conducted and interventions shall be provided by the local SWDO whether or not a criminal case is filed.

(f) The CWC shall disseminate all relevant information on this Act among concerned government agencies and entities. It shall monitor the enforcement of this Act and the implementation of all programs and services provided for under this Act. It shall also mobilize the different inter-agency mechanisms within its national and local structures to support the implementation of programs and services.

(g) The DepEd shall integrate positive and non-violent discipline of children in the training of school officials, teachers and personnel. It shall ensure that school

officials, teachers and personnel do not use corporal punishment on any pupil or student. It shall also ensure that appropriate administrative action is taken against erring school officials, teachers and personnel.

The DepEd shall also integrate discussions on corporal punishment and positive discipline in the curriculum of students to make children aware of their rights. It shall likewise strengthen its Values Education in the K-12 curriculum to instill obedience, courtesy and open communication to help foster parent-child relationships.

(h) The CHED and the TESDA shall integrate positive and non-violent discipline of children in the curricula of education, psychology, social work, and other disciplines related to child work. They shall also ensure that appropriate administrative action is taken against erring school officials, teachers and personnel.

By integrating positive and non-violent discipline in the curricula, the academe and its educators, including psychologists, shall facilitate methods to assess and influence behavior that affects interpersonal relationships, transform destructive demeanor, practices and stereotypes to detect violent and aggressive behavior of students towards their peers, and later on, to their own children.

(i) The DILG shall mandate the LGUs to strengthen and support local structures involved in the protection of children. It shall, together with the DSWD and the SWDO, encourage parents and individuals who are not married but exercise parental authority to participate in trainings or seminars on positive discipline, counselling, and human rights of children and ensure the delivery of intervention programs for offenders.

(j) The LGUs shall mobilize, strengthen and support local structures, such as the Local Councils for the Protection of Children (LCPC), local special bodies, *Lupong Tagapamayapa*, and children's welfare and protection organizations in facilitating the reporting and prevention of, and response to, instances of corporal punishment, and

promotion of positive discipline in their respective localities. It shall, together with the DSWD and the local SWDO, ensure the delivery of intervention programs such as seminars and counselling for offenders.

(k) LCPC shall support programs that promote the positive and non-violent discipline of children, prevent the use of corporal punishment on children, and coordinate with the local SWDO in responding to such cases.

(l) The DOLE shall make the attendance of employers to positive discipline trainings as a prerequisite for the issuance of employment permits for children.

(m) The DOH shall integrate early child development interventions in the various health and nutrition programs and services with emphasis on family-child interaction during well–and–sick child visits. It shall also provide technical assistance to LGUs, through the DOH Regional Offices, to enhance the capabilities of local health offices in the implementation of early child development interventions, including the promotion of age-appropriate parent-infant/parent-child interactions to foster understanding of the infant's/child's behavior and needs.

(n) The PNP shall promote positive discipline and non-violent ways of treating and handling children during arrest and while in detention. It shall ensure that officials and staff do not use corporal punishment and humiliating and degrading punishment on any child under their custody. It shall integrate into their training curriculum the training of all police officers on child-friendly and child-sensitive procedures in handling children, and coordinate closely with government and private organizations for effective investigation of cases.

(o) The CWC, CHR and DILG shall formulate standards and indicators to jointly undertake an annual audit to determine the child-safety worthiness of the LGU. The grant of recognition entitled, "Safe Community for Children," shall be awarded to LGUs that have met all these standards and indicators. The assessment shall be

conducted in conjunction with the regular assessment to determine the awardees of the Seal of Good Governance.

(p) The *Sangguniang Kabataan* (SK) shall include in its programs the prevention of corporal punishment on children.

(q) The DSWD shall seek assistance from other relevant government agencies such as the DOJ, CHR, Philippine Information Agency (PIA), and the National Commission on Indigenous Peoples (NCIP) to perform specific duties for the implementation of this Act.

SEC. 19. *Appropriations.* – The amount necessary for the initial implementation of this Act shall be charged against the current appropriations of the DSWD, the DepEd, the TESDA, and the CHED. Thereafter, the amount needed for the continued implementation of this Act shall be included in the annual *General Appropriations Act.* For LGUs, the implementation of the programs may be charged against the internal revenue allotment and other internally generated funds of the LGU concerned.

SEC 20. *Periodic Review.* – The DSWD with the DepEd, the TESDA, the CHED, the DILG, the DOJ, the DOH, and other relevant government agencies, LGUs, and civil society organizations (CSOs) shall, after three (3) years upon effectivity of this Act, and every five (5) years thereafter, conduct a periodic review and evaluate the implementation of this Act and submit its report and recommendations to the Senate Committee on Women, Children, Family Relations and Gender Equality and the House of Representatives' Committee on Welfare of Children.

SEC. 21. *Implementing Rules and Regulations.* – The DSWD, in consultation with the CWC, DepEd, CHED, TESDA, DILG, DOJ, DOH, other relevant government agencies, LGUs, NGOs, and at least two (2) child focused organizations, shall promulgate the Implementing Rules and Regulations (IRR) of this Act within six (6) months from its approval. It shall likewise ensure that techniques in, and examples of practicing positive discipline shall be extensively enumerated, described, and explained in the IRR.

SEC. 22. *Suppletory Application.* – For purposes of this Act, the Revised Penal Code, as amended, the Child and Youth Welfare Code, as amended, and other applicable laws shall have suppletory application.

SEC. 23. *Separability Clause.* – If any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions shall not be affected.

SEC. 24. *Repealing Clause.* – All laws, presidential decrees, executive orders and rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 25. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,