

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

NINETEENTH CONGRESS  
First Regular Session

House Bill No. 1993



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**Introduced by Representative Edcel C. Lagman**

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**EXPLANATORY NOTE**

Enforced disappearance is a grave arbitrary deprivation of liberty perpetrated by public authorities or by private individuals or groups acting on the orders of or with the consent and acquiescence of public authorities who refuse to disclose information about the fate and whereabouts of the disappeared person. Some of the victims surface alive, others are found dead or their skeletal remains exhumed, but most remain unaccounted for or could not be located.

Asian Theological Seminary Counseling Department Chairperson Annabel Manzanilla-Manalo, Ph.D, illustrates the suffering and agony the family of a victim of enforced disappearance experiences:

"The enforced disappearance of a loved one is experienced by family members as traumatic loss. Its sudden or violent nature makes it extremely devastating and painful...

"For most families, traumatic loss results in unresolved grief which usually lasts for many months, or even years after the disappearance. This is commonly expressed in lingering pain, difficulty with transitions or changes, inability to make decisions, decreased ability to cope with routine activities, inability to move on from a sense of loss, helplessness, and despair. Unresolved grief reactions are indications of 'complicated mourning', a condition where both trauma and grief coincide. The nature and depth of traumatic loss and, consequently, the healing process would vary according to factors such as availability of social support, cohesiveness of the family, socio-economic situation, time that has elapsed since the disappearance, establishment of truth and retrieval of the body, and the possibility of justice and reparations. Similarly, the need to simultaneously address legal, economic and other family concerns can make the healing process more complicated."

The dire emotional and economic impacts of enforced disappearance are described by respected psychologist and Psychology Professional Regulations Commission Board Member Imelda V. G. Villar, Ph.D as follows:

"If it is an offspring or a husband that disappeared, the spouse and/or the other children suffer much. Mothers tend to neglect their own needs and those of other members of the family. All energy and attention are focused on searching for the missing child or husband. Because they withdraw socially

and emotionally from those around them, there is a consequent loss of vital support from the outside.

"The family can suffer from economic distress if the missing is the breadwinner. Those left behind who are working may be so disturbed that they cannot work and eventually lose their job. This economic difficulty may worsen if the family spends money on fortune-tellers, informants and other expensive administrative steps to find out the fate of the loved one.

"Thoughts about how the loved one may have suffered or is suffering can heighten the pain. This is compounded by the guilt that they did not do enough to protect the victim."

As of June 2022, the Families of Victims of Involuntary Disappearance (FIND), had documented 2,066 out of 2,520 reported victims of enforced disappearance nationwide since 1971. It is surmised that the actual number could be much higher as fear of reprisal or being themselves abducted or disappeared by armed perpetrators discourage the families of the victims from reporting.

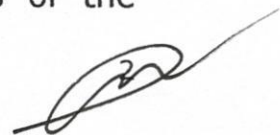
Enforced disappearance severely impact women and children as a large majority of the victims are male. The wives of the disappeared are suddenly thrust into an undetermined status - neither separated legally or by mutual agreement nor widowed as they have no foolproof evidence of their husbands' death. Wives who come from poor families where the disappeared husbands were the sole breadwinners become saddled with economic difficulties of solo parenting. Others who are better off encounter different financial issues arising from the absence of the spouse, with respect to lease or sale of conjugal property, access to their husbands' bank accounts, among others.

The children of the disappeared have their own share of difficulties such as dealing with the uncertainty of their parent's fate even as they wonder whether they are already orphaned or abandoned for reasons they can hardly comprehend. Some of them are forced to quit school and find odd jobs to help augment the household budget for food and other basic needs.

In response to the difficult situation of the families of the disappeared, particularly wives and mothers, this bill seeks to recognize, albeit belatedly, this unique status toward eliminating the stigma with which it is associated by granting them a "Certificate of Absence" of their kin, not a certificate of death.

The "Certificate of Absence" may be used by family members of the disappeared in order to be entitled to certain rights and benefits which may include but are not limited to: access to bank accounts of family members who have disappeared; inheritance, ownership, transfer, division or lease of property; access to various forms of government assistance and social welfare benefits more particularly those covered by the Healing Intervention Leading to Optimum Management for Victims of Torture and Enforced Disappearance (*Paghilom*) under the auspices of the Department of Social Welfare and Development; and the right to claim, receive, and collect the remains of the disappeared relatives once found.

Measures similar to this legislative proposal have been implemented in Argentina, Peru, Uruguay, Chile, and Colombia. Filipino families of the



disappeared strongly urge the Philippines to join these countries in protecting and fulfilling the economic and social rights and civil liberties of the families of the disappeared.

It is high time that government address their special needs with dispatch. For all the abovementioned reasons, immediate passage of this bill is earnestly sought.

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**EDCEL C. LAGMAN**

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**AN ACT**

**PROVIDING FOR THE ISSUANCE OF A CERTIFICATE OF ABSENCE TO IMMEDIATE FAMILY MEMBERS OF VICTIMS OF ENFORCED OR INVOLUNTARY DISAPPEARANCE, DEFINING RIGHTS AND BENEFITS ACCRUING FROM POSSESSION OF THE CERTIFICATE AND FOR OTHER PURPOSES**

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

**SECTION 1. Short Title.** – This Act shall be known as the “Certificate of Absence Act of 2022.”

**SEC. 2. Declaration of Policy.** – The State values the dignity of every human person and guarantees full respect for human rights. Recognizing the inherent dignity and universal worth of every human person, the State prohibits deprivation of liberty without due process of law even as it declares the non-derogable right not to be subjected to enforced disappearance. Notwithstanding this policy, in the event enforced disappearances are committed, the State shall provide appropriate reparations to the families of the disappeared, including provision of psychosocial support, accompaniment and rehabilitation. Relevant government agencies shall render social services and assistance to family members of the disappeared, the authenticity of which status shall be affirmed by their holding of a “certificate of absence” duly issued by the Philippine Commission on Human Rights and its regional and provincial offices.

