

HOUSE OF REPRESENTATIVES

House Bill No. 914

Introduced by Representative Susan A. Yap

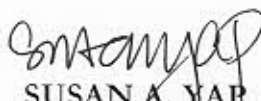
EXPLANATORY NOTE

In response to the commitment of the Philippines to various international agreements such as the Universal Declaration of Human Rights, Geneva Declaration of the Rights of the Child, and Convention on the Rights of the Child, it is imperative to enact legislation that shall protect the young generation of Filipinos. One such danger to their well-being and safety comes in the form of corporal punishment as a means to supposedly instill discipline. This manner of maltreatment violates the right of the child to human dignity. Physical and psychological abuse can greatly alter children's behavior, which eventually poses grave results during their adulthood. Such unfortunate circumstances do not only happen in homes, but also in institutions of learning.

This bill seeks to address the plight of children against corporal punishment. Archaic forms of teaching discipline to the young have no place in modern society, especially if these involve violence in different forms. Children, as future productive citizens of the country, need to be cared for in an environment that fosters positive reinforcement of behavior rather than making use of punishment to supposedly facilitate learning. Regardless of age, this kind of treatment should not be afforded to anyone. And with this, it is the responsibility of the State to mitigate violence towards children by enacting concrete measures to secure their safety. Moreover, the State must be able to create tangible mechanisms to promote the positive and non-violent discipline of children at home, in school, in institutions, in alternative care systems, in employment, and in all other settings.

Repercussions suffered by the child through corporal punishment are consequences that society must face as well. It is necessary to provide preventive and legal protection in response to violations against children's rights and welfare.

In view of the foregoing, the immediate passage of the bill is earnestly sought.


SUSAN A. YAP
Representative, 2nd District Tarlac

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

HOUSE OF REPRESENTATIVES

House Bill No. 914

Introduced by Representative Susan A. Yap

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

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 “Anti-Corporal Punishment Act of 2010”.

SEC. 2. *Declaration of Policy.* – 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 well-being. It shall inculcate in the youth, patriotism and nationalism, and encourage their involvement in public and civic affairs. 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. The State shall protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those to which the Philippines is a party.

Pursuant thereto, no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Such treatment or punishment, including corporal punishment and all other forms of humiliating or degrading treatment or punishment, violates the child’s right to be respected for his/her human dignity and physical integrity and to equal protection under the law.

The State shall 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 by the child of his/her rights.

The State shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity.

In this regard, the State shall promote the positive and non-violent discipline of children at home, in school, in institutions, in alternative care systems, in employment and in all other settings. It shall establish the necessary structures and mechanisms and mobilize resources to make this possible.

The State shall take all appropriate measures to 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.* – The following terms as used in this Act shall be defined as follows:

- (a) *Child* refers to a person who is below eighteen (18) years of age, or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.
- (b) *Corporal punishment* refers to punishment or penalty for an offense or imagined offense, and/or acts carried out to discipline, train or control, 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 and humiliating or degrading punishment such as, but not limited to:
 - (1) Blows to any part of a child's body, such as beating; kicking; hitting; slapping; lashing; with or without the use of an instrument such as a cane, shoes, broom, stick, whip or belt;
 - (2) Pinching; pulling ears or hair; shaking; twisting joints; cutting and shaving hair; cutting or piercing skin; carrying, 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 holding a weight or weights for an extended period; kneeling on stones, salt or pebbles; squatting; standing or sitting in a contorted position;
 - (4) Deliberate neglect of a child's physical needs, where this is intended as punishment;
 - (5) Use of external substances, such as burning or freezing materials, water, smoke, pepper, alcohol, excrement or urine;
 - (6) Use of hazardous tasks as punishment or for the purpose of discipline, including those that are beyond a child's strength or bring him/her into contact with dangerous or unhygienic substances; such tasks include sweeping or digging in the hot sun or rain; using bleach or insecticides; or unprotected cleaning of toilets;
 - (7) Confinement, including being shut in a confined space or material, tied up or forced to remain in one place for an extended period of time;
 - (8) Any threat of physical punishment;
 - (9) Any other physical act perpetrated on a child's body, for the purpose of punishment or discipline, intended to cause some degree of pain or discomfort, however light;
 - (10) Verbal assaults, threats or intimidation;
 - (11) Verbal abuse, scolding, yelling, swearing, ridiculing or denigrating;
 - (12) Making a child look or feel foolish in front of one's peers or the public; and
 - (13) Other acts or words which belittle, humiliate, blame, ignore, isolate the child or make the child a scapegoat.
- (c) *Foster parents* refer to persons duly licensed by the Department of Social Welfare and Development (DSWD) to provide planned, temporary, substitute parental care to children.
- (d) *Guardians* refer to legal guardians and other persons, including relatives, with physical custody of the child.
- (e) *Parents* refer to biological parents, step parents, adoptive parents and the common-law spouse or partner of the parent.
- (f) *Persons legally responsible for the child, including those exercising special or substitute parental authority* refer to those provided for under Presidential Decree No. 603, as amended (the Child and Youth Welfare Code), Executive Order No. 209, as amended (the Family Code), and Republic Act No. 7610, as amended (the Special Protection of Children Against Abuse, Exploitation and Discrimination Act).
- (g) *Positive discipline* refers to an approach to parenting that teaches children and guides their behavior, while respecting their rights to healthy development, protection from violence and participation in their learning.
- (h) *Service providers* refer to any person who, in a residential or nonresidential setting, provides services to children. These include social workers, center administrators and personnel, house parents, health service 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.

