

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1478

Introduced by GABRIELA Women's Party List
Representatives LUZVIMINDA C. ILAGAN and EMERENCIANA A. DE JESUS

EXPLANATORY NOTE

Working women comprise 48.42 percent of the total population of women aged 15 years and above or 38.42 percent of the total labor force in the Philippines, according to the January 2009 Labor Force Survey of the National Statistics Office. The Bureau of Labor and Employment Statistics of the Department of Labor and Employment projects this number to remain at this proportion beyond 2010.

The increasingly important role that women play in the development of the country's economy has long been recognized by the Philippine society as manifested in the policy declarations on the protection of working women in the 1987 Constitution including:

1. Article II, Section 14. State Policies. "The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men."
2. Article XIII, Social Justice and Human Rights, Section 11. "The State shall adopt an integrated and comprehensive approach to health development.... "There shall be priority for the needs of the under-privileged, sick, elderly, disabled, **women** and children."
3. Article XIII, Social Justice and Human Rights, Section 14. "The State shall protect working women by providing safe and healthful working conditions... "that will enhance their welfare and enable them to realize their full potential in the service of the nation."

The Labor Code of the Philippines similarly establishes standards that will ensure the safety and health of women employees. Book Three, Title II, Chapter I of the Code (Working Conditions for Special Groups of Employees/Employment of Women) provides specific chapter for the protection of working women.

The State's commitment to value the dignity of women and to guarantee full respect for their human rights in the workplace is also specified in the Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and their Children Act of 2004. Its Implementing Rules and Regulations states that:

Section 42. Ten-day paid leave in addition to other leave benefits – Any time during the application of any protection order, investigation, prosecution and/or trial of the criminal case, a victim of VAWC who is employed shall be entitled to a paid leave of up to ten (10) days in addition to other paid leaves under the Labor Code and Civil Service Rules and Regulations and other existing laws and company policies, extendible when the necessity arises as specified in the protection order. The Punong Barangay/Kagawad or prosecutor or the Clerk of Court, as the case may be, shall issue a certification at no cost to the woman that such an action is pending, and this is all that is required for the employees, in addition to the aforementioned certification, the employee concerned must file an application for leave citing as basis R.A. 9262. The administrative enforcement of this leave entitlement shall be considered within the jurisdiction of the Regional Director of the DOLE under Article 129 of the Labor Code of the Philippines, as amended, for employees of the private sector, and the Civil Service Commission, for the government employees.

In the five years of the Anti-VAWC Act, violations of the above mentioned section have been reported. But its violators remain unsanctioned and employers and agency heads continue to violate it due to the lack of a mechanism to monitor its implementation.

Moreover, while the third and fourth paragraph of Section 42 state that “The employer/agency head who denies the application for leave, and who shall prejudice the victim survivor or any person for assisting a co-employee who is a victim-survivor under the Act shall be held liable for discrimination and violation of R.A. 9262” and “The provision of the Labor Code and the Civil Service Rules and Regulations shall govern the penalty to be imposed on the said employer/agency head”, there is a lack of specific penalty for its violators.

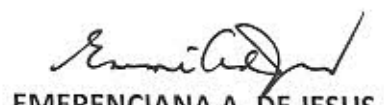
The second paragraph of Section 42 states that “The availment of the ten-day leave shall be at the option of the woman employee, which shall cover the days that she has to attend to medical and legal concerns.”

When an employer or agency head denies the application for a leave, the victim is forced to compromise or abandon any reliefs she seeks for fear of being punished and even removed from work. The denial of such application, therefore, is tantamount to the denial of the basic rights of women under the Anti-VAWC Act, the Labor Code and the Constitution, such as the right to health development and to healthful working conditions.

In keeping with the fundamental freedoms guaranteed under the Constitution and the provisions of the Universal Declaration of Human Rights, the Convention of the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party, this bill seeks to prescribe the penalties for the violators of Section 42 of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and their Children Act of 2004.

Immediate passage of this bill is therefore prayed.


