

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

17th Congress
Second Regular Session

HOUSE BILL NO. **6955**



Introduced by: **HON. LORNA C. SILVERIO**

**AN ACT PROMOTING POSITIVE AND NON-VIOLENT DISCIPLINE OF CHILDREN
WHILE PROHIBITING ALL FORMS OF CORPORAL PUNISHMENT AND
APPROPRIATING FUNDS THEREFOR**

EXPLANATORY NOTE

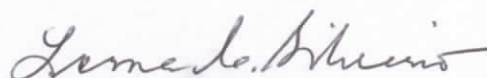
Article XV , Section 3 (2) of the 1987 Constitution states that:

“ 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 prescribing 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.

Corporal punishment is ineffective in disciplining children of all ages. Most often, it produces anger, resentment, and low-self-esteem among children. It also teaches the child that violence is an acceptable behavior and is a solution to problems; thus, corporal punishment perpetuates itself as children imitate the actions of adults. In fact, parents admit that they feel guilty and sorry about punishing their children except for what they have learned from their own parents and grandparents. Parents have expressed the need for alternative positive and non-violent methods for disciplining children.

In the Philippines, there is no specific law that prohibits the use of corporal punishment or physical violence against children. Other countries, however, have taken more positive steps towards child-discipline either through legislation or protection mechanisms. This bill seeks to strengthen the country’s laws, policies and programs in respecting child’s rights, human dignity, physical integrity and equal protection of law in compliance with the Philippine government’s obligation to the UN Convention on the Rights of the Child and for this reason the passage of this bill is earnestly sought.


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

SEC 1. Title. This Act shall be known as the "The Positive and Non-Violent Discipline of Children Act"

SEC 2. Declaration of State Policy. It is the policy of the State to observe, protect, and fulfill the rights of children to special protection from all forms of neglect, abuse, exploitation, torture, and other inhuman conditions. The State is duty bound to protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially to those which the Philippines is a party.

SEC 3. Definition of Terms.

- A.) Child** – refers to a person who is below eighteen (18) years of age, or those over eighteen but are unable to look after or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of physical or mental disability or condition.
- B.) Corporal punishment** – refers to any punishment in which excessive physical force is used and intended to cause some degree of pain or discomfort. It includes physical, humiliating and degrading punishment such as, but not limited to:
1. Blows such as but not limited to 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. Striking of the child's face or head such being designated as lethal and as a "no contact zones"
 3. Pulling hair, shaking, twisting joints, cutting or piercing skin. Dragging or throwing a child most especially when in the presence of other people.
 4. Verbal abuses, including intimidation or threat bodily harm.
 5. Forcefully tying up a child.

6. Deliberate neglect of the child's physical needs.
7. Making a child look or feel foolish which tends to belittle or humiliate the child in front of others.

- C.) Positive Discipline or Non-Violent Discipline** – refers to assisting children understand and abide by rules, and in the process build their competence and confidence, foster healthy and respectful relationships, equip children with lifelong skills, and teach respect for human rights.
- D.) Foster parents** – refers to persons duly licensed by the Department of Social Welfare and Development (DSWD) to provide planned, temporary, substitute parental care to children.
- E.) Guardians** – refer to legal guardians and other persons, including relatives, or persons designated by law to be the custodian of the child.
- F.) Service provider** – refers to an individual who, in a residential or non-residential setting, provides to the children. It includes social workers, center administrators and personnel, house parents, health service providers, day care center officers and staff including volunteers, and security personnel. It also includes law enforcement officers, Barangay officials and Tanods, and officers in detention facilities.
- G.) Institutions** – refer to residential and non-residential 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.
- H.) Parents** – refer to biological parents, step parents, adoptive parents, and the common-law spouse or partner of the parent.
- I.) Teachers, school officials and administrators** – refer to persons exercising authority over students, including guidance counselors, prefects of discipline, physical education instructors, school personnel, and officers in charge for scouting activities.
- J.) Yayas, Housemaids, and Caregivers** – refer to individuals employed in domestic work who have direct engagement with the child, including babysitters, au pairs and governesses.