- (i) *Teachers and school officials and administrators* refer to persons exercising authority over students, including guidance counselors, prefects of discipline, physical education instructors, school personnel, scout masters and Citizen's Advancement Training (CAT) and Citizen's Military Training (CMT) or Reserved Officer's Training Corps (ROTC) commandants, tactical officers and student officers.
- (j) *Yayas, housemaids and caregivers* refer to domestic workers with direct contact to the child.
- (k) *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.

SEC. 4. *Prohibition.* – All corporal punishment and all other forms of humiliating or degrading punishment of children are hereby prohibited in the home, in school, in institutions, in alternative care systems, in employment and in all other settings. Parents, yayas, housemaids 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, teachers, instructors and school officials and administrators 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 such other persons under whose care the children have been entrusted and who inflicts corporal punishment or humiliating or degrading punishment on the children shall be liable in accordance with existing penal laws: *Provided,* That the penalty 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 the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act", or under Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and their Children Act": *Provided, further,* That if the act is not penalized under the abovementioned laws, the penalty shall be *arresto mayor* in its maximum period.

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: *Provided,* That the offender has not been previously charged under this Act. The interventions shall include seminars on children's rights and positive and non-violent discipline of children, counseling, anger management and referrals to other rehabilitative services.

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

SEC. 5. *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.

SEC. 6. *Who May File a Complaint.* – Complaints on acts of corporal punishment or humiliating or degrading treatment against children may be filed by the following:

- (a) Offended party;
- (b) Parents or guardians;
- (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 officers, preferably those in charge of the Women and Children's Desk;
- (g) Barangay chairman or kagawad;
- (h) Teacher, nongovernmental organization (NGO) worker, health provider, day care worker; or
- (i) At least two (2) concerned persons from the place where the act occurred who have personal knowledge of the act.

SEC. 7. *Persons Intervening Exempt from Liability.* – In every case of corporal punishment or humiliating or degrading 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. 8. *Venue.* – The Regional Trial Court (RTC) designated as a Family Court shall have original and exclusive jurisdiction over cases of corporal punishment or humiliating or degrading treatment of children. In the absence of such court in the place where the offense was committed, the case shall be filed in the RTC in the place where the crime or any of its elements were committed at the option of the complainant.

SEC. 9. *Reporting.* – All cases of corporal punishment or humiliating or degrading punishment of children brought to 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.

SEC. 10. *Confidentiality.* – All records pertaining to cases of corporal punishment and other humiliating or degrading punishment of children, including those in the barangay, the police or public or private healthcare facility shall be 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 his/her consent, shall be penalized with a fine of not more than Two hundred thousand pesos (P200,000.00).

SEC. 11. *Assessment and Intervention.* – The local SWDO, through its social workers, shall conduct an assessment in all cases of corporal punishment and other humiliating or degrading forms of punishment of children to 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, and seminars on children's rights and positive and non-violent discipline of children, counseling, 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.

SEC. 12. *Roles and Responsibilities.* –

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

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 and humiliating or degrading punishment on any child under their custody. It shall also ensure that appropriate action is taken against erring officials and staff of the institutions.

- (b) The Department of Education (DepED), the Commission on Higher Education (CHED) and the Technical Education and Skills Development Authority (TESDA) shall integrate positive and non-violent discipline of children in the training of school officials, teachers and

personnel. The three (3) agencies shall ensure that school officials, teachers and personnel do not use corporal punishment and humiliating or degrading punishment on any pupil or student. They shall also ensure that appropriate administrative action is taken against erring school officials, teachers and personnel.

The CHED shall integrate positive and non-violent discipline of children in the education, psychology and social work curricula, and in the curriculum of other disciplines related to child work.

- (c) 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 and humiliating or degrading forms of punishment of children. They shall also provide assistance to victims of corporal punishment and humiliating or degrading punishment and their families.
- (d) Local Councils for the Protection of Children (LCPC) shall support programs that promote the positive and non-violent discipline of children, prevent the use of corporal punishment and humiliating or degrading forms of punishment of children, and respond to such cases.
- (e) The Council for the Welfare of Children (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.
- (f) Local government units (LGUs) shall mobilize, strengthen and support local structures, such as the local councils for the protection of children, local special bodies, Lupong Tagapamayapa and children's welfare and protection organizations in facilitating the reporting of, prevention of and response to cases of corporal punishment, and promotion of positive discipline in their respective localities.
- (g) The Sangguniang Kabataan (SK) shall include in its programs the prevention of corporal punishment and humiliating or degrading punishment of children.

SEC. 13. *Implementing Rules and Regulations.* – The DSWD, in consultation with the DepED, the CHED, the TESDA, the Department of the Interior and Local Government (DILG), the Department of Health (DOH) and other relevant government agencies, leagues of local government officials, NGOs and children's organizations, shall promulgate the implementing rules and regulations of this Act within six (6) months from its approval.

SEC. 14. *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. 15. *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, and thereafter in the annual General Appropriations Act. For LGUs, the implementation of the programs shall be charged against the Internal Revenue Allotment and other internally generated funds of the LGU concerned.

SEC. 16. *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. 17. *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. 18. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in any newspaper of general circulation.