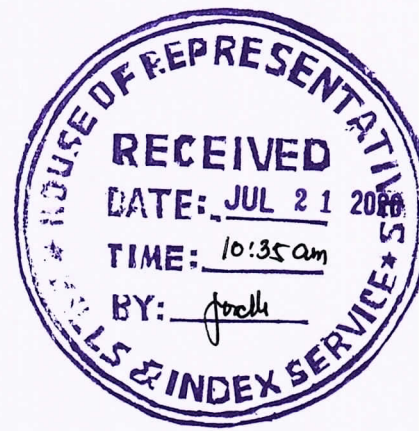


Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7144



INTRODUCED BY
REP. ALFRED VARGAS

AN ACT
STRENGTHENING THE EMPLOYMENT RIGHTS OF MEMBERS OF THE
RESERVE FORCE OF THE ARMED FORCES OF THE PHILIPPINES AND
FOR OTHER PURPOSES

EXPLANATORY NOTE

It is the sole mission of the Citizen Armed Force or also known as the Reserve Force to provide military service in times of war, rebellion, invasion or once their assistance is required may it be for socioeconomic services that have been done in the past such as the Security Operations at Holy Cross Memorial Park; Manning of the Tactical Command Post at the Holy Cross Memorial Park; Conduct Medical and Dental Civic-Action Program (MEDCAP); Conduct Clean-up Drive, and most significantly, the mobilization to help thwart terrorism in the siege done by the Maute Group in Marawi City in the year 2017.

There is an increase in number of citizen Armed Forces that lose their civilian careers due to their absence to render military service. Moreover, there is very minimal legal protection for these reservists regarding their employment rights, compensation, and/or wages during their time of service for the military.

Based on Article 301 [286] of the Labor Code, that termination of employment of an employee of a military or civic duty is not allowed in the case that the employee states the desire to resume work not later than one month from military service. In addition, according to the Presidential Decree No. 183 and Republic Act No. 7077 known as the Citizen Armed Forces of the Philippines Reservist Act, an employee of a commercial, industrial or agricultural firm with an annual gross volume of not less than Php 250,000.00 to Php 300,000.00 and with a personnel force of at least 20 employees, who is called to refresher training, active duty or mobilization/

assembly test, shall not be lose their employment or suffer loss of pay due to military obligation.

This bill aims to further strengthen the employment protection rights of reservists to give due credit and support as members of Reserve Force of the Armed Forces of the Philippines (AFP). It is vital to strengthen the Citizen Armed Forces or the Reserve Force of the Armed Forces of the Philippines (AFP) and recognize its role in the mission areas of the AFP and in national security. Their rights must be protected by preventing and prohibiting discrimination on the basis of rendering military service to the State. It is important to encourage service in the AFP Reserve Force by eliminating or minimizing the disadvantages to civilian careers and employment which can result from rendering military service to the State, and ensure the observance of all employers of the rights of reservists called to perform military service to the State.

Indeed, the Filipino people owe these brave men and women for the tremendous sacrifices they are willing to make for the country.

The immediate passage of this bill is earnestly sought.



ALFRED VARGAS

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**AN ACT
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RESERVE FORCE OF THE ARMED FORCES OF THE PHILIPPINES AND
FOR OTHER PURPOSES**

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

**CHAPTER 1
GENERAL PROVISIONS**

SECTION 1. *Short Title.* – This Act shall be known as the “Reservist
Employment Rights Act.”

SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the
State to:

- (a) Strengthen the Citizen Armed Forces or the Reserve Force of the
Armed Forces of the Philippines (AFP) and recognize its role in the
mission areas of the AFP and in national security;
- (b) Protect the rights of reservist, and prevent and prohibit
discrimination on the basis of rendering military service to the State;
- (c) Encourage service in the AFP Reserve Force by eliminating or
minimizing the disadvantages to civilian careers and employment
which can result from rendering military service to the State; and
- (d) Ensure the observance of all employers of the rights of reservists
called to perform military service to the State.

The prime duty of the State is to serve and protect the people. For this
reason, the State may call upon the people to defend the State, and in
fulfillment thereof, may require its citizens to render military or civil service
under conditions provided by law.

SECTION 3. Coverage. – The provisions of this Act shall apply to all employers, whether private or public, including all government agencies and political subdivisions as well as government-owned or controlled corporations, non-government organizations, and other entities.