**SEC. 3. Definition of Terms.** – For purposes of this Act, the following terms shall be defined as follows:

a. *Enforced or involuntary disappearance* refers to the arrest, detention abduction or any other form of deprivation of liberty committed by agents of the State or by persons or group of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law;

b. *Victim* refers to the disappeared person and any individual who has suffered harm as a direct result of an enforced or involuntary disappearance as defined in the preceding paragraph (a);



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c. *Certificate of Absence* refers to an official document issued to family members of the disappeared persons, affirming their status as "disappeared" as opposed to "deceased".

**SEC. 4. Scope of the Certificate of Absence** – A certificate of absence shall cover the rights of both the disappeared and their families. The right to issuance of the certificate shall not prejudice the right of the disappeared to be surfaced or released from detention; the right of the families to know the truth about the fate and whereabouts of their disappeared kin, the progress and the result of government's investigation into the disappearance; and their right to all pertinent legal remedies and reparations available and to which they are entitled; and the right to claim and receive the remains of the victims if found or recovered.

**SEC. 5. Rights and Benefits Accruing from the Certificate of Absence.** – Legal holders of the Certificate of Absence shall be entitled to rights and benefits including but not limited to the following:

- (a) Access to bank accounts of family members who have disappeared;
- (b) Inheritance, ownership, transfer, division or lease of property;
- (c) Ability to enter or formalize a new marriage in accordance with article 41 of the Family Code, Executive Order No. 209, as amended, in relation to article 391 of the New Civil Code, Republic Act No. 386, as amended;
- (d) Monetary as well as nonmonetary reparations;
- (e) Access to various forms of government assistance and social welfare benefits under *Paghilom* and RA 10353 otherwise known as the "Anti-Enforced or Involuntary Disappearance Act of 2012";
- (f) Access to benefits under the "Solo Parents' Welfare Act of 2000" (RA 8972) as amended by the "Expanded Solo Parents Act of 2022" (RA 11861);
- (g) Appropriate civil status of "spouse of the disappeared" and not a widow or widower;
- (h) Recognition of the status of "child/children of the disappeared" and not orphaned or abandoned;
- (i) Right to claim, receive and collect the remains of the disappeared relatives; and
- (j) Right to file complaints under RA 10353.

**SEC. 6. Inapplicability of the Statute of Limitations.** – Consistent with the continuing character of enforced disappearance and its exemption from the statute of limitations under Sections 21 and 22 of RA 10353, the issuance of a Certificate of Absence shall not bar or discontinue the prosecution of persons responsible for enforced or involuntary disappearance



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or hinder the investigations that seek to establish the truth and locate the victims alive or dead and duly identified.

**SEC. 7. Authority to Issue Certificates of Absence.** – The Commission on Human Rights (CHR) and its provincial and regional offices are authorized to issue Certificates of Absence to family members of the disappeared within the fourth civil degree of consanguinity or affinity upon their compliance with reasonable requirements, without the need to pay application and/or processing fees.

**SEC. 8. Centralized Database of Information.** – In coordination with nongovernment human rights organizations documenting cases or incidents of enforced or involuntary disappearance, the CHR shall establish, maintain and update monthly a centralized database of information on enforced disappearance victims from the Ferdinand E. Marcos Sr. administration up to the current dispensation. Digital security protocols shall be strictly observed in the storage, release and sharing of information. Only persons with legitimate interest in the stored information may be allowed access thereto.

**SEC. 9. Expeditious Issuance of Certificate of Absence.** – The CHR shall expeditiously issue the Certificate of Absence within seven (7) days upon filing of application with the National Central Office or fourteen (14) days if the application is filed with any of the CHR's provincial or regional offices.

The Certificate of Absence shall be valid for a period of seven (7) years from the date of issuance at which expiration, the concerned family may opt for a death certificate or a renewal of the Certificate of Absence for an indefinite period.

**SEC. 10. Revocation of the Certificate of Absence.** The Certificate of Absence may be revoked anytime if the disappeared person is found alive or has reappeared as construed under Section 23 of the Implementing Rules and Regulations of RA 10353, or whose remains have been exhumed or recovered. Revocation shall be without prejudice to investigation into the past disappearance, prosecution of those responsible for the offense and grant of reparation to the surfaced victim and his or her family or the family of the victims whose remains have been exhumed or recovered and returned to the family.

**Section 11. Implementing Rules and Regulations.** – Within thirty (30) days from the effectivity of this Act, the Department of Justice (DOJ), the Department of Social Welfare and Development (DSWD), the CHR, and the Families of Victims of Involuntary Disappearance (FIND) in consultation with other human rights organizations, shall jointly promulgate the rules and regulations for the effective implementation of this Act and shall ensure the full dissemination of the same to the public.

**SEC. 12. Separability Clause.** – If for any reason any part or provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall remain and continue to be in full force and effect.

**SEC. 13. Repealing Clause.** – All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof, inconsistent with



the provisions of this Act are hereby repealed, amended or modified accordingly.

**SEC. 14. Effectivity Clause.** – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation or the Official Gazette.

*Approved,*

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