



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 857



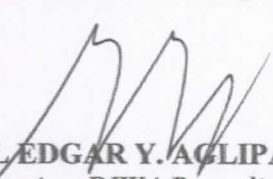
Introduced by **DIWA Party-list Representative Hon. Michael Edgar Y. Aglipay**

EXPLANATORY NOTE

The State recognizes the vital role of the youth, including children, in nation-building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. Adhering to the fundamental policy of the State and to our international commitment under the United Nations Convention on the Rights of a Child, this bill aims to promote positive discipline and non-violent approach to help and guide children develop positive behavior while respecting their rights to healthy development.

The National Baseline Study on Violence against Children (NBS VAC) in 2015 revealed that about 64.2% of the respondents experienced physical violence during childhood: 57% of these cases happened in the home. Violent discipline is the most frequent form of violence against both boys and girls in the home, driven by factors including social norms around the use of and the effectiveness of discipline, authoritarian parenting, and a parent's level of education.

To this end, this legislative measure aims to protect and promote the welfare of every child as they are not just objects who belong to their parents and for whom decisions are made, or adults in training but human beings and individuals with their own rights.


MICHAEL EDGAR Y. AGLIPAY
Representative, DIWA Party-list



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AN ACT

**PROMOTING POSITIVE AND NON-VIOLENT DISCIPLINE OF CHILDREN AND
APPROPRIATING FUNDS THEREFOR**

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

SECTION 1. Short Title. This Act shall be known as the, "Positive and Non-violent Discipline of Children Act."

SEC. 2. Declaration of Policy. The State recognizes the vital role of the youth, including children, in nation-building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. Adhering to the fundamental policy of the State and to our international commitment under the United Nations Convention on the Rights of a Child, it is hereby recognized that, as indicated in Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth".

To this end, it is hereby mandated that the provisions of this Act shall be imposed upon parents, teachers, guardians, children and all persons legally responsible for the care and custody of the child the preservation of his or her dignity and the protection of his or her welfare at all times to the end that the child becomes a useful and active member of the society.

SECTION 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 a child, inflicted by an adult or by another child, which result in or likely to result to physical maltreatment or psychological harm or suffering to the child.

(c) *Physical maltreatment* refers to punishment or penalty which causes bodily harm, including but not limited to the following:

(1) Blows to any part of a child's body, with or without the use of an instrument such as a cane, shoes, broom, stick, whip or belt, through acts such as, but not limited to, beating, kicking, hitting, slapping, and/or lashing;

(2) Acts perpetrated as a form of punishment for an offense committed by the child, such as, but not limited to, pinching, pulling ears or hair, shaking, twisting joints, cutting and shaving hair, and/or 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, but not limited to, holding a weight or weights for an extended period; kneeling on salt, seeds, stones or pebbles; squatting; and/or standing or sitting in a contorted position;

(4) Bringing the child in contact with or exposure to, as punishment or for the purpose of discipline, external substances, such as burning or freezing materials, water, smoke, pepper, alcohol, excrement, urine or other dangerous or unhygienic substances causing certain degree of suffering, however light;

(5) Use of hazardous tasks as punishment or for the purpose of discipline, including those that are beyond a child's strength. Such tasks include, but not limited to, sweeping, digging or standing under the heat of the sun or under the rain, or unprotected cleaning of toilets; Confinement, including being shut in a confined space or material, tied up, hung in a sack or forced to remain in one position for an extended period of time;

(6) 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;

(d) *Psychological harm or suffering* refers to acts or omissions causing mental or emotional suffering to the child, such as but not limited to:

(1) Deliberate neglect of a child's mental, emotional, physical, social and spiritual needs when said neglect is intended as punishment;

(2) Verbal Abuse which consists of scolding, swearing, yelling, blaming,

(3) insulting, ridiculing, demeaning, and criticizing through the use of harsh, angry and derogatory words or remarks;

(4) Making a child look or feel foolish in front of one's peers and/or the public;

(5) Other acts or omissions which belittle, humiliate, blame, ignore or isolate the child.

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

(f) *Guardians* refer to judicially appointed guardians and other persons, including relatives, with physical custody of the child.

(g) *Parents* refer to biological parents, step parents, adoptive parents and the common-law spouse or partner of the parent.

(h) *Persons legally responsible for the child*, including those exercising special or substitute parental authority shall refer to the following, in default of parents or a judicially appointed guardian, and in the order indicated:

(1) The surviving grandparent;

(2) The oldest brother or sister, over twenty-one years of age, unless unfit or disqualified; and

(3) The child's actual custodian, over twenty-one years of age, unless unfit or disqualified.