SECTION 4. Definition of Terms. – As used in this Act, the following terms shall mean:

- (a) Active Duty Training** refers to the compulsory or voluntary trainings for reserve units and/or individual reservists provided by the AFP to update their working knowledge in current military organization, doctrines, and tactics, techniques and procedures (TTPs) in order to maintain a desirable state of readiness, enable them to satisfy the active service-in- grade required for promotion to higher grades, and maintain a level of proficiency and competency for those reservists designated as instructors in ROTC and other reservists training programs.
- (b) Auxiliary Service** refers to the voluntary performance of a service by a reservist for the purpose of helping maintain local peace and order, meeting local insurgency and terror threats for intelligence requirements, assisting in rescue and relief operations during disasters and calamities, health welfare activities and participating in local socioeconomic development projects;
- (c) Citizen Soldier or Reservist** refers to members of the Reserve Force of the AFP, composed of the following:
 - 1. Graduates of the Reserve Officers' Training Corps (ROTC) basic and advance courses and who were issued orders as enlisted reservists or reserve officer of the AFP;
 - 2. Graduates if authorized basic military training instructions who, as a result thereof, were issued orders as enlisted reservists or reserve officers;
 - 3. Ex-servicemen and retired officer of the AFP who have been incorporated into the Reserve Force of the AFP; and
 - 4. Reservists officers and enlisted reservists including those procured under the existing laws and included in the present AFP roster.

There shall be three (3) categories of citizen soldiers or AFP reservists based on age: The First Category Reserve, the Second Category Reserve, and the Third Category Reserve, as defined under Republic Act No. 7077, otherwise known as the "Citizen Armed Force or Armed Forces of the Philippines Reservist Act."

- (d) Employment** refers to the act of hiring and continued engagement and the reinstatement or reintegration of an employee called to military service to his/her former position, or if not practicable, to a substantially equivalent position, without loss of seniority rights and

diminution of pay;

- (e) **Military Service** refers to any service rendered by a citizen soldier or reservists to the State upon orders of the AFP or call to active duty (CAD) to meet active duty training (ADT) requirements, or for any purpose that the AFP leadership may deem necessary in order to augment and support the Regular Force operations in times of war, national emergency or such other times as the national security requires;
- (f) **Mobilization** refers to the utilization of the Reserve Force of the AFP in times of emergency to meet threats to national security;
- (g) **Reintegration** refers to the actual resumption of work of an employee after his/her military service to his/her former position, or if not practicable, to a substantially equivalent position, without loss of seniority rights and diminution of pay;
- (h) **Reserve Force** refers to those composing of members of the reserve components of the AFP.

CHAPTER 2

NON-DISCRIMINATION OF RESERVISTS

SECTION 5. *Anti-reservists Discrimination.* -

- (a) It shall be unlawful for an employer, or those acting in the interest of the employer to:
 - 1. Discriminate against an individual in terms of hiring, promotion, opportunity for training, or compensation, terms and conditions, or privileges of employment on account of such individual's membership, application for membership, performance of military service or application for military service or obligation with the Reserve Force of the AFP;
 - 2. Print or publish, or cause to be printed or published, in any form of media, including the internet, any notice of advertisement relating to employment suggesting preferences, limitations, specifications, and discrimination based on membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP.
 - 3. Require the declaration of application for membership, or status of membership in the Reserve Force of the AFP; or
 - 4. Lay-off or impose early retirement on the basis of such employee's or worker's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP.
- (b) It shall be unlawful for a private recruitment agency to refuse to refer for employment or otherwise discriminate against any individual because of such person's membership, application for membership, performance of military service, application for military service or

obligation with the Reserve Force of the AFP.

- (c) It shall be unlawful for any organization to cause or attempt to cause an employer to discriminate against an individual in violation of this Act, and to deny or exclude from its membership to any individual because of such person's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP;
- (d) It shall be unlawful for a publisher to print or publish any notice of advertisement relating to employment suggesting preferences, limitations, specifications, and discrimination based on a person's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP.

CHAPTER 3 EMPLOYMENT RIGHTS

SECTION 6. *Employment Rights of Citizen Soldiers/ Reservists.* – Reservists who are called to perform military service shall have the following rights:

- (a) Reservists are entitled to their original position, or if not practicable to a substantially equivalent position, without loss of seniority rights and diminution of pay and benefits;
- (b) Military service shall not be considered a break in the employment for retirement purposes or for granting benefits provided for under the Labor Code and other special laws;
- (c) Reservists shall not be required to use or apply any earned or future leave credits in connection with the performance of military service in the Reserve Force; and
- (d) Reservists who suffer any temporary or permanent disability due to military service shall not be denied reinstatement, if such reservists-employee is willing and able to perform the essential functions of his/her original employment, whether with or without reasonable accommodations.

SECTION 7. *Hiring of Substitute Employee.* – Subject to the provisions of the Labor Code of the Philippines, as amended, an employer may hire a temporary employee during the period of the military service of the reservist employee called to render military service.

SECTION 8. *Duty of an Employer to Reintegrate a Reservist and Conditions for Reintegration.* – It shall be the duty of the employer to immediately reintegrate a reservist returning from military service to his/her

former position, or if not practicable, to a substantially equivalent position, without loss of seniority rights and diminution of benefits, immediately after he/she is officially discharged from military service; *Provided*, That the following conditions shall be complied with:

- (a) The reservist has rendered or performed military service as a member of the Reserve Force of the AFP;
- (b) The employer has been given a written notice by the AFP or the reservist at least fifteen (15) days prior to departing for military service unless precluded by military necessity, or under all the relevant circumstances, the timely provision of notice is otherwise impossible or unreasonable. The written notice shall, as far as practicable, indicate the duration of military service and other relevant information; and
- (c) The reservist has notified the employer of his/her intent to return to work in accordance with Section 9 hereof.

