

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

House Bill No. 5732



Introduced by Honorable Sherwin T. Gatchalian

Each year, more and more senior citizens are abused, exploited and neglected. The usual victims are seniors who are older, frail, vulnerable and unable to help themselves and depend on others to meet their most basic needs. Abusers of senior citizens may be men and women, family members, friends or caregivers. In general, elder abuse is a term referring to any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult.

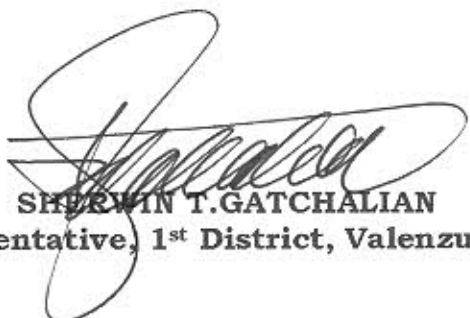
From a young age, our culture has taught us to honor and respect our elders. Filipino values dictate that we have a moral duty to maintain and care for our elders. Although generally speaking, Filipino society cherishes respects and cares for our elders more compared to western societies, we cannot deny the fact that a number of our senior citizens have become victims of physical, emotional, and economic abuse at the hands of people who are entrusted with their care. Their advanced age and fragile condition are taken advantage of by persons in charge of them and even by members of their immediate family.

Studies have shown that elderly people who suffer abuse choose to keep it to themselves and prefer to suffer in silence. The occurrence of elderly abuse often goes unpublicized in our society, especially when the perpetrators belong to their own family. In a case study presented by the University of the Philippines-National College of Public Administration and Governance, it was noted that children of the elders rank highest in number in terms of perpetrating the abuse, followed by spouses and then grandchildren.

Section 11, Article II of the 1987 Constitution provides that; "The State values the dignity of every human person and guarantees full respect for human rights." Section 4, Article XV also provides that; "The family has the duty to care for its elderly members but the State may also do so through just programs of social security." To this end, the State engages to protect our

senior citizens who are more prone to abuse and because of their weaker state, have less physical and mental agility to defend and provide for themselves. As the number of older Filipinos grows proportionally in this country, this bill seeks to provide special protection for senior citizens through the prevention and deterrence of acts inimical to the security and safety of our senior citizens. This Act will likewise provide them with legal remedies for immediate protection such as protection orders that victims may avail of. The State must help our senior citizens claim their rights so they can lead dignified and secure lives.

In view of the foregoing, considerations, approval of this bill is earnestly sought.



SHERWIN T. GATCHALIAN
Representative, 1st District, Valenzuela City

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AN ACT
PROVIDING PROTECTION TO THE ELDERLY AGAINST ABUSE, NEGLECT
AND EXPLOITATION, AND PRESCRIBING PENALTIES FOR VIOLATION
THEREOF

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 “*Protection for the Elderly Act.*”

SEC. 2. **Declaration of Policy.** – The State values the dignity of the elderly and guarantees to defend the right of the family to care for its elderly members. Towards this end, the State shall exert efforts to address violence, abuse and exploitation of all forms committed against our elderly in keeping with the fundamental freedoms guaranteed under the Constitution and the provisions of the Universal Declaration of Human Rights and other international human rights instruments of which the Philippines is a party.

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

- (a) *Elderly* refers to any resident citizen of the Philippines at least sixty (60) years of age or older;
- (b) *Neglect* refers to the failure to provide the care, service, or support for the welfare of an elderly;
- (c) *Abuse* refers to the willfull and unjustified acts of a person towards an elderly;
- (d) *Exploitation* refers to any act by a person to take advantage of the diminished capacity of an elderly to protect himself and his financial resources;
- (e) *Healthcare provider* shall refer to an attending physician, nurse, barangay health worker, therapist, counselor or any other person who examines, attends to or treat an elderly;

SEC. 4. ***Abuse, Neglect and Exploitation of the Elderly.*** – Any person who commits any of the following acts against a senior citizen shall be punished with the penalty imposed under the Revised Penal Code, in the maximum period, the status of the offended party being a senior citizen shall be considered an aggravating circumstance of the offense:

(a) Any person who shall inflict or threatens to inflict any physical harm or injury upon an elderly, including any act that is sexual in nature;

(b) Any person who shall physically restrain an elderly under inhumane conditions with the intention of permanently restricting the elderly's movements and interaction with other members of the community;

(c) Any person who shall cause mental or emotional distress upon an elderly through verbal abuse, intimidation, harassment, public humiliation and ridicule;

(d) Any person who having the legal responsibility or contractual obligation to care for an elderly, willfully neglects to provide food, medicines, shelter, clothing or services necessary for the physical and mental health of an elderly;

(e) Any person who obtains control over the money, assets or property of the elderly through undue influence or deceitful machinations with the intention of depriving the elderly of its ownership, use and benefit; and

(f) Any person who prevents an elderly from engaging in any legitimate profession, occupation or business in the absence of any harm or threat of abuse on the person of the elderly.