(i) *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. The positive and non-violent approach of disciplining a child shall include, but not limited, to the following:

(1) Beat-the-Clock which refers to a motivational technique that uses the child's competitive nature to encourage completion of tasks on parent's timetable;

(2) Grandma's Rule which refers to a contractual agreement that allows a child to do what the child pleases as soon as what the parent wants has been accomplished;

(3) Neutral Time which refers to the taking advantage of time that is free from conflict, such as the time after a tantrum has passed and the child is calm and receptive, to teach new behavior to the child;

(4) Praise referring to a verbal recognition of a behavior that a parent wants to reinforce;

(5) Reprimand referring to statements that include a command to stop the behavior, a reason why the behavior should stop, and an alternative to the behavior;

(6) Rule which refers to a pre-determined behavioral expectation that includes a stated outcome and consequence;

(7) Time Out or to take the child out of a situation because of inappropriate behavior, making the child face a blank wall for several minutes or until the child calms down;

(8) Responsibility Building which refers to making a child perform age-appropriate simple household chores.

(j) *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.

(k) *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.

(l) *Yayas, housemaids and caregivers* refer to domestic workers with direct contact to the child.

(m) 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.

SECTION 4. *Prohibition.* Corporal punishment of children as defined in Sec. 3 (b) are hereby prohibited. 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 shall be liable under Section 6 of this Act.

If the act of corporal punishment is committed by another child, the offending child shall undergo the proper procedure under Republic Act 9344 otherwise known as, "Juvenile Justice and Welfare Act of 2006".

SECTION 5. *Promotion of techniques on positive and non-violent discipline.* A comprehensive program shall be formulated and implemented to promote positive and non-violent discipline as an alternative to corporal punishment of children. A continuing information dissemination campaign regarding its benefits and techniques shall be conducted in the Local Government Units (LGUs) and in educational and child-caring institutions therein.

SECTION 6. *Penalty.*

(a) Any person found violating Section 3 (b) hereof shall be punished with the following:

First Offense: Reprimand to be given and supervised by the appropriate Barangay Council for the Protection of Children (BCPC);

Second Offense: Payment of a fine of not less than One Thousand Pesos (PhP1,000.00) but not more than Two Thousand (PhP 2,000.00) and/ or be required to render community service for not more than Thirty-six (36) hours at the discretion of the court;

Third Offense: Payment of a fine of not less than Two Thousand Pesos (PhP 2,000.00) but not more than Three Thousand Pesos (PhP3,000.00) and/or be required to render community service of not more than Forty-two (42) hours at the discretion of the court;

The Community Service Program shall be supervised by the BCPC where the offender resides. For this purpose, the BCPC shall coordinate with the Local Social Welfare and Development Office (SWDO) in developing guidelines and measures that will effectively implement the penalty of community service. Provided, that, the services will promote and improve the positive parenting skills of the offender and promote the welfare and best interest of the children. Provided, further, that in all instances, the offender/violator shall undergo the intervention program with the Local SWDO.

(b) If the act committed resulted to any of the crime penalized under Act No. 3815 otherwise known as Revised Penal Code, or under Republic Act No. 7610 otherwise known as the Special Protection of Children Against Child Abuse, or under Republic Act No. 9262 otherwise known as the Anti-Violence Women and their Children Act, the same shall be prosecuted according to the respective relevant law.

SECTION. 7. *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.

SECTION 8. *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.

SECTION 9. *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.

SECTION 10. *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.

SECTION 11. *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) 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 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 who have personal knowledge of the act.

SECTION 12. *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.

SECTION 13. *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 less than Fifty Thousand Pesos (PhP50,000.00) but not more than Two Hundred Thousand Pesos (PhP200,000.00).

SECTION 14. Duties and Responsibilities of Government Agencies.

(a) The DSWD, in coordination with the Department of Education (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 Local Government Units (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 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.

(f) 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 interagency 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.

(h) The Commission on Higher Education (CHED) and the Technical Education and Skills Development Authority (TESDA) shall integrate positive and nonviolent 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.

(i) The LGUs shall mobilize, strengthen and support local structures, such as the Local Councils for the Protection of Children, local special bodies, *Lupong Tagapam ayapa*, and children's welfare and protection 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.

(j) 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 on children, and coordinate with the local SWDO in responding to such cases.

(k) The Department of Labor and Employment (DOLE) shall make the attendance of employers to positive discipline trainings as a prerequisite for the issuance of employment permits for children.

(l) The Philippine National Police (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.

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

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

SECTION 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. 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.

SECTION 16. *Implementing Rules and Regulations.* The DSWD, in consultation with the CWC, DepEd, CHED, TESDA, Department of the Interior and Local Government (DILG), Department of Health (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.

SECTION 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.

SECTION 18. *Repealing Clause.* Any provision of ordinance, rules and regulations and/or parts thereof inconsistent with the provisions of this ordinance are hereby repealed and/or modified accordingly.

SECTION 19. *Separability Clause.* Should any portion or provisions of this ordinance be declared unconstitutional or invalid, the other parts or provisions thereof which are not affected thereby shall continue to be in full force and effect.

SECTION 20. *Effectivity.* This Ordinance shall take effect fifteen days from its publication in a newspaper of general circulation.

Approved,