



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

Nineteenth Congress

First Regular Session

House Bill No. 7865



Introduced by:
HON. MARISSA "DEL MAR" MAGSINO
OFW PARTYLIST

EXPLANATORY NOTE

Illegal recruitment has been the bane and scourge of Overseas Filipino Workers (OFWs) for decades. Illegal recruiters employ various deceptive schemes to prey on the need and desires of migrant workers lured by the promise of higher-paying jobs. Once victimized, they are treated as illegal migrants and forced to suffer slave-like working conditions under threat of deportation. They endure the pain of isolation and are often subjected to all forms of abuse and maltreatment by their employers and state actors of their host countries. In many instances, they're not even able to leave the country but left saddled with debts. The vulnerability of OFWs to these pernicious practices is further aggravated by government corruption and unholy connivance with the perpetrators.

It is the policy of the State to afford full protection to labor, local and overseas, organized and unorganized, and promote full employment opportunities for all. Thus, the protection of OFWs and the promotion of their welfare are the State's priority and responsibility.

Currently, Philippine laws against illegal recruitment include scattered provisions found in the 'Labor Code of the Philippines' (Presidential Decree No. 442), in Republic Act No. 8042 as amended by Republic Act 10022, or the 'Migrant Workers Act', Republic Act No. 11641 or the 'Department of Migrant Workers Act', and applicable provisions of Republic Act No. 10175, or the 'Anti-Cybercrime Prevention Act of 2012', Republic Act No. 11862, or the 'Expanded Anti-Trafficking Persons Act of 2022', and other special laws.

This bill seeks to consolidate all existing laws on illegal recruitment into a single penal law to facilitate a more effective and efficient enforcement and implementation of the law to combat the inimical practice.

Moreover, the development of information and communications technologies (ICT) has resulted to ever-increasing number of internet users and brought about new digital products, including those aimed at migrant workers. Illegal recruiters and human traffickers are taking advantage of these technologies to profile, recruit and exploit their victims offering fake job offers and promises in the absence of traditional physical and geographical limitations. The global nature of illegal recruitment and the abuse of these technologies make it more difficult for law enforcement authorities to combat this crime, requiring a certain level of digital expertise and cooperation across borders to support prosecution.

To address unlawful activities, the bill aims to specifically penalize acts of illegal recruitment committed by, through and with the use of ICT technologies or systems, otherwise known as 'online illegal recruitment', and provide higher penalties (fines) for greater deterrence.

Recognizing the difficulties encountered by law enforcement agencies by reason of the cross-border nature of illegal recruitment in many cases, particularly those perpetrated online, which raises jurisdictional issues, this bill incorporates mechanisms designed to expedite the investigation and prosecution of the offenses through international coordination and cooperation, as well as confer jurisdiction to local courts in proper cases.

Finally, this bill mandates the Department of Migrant Workers (DMW), the Department of Social Welfare and Development (DSWD), the Department of Foreign Affairs (DFA), the Overseas Workers Welfare Administration (OWWA), other appropriate government agencies, and local government units, in applicable cases, to make available specific social services to victims of illegal recruitment and their families as safety nets and recovery assistance.

The author wishes to recognize the valuable inputs provided by the Department of Justice in the crafting of this proposed measure.




HON. MARISSA "DEL MAR" MAGSINO
Assistant Minority Leader



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AN ACT
PROVIDING FOR AN ANTI-ILLEGAL RECRUITMENT LAW OF THE PHILIPPINES AND
FOR OTHER PURPOSES, AND APPROPRIATING FUNDS THEREFOR

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

Section 1. *Short Title* – This Act shall be known as the ‘Anti-Illegal Recruitment Act of 2023’.

Section 2. *Definition of Terms* – For purposes of this Act:

- (a) *Authority* refers to a document issued by the Department of Migrant Workers (DMW) authorizing a person or association to engage in recruitment and placement activities as a private recruitment entity;
- (b) *Digital or computer data* refers to any representation of facts, information, or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function, and includes electronic documents and/or electronic data messages, traffic data, whether stored in local computer systems or online;
- (c) *Ethical recruitment* – refers to the lawful hiring of workers in a fair and transparent manner that respects and protects their dignity and human rights;
- (d) *Information and communications technologies (ICT)* refer to technologies or systems intended for, and capable of, generating, sending, receiving, storing or otherwise processing electronic data messages or electronic documents, including computer or other similar devices by which or in which data is recorded or stored, and any procedures related to the recording or storage of electronic data message or electronic document;