For this purpose, the AFP shall issue and provide the pertinent notices and documents to reservists and their employers in a timely manner to facilitates the reintegration of the reservists to their employment.

SECTION 9. *Period to Notify of Intent to Return.* – Reservists shall notify their employers of their intent to return to work, subject to the following circumstances and conditions:

- (a) In the case of reservists called to military service for a definite period and such period is clearly indicated in the call for active duty training or such other notice issued by the AFP, the employer shall be deemed notified of the intent to return when furnished a copy of the pertinent notice form the AFP prior to the absence of the reservists for military service;
- (b) In the case of reservists called to military service for an indefinite period, and there is no clear indication of the period of service in the notice or call issued by the AFP, the employer shall be deemed notified of the intent to return when furnished a copy of the pertinent notice from the AFP indicating the impending discharge of reservists at least fifteen (15) days prior to the end of the military service; *Provided*, That the reservists shall not be deemed ineligible when circumstances do not permit the timely prior notification of absence due to military service and/or intent to return of a reservists in compliance with this provision; *Provided further*, That reservists who suffer from illness or injury incurred in or aggravated during, the performance of military service shall be allowed to indicate their desire to return to their former position within a reasonable time as prescribed by a military doctor; *Provided finally*, That the AFP shall ensure that its policies and administrative processes, whenever

practicable, allow for at least fifteen (15) days prior notification to employers regarding the absence of reservists for military service and their capacity and intent to return to their employment.

SECTION 10. *Compensation for Non-Reintegration of Reservists.* – In the event that the reintegration of the reservist is impossible due to authorized causes, the reservist shall be entitled to separation pay in accordance with law.

SECTION 11. *Compensation of Reservists for Military Service.* – For the duration of their military service, reservists shall be entitled to the base pay commensurate to their rank and consistent with their counterpart in the regular force, including the payment of premium contributions to the Government Service Insurance System (GSIS), Philippine Health Insurance Corporation (PhilHealth) and Philippine Home Development Corporation (PAGIBIG).

As far as practicable and except as provided herein all pertinent social security contributions of the reservists shall not reflect any gap in contributions.

Reservists shall have the option to pay their Social Security System (SSS) contributions as a voluntary paying SSS member to avoid any gap in their contribution records and afford their full entitlement to SSS benefits in accordance with existing guidelines. For this purpose, the AFP shall establish the necessary administrative processes to assist reservists in the timely remittance of pertinent social security contributions.

SECTION 12. *Multi-stakeholder Engagements and Advocacies.* – The AFP, in coordination with the Department of National Defense (DND), Department of Labor and Employment (DOLE) and other relevant agencies and stakeholders, shall undertake an information and awareness campaign on the employment rights of reservists.

SECTION 13. *Administrative Fines and Penalties.* – An employer who violates the provisions of this Act shall be liable for a fine ranging from Fifty Thousand Pesos (Php 50,000.00) to Five Hundred Thousand Pesos (Php 500,000.00), or imprisonment ranging from three (3) months to two (2) years, or both, at the discretion of the court. If the offense is committed by a corporation, trust, firm, partnership or association or other entity, the penalty of imprisonment shall be imposed upon the responsible officer or officers of such corporation, trust, firm, partnership or association or entity.

SECTION 14. *Military Duty Leave.* – A reservist shall be entitled to annual military duty leave of seven (7) days with pay for the exclusive purpose of undergoing military training or joining military activities. For this purpose, the SSS and the GSIS shall promulgate the necessary rules for the availment of this benefit.

CHAPTER 4

FINAL PROVISIONS

SECTION 15. *Appropriations.* – The amount necessary for the immediate and effective implementation of this Act shall be charged against the funds of the DND and the AFP. Thereafter, such sums as may be necessary for the implementation of this Act shall be included in the annual General Appropriations Act.

SECTION 16. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the AFP, DND, DOLE, CSC, and other appropriate government agencies, in consultation with relevant stakeholders, shall promulgate the rules and regulations for the effective implementation of this Act.

SECTION 17. *Separability Clause.* – Should any provision herein be declared unconstitutional or invalid, the same shall not affect the validity of the other provisions of this Act.

SECTION 18. *Repealing Clause.* – Section 32 of Republic Act No. 7077 and items (f) and (g) of Presidential Decree No. 183 Series of 1973 (or “Providing For the Annual Registration of Reservists of the Armed Forces of the Philippines; Granting Security of Tenure to Reservists Employed in Private Firms While Undergoing Refresher Training, Mobilization or Assembly Tests or Annual Active Duty Training In Fulfillment of Their Military Obligations; And For Other Purposes”) are hereby repealed.

All other laws, decrees, orders, rules and regulations or other issuance or parts inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 19. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,