SEC 4. Prohibition of Corporal Punishment – Corporal punishment and all other forms of humiliating or degrading punishment of children is hereby prohibited at home, school, in institutions, in employment and in all other settings and as defined in the previous Section 3 (b).

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 any other person who has the care of the child who inflicts corporal punishment or humiliating or degrading punishment on the child shall be liable in accordance with existing penal laws.

SEC 5. Penalties. The penalties under the 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 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. If the act is not penalized under the abovementioned laws, the penalty shall be Arresto Mayor in its maximum period.

SEC 6. Who May File a Complaint. – Complaints on cases of corporal punishment against a child 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 private 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's and Children's Desk;
- G.) Barangay official;
- H.) Teacher, Non-Governmental organization (NGO) worker, Health provider, day care worker, or;
- I.) At least two (2) concerned persons from the place where the act occurred and has personal knowledge of the act.

SEC 7. Venue – The Regional Trial Court (RTC) designated as a family Court shall have the 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 in the RTC in the place where the crime or any of its elements were committed at the option of the complainant.

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 Executive Order no. 209, as amended, otherwise known as the Family Code of the Philippines.

SEC 9. Interventions for a Parent who is an offender – If the offender is a parent of the child, in addition to the penalty imposed under Section 5, the prosecutor shall refer the parent to the local social welfare and development office (SWDO) for assessment and intervention such as seminars and/or counseling on children's rights and positive and non-violent discipline of children, anger management, and referrals to other rehabilitative services.

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

SEC 11. Reporting – All instances of corporal 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 the ground for administrative action against the barangay official or police officer, or healthcare provider.

SEC 12. Confidentiality – All records pertaining to cases of corporal punishment of children, including those in the barangay 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 consent, shall be penalized with a fine of not more than Two Hundred Thousand Pesos (P200,000.00).

SEC 13. Exemption from liability of Person/Persons Intervening for the Child – 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 14. Duties and Responsibilities of Government Agencies -

- a.) The Council for the Welfare of Children shall be the designated lead agency to oversee the implementation and enforcement of all laws relative to the promotion of child and youth and is tasked to develop policies for this law. It shall also perform monitoring and oversight functions to ascertain that State Policy on positive discipline and prohibition of Corporal Punishment is achieved through government programs.
- b.) The Department of Social Welfare and Development (DSWD) shall provide Social Welfare Development Officer training on interview, counselling, case management and other concerns relevant to corporal punishment.
- c.) The DSWD shall institutionalize an intervention program which will ensure that only trained and competent professionals and staff of the local SWDO will provide counseling and seminars for both offended child and offender.
- d.) Social Welfare Development Officer (SWDO) shall perform the following functions:
 - 1.) Adopt and implement programs and services to promote the positive discipline of children and the prevention of the use of corporal punishment on children;
 - 2.) Provide assistance to victims of corporal punishment and their families.
 - 3.) Where there is initial finding of corporal punishment, conduct an assessment of every reported instance 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 nonviolent 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.

- e.) The CHED shall integrate positive and non-violent discipline of children in the curricula of education, psychology, social work and other disciplines related to child work.
- f.) The Local Government Units (LGU's) 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 in organizations in facilitating the reporting of, 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.
- g.) Local Council for the Protection of Children (LCPC) shall support programs that promote the positive and non-violent discipline of children, and coordinate with the local SWDO in responding to such cases.

SEC 15. Appropriations. – The funding requirements shall be charged against the current appropriations of each agency mandated to implement this Act, and thereafter in the annual General Appropriations Act. For LGU's, the implementation shall be charged against the Internal Revenue Allotment and other internally generated funds of the LGU concerned.

SEC 16. Implementing Rules and Regulations – The DSWD, in consultation with the CWC, DepEd, CHED, TESDA, DILG, DOH, other relevant agencies, LGU's, NGO's and children's organizations, shall promulgate the implementing rules and regulations of this Act within six (6) months from its approval.

SEC 17. 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 18. 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 19. Repealing Clause – All laws, presidential decrees, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC 20. Effectivity – This Act shall take effect fifteen (15) days after its publication in any newspaper of general circulation.

Approved,