- (e) *Internet intermediaries* refer to persons or entities that provide infrastructure, platforms, internet sites, and access to, and host, transmit and index content, products and services originated by third parties on the internet, including, among others, internet service providers, web hosting providers, domain name registrars, internet search engines and portals, E-commerce intermediaries, and participative network platform providers including social media intermediaries;
- (f) *Internet service provider (ISP)* refers to a public telecommunication entity (PTE) or value-added service (VAS) provider duly authorized by or registered with the National Telecommunications Commission (NTC) that provides users or other entities with data connection allowing access to the internet through physical transport infrastructure, and such access is necessary for internet users to access content and services on the internet, and for content providers to publish or distribute materials online;
- (g) *Interpol* refers to International Police Organization
- (h) *License* refers to a document issued by the DMW authorizing a person or entity to operate a private recruitment or manning agency;
- (i) *Online illegal recruitment* refers to illegal recruitment committed by, through and with the use of ICT technologies or system;
- (j) *Recruitment and placement* refer to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally, or abroad, whether for profit or not: *Provided*, That any person or entity which, in any manner, offers or promises for a fee, employment to two (2) or more persons shall be deemed engaged in recruitment and placement;
- (k) *Recruitment or manning agency* refers to any person or entity licensed by the Secretary of Migrant Workers to engage in recruitment and placement of workers for a fee which is charged, directly or indirectly, from the workers or employers or both;
- (l) *Subscriber's information* refers to any information contained in the form of digital or computer data or any other form that is held by an internet intermediary or service provider relating to subscribers of its services, including the type of communication service used, the subscriber's identity, postal or geographic address, access numbers, any assigned network address, and any other information available on the basis of the service agreement or arrangement;
- (m) *Traffic data* or non-content data refers to any computer data other than the content of the communication including, but not limited to, the communication's origin, destination, route, time, date, size, duration, or type of underlying service.

Section 3. *Illegal Recruitment; Without License or Authority* -Any recruitment activities as defined in this Act when undertaken by non-licensees or non-holders of authority, shall be deemed illegal and punishable under this Act.

Section 4. *Illegal Recruitment* – The following acts, whether committed by a non-licensee or non-holder, licensee or holder of authority, shall also be deemed illegal and punishable under this Act:

- (a) *Illegal Exaction* - To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Migrant Workers, or to make a worker pay or acknowledge any amount greater than that actually received by him as a loan or advance;
- (b) *False Information* - To furnish or publish any false notice or information or document in relation to recruitment or employment;
- (c) *False Statements* - To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under, or for the purpose of documenting hired workers with the DMW, which include the act of reprocessing workers through a job order that pertains to non-existent work, work different from the actual overseas work, or work with a different employer whether registered or not with the DMW;
- (d) *Pirating* - To induce or attempt to induce a worker already employed to quit his employment in order to offer him another, unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- (e) *Influencing Not to Employ* - To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency or who has formed, joined or supported, or has contacted or is supported by any union or workers' organization;
- (f) *Harmful Jobs* - To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;
- (g) *Failure to Comply with Rules and Regulations* - To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Migrant Workers;
- (h) *Alteration of Contracts* - To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the DMW from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Secretary of Migrant Workers;
- (i) *Travel Agency Officers Recruiting* - For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of travel agency;
- (j) *Withholding Travel Documents* - To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations, or for any other reasons, other than those authorized under the Labor Code and its implementing rules and regulations;

- (k) *Unjustified Non-Deployment* - Failure to actually deploy a contracted worker without valid reason as determined by the DMW;
- (l) *Non-Reimbursement Upon Failure to Deploy* - Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault;
- (m) *Delegation to an Alien* - To allow a non-Filipino citizen to head or manage a licensed recruitment/manning agency;
- (n) *Obstruct Inspection* - To obstruct or attempt to obstruct inspection and access to records and book of accounts of persons and entities covered by this Act by the Secretary of Labor and the Secretary of Migrant Workers; and,

Section 5. *Other Prohibited Acts* - it shall also be unlawful for any person or entity to commit any the following prohibited acts:

- (1) Grant a loan to an OFW with interest exceeding eight percent (8%) per annum, which will be used for payment of legal and allowable placement fees and make the migrant worker issue, either personally or through a guarantor or accommodation party, postdated checks in relation to the said loan;
- (2) Impose a compulsory and exclusive arrangement whereby an OFW is required to avail of a loan only from specifically designated institutions, entities or persons;
- (3) Refuse to condone or renegotiate a loan incurred by an OFW after the latter's employment contract has been prematurely terminated through no fault of his or her own;
- (4) Impose a compulsory and exclusive arrangement whereby an OFW is required to undergo health examinations only from specifically designated medical clinics, institutions, entities or persons, except in the case of a seafarer whose medical examination cost is shouldered by the principal/shipowner;
- (5) Impose a compulsory and exclusive arrangement whereby an OFW is required to undergo training, seminar, instruction or schooling of any kind only from specifically designated institutions, entities or persons, except for recommendatory trainings mandated by principals/shipowners where the latter shoulder the cost of such trainings;
- (6) For a suspended recruitment/manning agency to engage in any kind of recruitment activity including the processing of pending workers' applications; and,
- (7) For a recruitment/manning agency or a foreign principal/employer to pass on the OFW or deduct from his or her salary the payment of the cost of insurance fees, premium or other insurance related charges, as provided under the compulsory worker's insurance coverage.

Section 6. *Illegal Recruitment as Economic Sabotage* - Illegal recruitment when committed by a syndicate or in large-scale shall be considered an offense involving economic sabotage.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large-scale if committed against three (3) or more persons individually or as a group.

Section 7. Power to Regulate the Recruitment, Employment and Deployment of OFWs – The Secretary of Migrant Workers shall have the authority to regulate the recruitment, employment and deployment of OFWs, including the power to investigate and prosecute illegal recruitment cases in accordance with Section 6 of Republic Act No. 11641 or the ‘Department of Migrant Workers Act’.

Section 8. Duties and Responsibilities of Law Enforcement Agencies - The National Bureau of Investigation (NBI), the Philippine National Police (PNP) and the Bureau of Immigration (BI) shall coordinate and cooperate with the DMW for the efficient and effective enforcement and implementation of the provisions of this Act.

The NBI, PNP and BI shall organize an anti-illegal recruitment unit or center to be manned by special investigators to exclusively handle cases involving violations of this Act. Law enforcement agencies shall also coordinate with Interpol whenever necessary through the Philippine Center for Transnational Crimes Interpol National Central Bureau Manila (PCTC/INTERPOL NCB Manila) in the country.

Section 9. Illegal Recruitment Committed By, Through and With the Use of Information and Communications Technologies (ICT) – Notwithstanding the provision of Section 6 of Republic Act No. 10175, otherwise known as the ‘Cybercrime Prevention Act of 2012’, any act of illegal recruitment, if committed by, through and with the use of ICT or ‘online illegal recruitment’ shall be penalized under this Act.

In the investigation and prosecution of any act committed in violation of this Section, the provisions of Chapter IV of Republic Act No. 10175, when relevant and practicable, shall apply *mutatis mutandis*.

Section 10. Duties and Responsibilities of Internet Intermediaries and Internet Service Providers - Internet intermediaries and service providers shall cooperate and assist law enforcement authorities in the collection or recording of digital or computer data, traffic data, and subscriber information material to the investigation of acts committed in violation of this Act pursuant to the preceding Section.

Section 11. Jurisdiction - The Regional Trial Court shall have jurisdiction over any violation of this Act if any of the elements was committed in the Philippines, including any violation committed by a Filipino national regardless of the place of commission, or when by such commission any damage is caused to a natural or juridical person who, at the time the offense was committed, was in the Philippines.

Section 12. Obtaining Assistance From Foreign States – Philippine law enforcement agencies, through the Department of Foreign Affairs (DFA) and the DMW, may make a request to any foreign State, to the extent allowed by the law of the foreign State and requirements to be complied with, for assistance in obtaining information they need relating to the investigation and prosecution of any violation of this Act: *Provided, That*

when necessary and relevant, all international instruments on international cooperation in criminal matters, arrangements agreed on the basis of uniform or reciprocal legislation, to the widest extent possible, shall be resorted to for purposes of investigations or proceedings concerning violations of this Act : *Provided further*, That the Philippines shall negotiate for the inclusion of acts of illegal recruitment as among extraditable offenses in existing and future treaties and bilateral agreements.