SEC. 5. ***Reporting.*** – The aggrieved elderly or any concerned citizen shall make a report in writing to the barangay of any act which under the facts and circumstances prevailing at the time will lead a reasonable person to believe that the act constitute those enumerated under Section 4 hereof has been committed or is being committed.

SEC. 6. ***Protective Services.*** – Based upon the accounts of the aggrieved elderly or a sworn statement of a concerned citizen, the barangay of which the elderly is a resident or currently located, shall conduct an investigation to determine the veracity of the allegations. Finding reasonable ground to believe that the act constitute any of those mentioned under Section 4 hereof, the Barangay shall thereupon order the immediate temporary necessary relief to safeguard the victim from further harm.

Nothing in this Section shall prevent the aggrieved elderly or any person to make a report to the police or any law enforcement agency other than the barangay, which shall provide the necessary assistance and protection, or to apply for either the Temporary or Permanent Protection Order as an independent action or as incidental relief in any civil or criminal case, where the issues partake of the acts enumerated under Section 4 hereof.

SEC. 7. *Role of Government Agencies.* – In order to provide the necessary relief and prevent further harm to the elderly-victim the following agencies are mandated to:

(a) *Barangay* – grant, after ex-parte determination, applications for a Barangay Protection Order (BPO), which shall be effective for fifteen (15) days from its issuance, ordering the perpetrators to desist from committing any of the acts mentioned under Sec. 4 hereof and which is subject of the application. If the Punong Barangay is unavailable to act on the application for a BPO, the application shall be acted upon by any available Barangay Kagawad. If the BPO is issued by a Barangay Kagawad the order must be accompanied by an attestation by the Barangay Kagawad that the Punong Barangay was unavailable at the time for the issuance of the BPO. Immediately after the issuance of an ex parte BPO, the Punong Barangay or Barangay Kagawad shall personally serve a copy of the same on the respondent, or direct any barangay official to effect is personal service.

The parties may be accompanied by a non-lawyer advocate in any proceeding before the Punong Barangay.

(b) *Department of Social Welfare and Development* – extract and take custody of the elderly, provide halfway shelters, counselling, psycho-social services, and rehabilitation programs;

(c) *Philippine National Police or other law enforcement agency* - assist the barangay officials and other government officers and employees who respond to a call for help; immediately serve the protection orders as well as ensure its compliance; arrest the suspected perpetrator without a warrant when any of the acts enumerated under Section 4 is occurring, or when he/she has personal knowledge that any act of abuse has just been committed, and there is imminent danger to the life or limb of the elderly;

(d) *Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, Municipal Circuit Trial Court* – issue the Temporary Protection Order (TPO), which shall be effective for thirty (30) days, after an ex-parte determination that the order should be issued. The TPO shall include the notice of the hearing on

the merits for the issuance of a Permanent Protection Order (PPO). Where final judgment for the PPO has not been issued and the TPO is about to expire, the court shall extend or renew the TPO for another thirty (30) days. A PPO shall be effective until revoked by the court upon application by the person in whose favor the order was issued. The court shall ensure immediate personal service of the TPO or the PPO.

The court shall not deny the issuance of a protection order on the basis of the lapse of time between the act and the filing of the application.

(e) *Healthcare provider* – properly document or record observations/ examinations of the elderly which gives rise to any of the acts under Section 4 hereof, and to inform or report these assessment or findings to the barangay, law enforcement agency or the courts;

(f) *Department of Education, Department of Health and Local Government Units* – conduct information and dissemination campaign with regard the rights of the elderly and the duties of the family to care for them, as well as the nature, causes, incidence and consequences of acts which gives rise to abuse, neglect or exploitation, particularly towards educating the public on its social impacts;

(g) *Public Attorney's Office* – appoint a counsel when it is shown that the elderly does not have the financial capacity or lacks access to family resources, to provide legal representation of his choice;

A fine not exceeding Ten Thousand Pesos (P10,000.00) or whenever applicable criminal, civil or administrative liability shall be imposed on any barangay official, government employee, law enforcer or healthcare provider who fails to render the assistance required under this Section.

SEC. 8. **Public Crime.** – Abuse, exploitation and neglect shall be considered a public offense which may be prosecuted upon the filing of a complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime.

SEC. 9. **Persons Exempt from Liability.** - Any person, private individual or law enforcement authority or barangay official who, acting in accordance with law, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall not be liable for any criminal, civil or administrative liability resulting therefrom.

The liability herein imposed shall not likewise apply to any person who was acting pursuant to the instructions of a physician to protect the elderly due to a physical or mental incapacity.

SEC. 10. **Implementing Rules and Regulations.** – Within six (6) months from the approval of this Act, the Secretary of Justice, the Secretary of Social Welfare and Development, the Secretary of the Interior and Local Government, shall promulgate the implementing rules and regulations of this Act.

SEC. 11. **Suppletory Application.** – For purposes of this Act, the Revised Penal Code and other applicable laws, shall have suppletory application.

SEC. 12. **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. 13. **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. 14. **Effectivity.** – This Act shall take effect fifteen (15) days from the date of its complete publication in at least two (2) newspapers of general circulation.

Approved,