LUZVIMINDA C. ILAGAN
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Introduced by GABRIELA Women's Party List
Representatives LUZVIMINDA C. ILAGAN and EMERENCIANA A. DE JESUS

AN ACT PRESCRIBING THE PENALTIES FOR AN IMMEDIATE SUPERIOR OR SENIOR OFFICIAL OF AN AGENCY, PUBLIC OR PRIVATE, WHO DENIES APPLICATION FOR LEAVE OF ABSENCE BY A VICTIM-SURVIVOR OF VIOLENCE AGAINST WOMEN AND THEIR CHILDREN AS PROVIDED UNDER SECTION 42 OF THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF REPUBLIC ACT NO. 9262, OTHERWISE KNOWN AS THE ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT OF 2004, AMENDING FOR THE PURPOSE, THE SAID LAW

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

Section 1. Section 42 of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, is hereby revised to read as follows:

Section 42. Ten-day paid leave in addition to other leave benefits – At any time during the application of any protection order, investigation, prosecution and/or trial of the criminal case, a victim of VAWC who is employed shall be entitled to a paid leave of absence of up to (10) days in addition to other paid leave under the Labor Code and Civil Service Rules and Regulations and other existing laws and company policies, extendible when the necessity arises as specified in the protection order. The Punong Barangay/Kagawad or prosecutor or the Clerk of Court, as the case may be, shall issue a certification at no cost to the woman that such an action is pending, and this is all that is required for the employer to comply with the 10-day paid leave of absence. For government employees, in addition to the aforementioned certification, the employee concerned must file an application for leave of absence citing as basis R.A. 9262. The administrative enforcement of this leave entitlement shall be considered within the jurisdiction of the Regional Director of the DOLE under Article 129 of the Labor Code of the Philippines, as amended, for employees of the private sector, and the Civil Service Commission, for government employees.

The availment of the ten-day leave of absence shall be at the option of the woman employee, which shall cover the days that she has to attend to medical and legal concerns. Leaves not availed of are non-cumulative and not convertible to cash.

~~(The employer/agency head who denies the application for leave, and who shall prejudice the victim survivor or any person for assisting a co-employee who is a victim survivor under the Act shall be held liable for discrimination and violation of R.A. 9262)~~

~~(The provision of the Labor Code and the Civil Service Rules and Regulations shall govern the penalty to be imposed on the said employer agency head.)~~

The immediate superior of the person applying for a 10-day paid leave must approve the application on the same day of application. If the immediate superior is unavailable to act on the application for a leave, the application shall be acted upon by any available senior official or the private company or government agency.

Every private company and government agency shall record all application for leave in a logbook specifically for cases of VAWC. They shall submit a quarterly report of all applications issued to the Regional Director of the DOLE for employees of the private sector, and the Civil Service Commission, for government employees.

Failure to act on an application for a 10-day paid leave of absence within the given period without justifiable cause shall render the immediate superior or senior official administratively liable for suspension for fifteen (15) days. Administrative complaint against the immediate superior or senior official for failure to perform her/his duties can be filed by victim-survivor with Regional Director of the DOLE for employees of the private sector, and the Civil Service Commission, for government employees for gross neglect of duty or malfeasance.

The immediate superior or senior official who denies the application for leave, and who shall prejudice the victim-survivor or any person for assisting a co-employee who is a victim-survivor under the Act shall be liable for a fine not exceeding ten thousand pesos (P10,000.00) and suspension for thirty (30) days for discrimination and violation of R.A. 9262.

Any senior official who has knowledge of, but failed to act on, or has in any way influenced, the denial of the immediate superior to grant leave to a victim-survivor shall be held administratively liable for suspension for fifteen (15) days.

Section 2. All laws, decrees, order, rules and regulations, and other issuances or parts thereof, inconsistent with this Act are hereby repealed or amended accordingly.

Section 3. This Act shall take effect after fifteen (15) days following its publication in newspapers of general circulation.

APPROVED.