Section 13. Penalties –

- a) Any person found guilty of violating Sections 3 and 4 of this Act shall suffer the penalty of imprisonment of not less than twelve (12) years and one (1) day but not more than twenty (20) years and a fine of not less than Two Million Pesos (P2,000,000.00) nor more than Four Million Pesos (P4,000,000.00);
- b) The penalty of life imprisonment and a fine of not less than Four Million Pesos (P4,000,000.00) nor more than Ten Million Pesos (P10,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein;
- c) Any person found guilty of any of the prohibited acts in Section 5 of this Act shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than One Million Pesos (P1,000,000.00) nor more than Two Million Pesos (P2,000,000.00);
- d) If the act committed is in violation of Section 9 of this Act, the imposable penalty shall be one (1) degree higher than those provided for in the preceding paragraphs;
- e) If the person illegally recruited is less than eighteen (18) years of age, the maximum penalty shall be imposed;
- f) Any law enforcement officer or internet intermediary and service provider who violates or fails to comply with any of their respective duties and responsibilities in reference to Section 10 of this Act shall suffer the penalty of imprisonment of not less than four (4) years and one (1) day but not more than six (6) years and a fine of not less than two hundred thousand pesos (P200,000.00) nor more than Five Hundred Thousand Pesos (P500,000.00).

The same penalty provided for in the preceding paragraph shall be imposed on any person who connives with or permits the commission of any of the acts penalized in this Act.

In every case, conviction shall cause and carry the automatic and permanent revocation of the license or registration of the internet intermediary or service provider, or the recruitment/manning agency, lending institutions, training school or medical clinic, as the case may be.

If the offender is a public official or employee, the additional penalties of dismissal from the service, permanent disqualification from holding any public office and forfeiture of his/her benefits shall be imposed.

In every case, if the offender is a repeat or habitual offender as defined in law, the maximum period of imposable penalty shall be imposed.

If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings.

If the offender violating any of the provisions of this Act is a juridical person, the penalty herein provided shall be imposed on its president, secretary, and/or members of the board of directors, or any of its members and employees who may have directly participated in the violation.

Section 14. *Mandatory Services to Victims of Illegal Recruitment* – To ensure recovery, rehabilitation and reintegration into the mainstream of society, the DMW, the Department of Social Welfare and Development (DSWD), the Overseas Workers Welfare Administration (OWWA), the Department of Labor and Employment (DOLE), the Technical Education and Skills Development Authority (TESDA), other appropriate government agencies and local government units shall, in applicable cases, make available the following services to victims of illegal recruitment and their families:

- (a) Emergency shelter;
- (b) Counselling and medical services;
- (c) Free legal services including information on their rights, procedure for filing of complaints, claims for compensation, and such other legal remedies available to them;
- (d) Educational assistance;
- (e) Livelihood assistance; and
- (f) Skills training.

Section 15. *Ethical Recruitment* – The DMW shall develop and promulgate a Code of Ethical Standards for Overseas Labor Recruitment for adoption by private recruitment and manning agencies.

Section 16. *Implementing Rules and Regulations* - Within sixty (60) days after the effectivity of this Act, the DMW, the DFA, the Department of Information and Communications Technology (DICT), the Department of Science and Technology (DOST), the DOJ, the DSWD, the OWWA, the BI, the PNP, the NBI, the PCTC/INTERPOL NCB Manila, the DOLE, and TESDA, in consultation with the Inter-Agency Council Against Trafficking (IACAT), shall formulate the necessary rules and regulations for the effective implementation of this Act.

Section 17. *Funding*. - The departments, agencies and LGUs charged with carrying out the provisions of this Act shall include in their respective programs the implementation of this Act, the funding of which shall be included in the General Appropriations Act or in the Annual Budget Ordinance of the LGUs.

Section 18. *Liability Under Other Laws* - A prosecution under this Act shall be without prejudice to any liability for violation of any provisions of the Revised Penal Code, as amended, Republic Act No. 11862 or the Expanded Anti-Trafficking Persons Act of 2022, Republic Act No. 10175 or the Cybercrime Prevention Act of 2012, Republic Act No. 9160 or the Anti-Money Laundering Act of 2001, as amended, Republic Act No. 3019

or the Anti-Graft and Corrupt Practices Act, Presidential Decree 1829 or the Act Penalizing Obstruction of Apprehension and Prosecution of Criminal Offenders, and other special laws.

Section 19. *Separability Clause* - If for any reason, any part or provision of this Act shall be declared or held to be unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 20. *Repealing Clause* - All republic acts, executive orders, rules and regulations, and other issuances, or parts thereof, that are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 21. *Effectivity Clause* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved.