



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

Nineteenth Congress

Second Regular Session

House Bill No. 8560



Introduced by:
HON. MARISSA "DEL MAR" MAGSINO
OFW PARTY LIST

EXPLANATORY NOTE

Overseas work has become a viable solution for many Filipinos who face the difficulties of landing a decent and sustaining job at home. However, although it has brought opportunities for a better and financially stable life, the changing dynamics in family relationships, as brought about by migration and parental absence, could have negative consequences on the physical and emotional well-being, and most importantly on the personal security and safety of the children left behind. In many cases, the educational and personal development of the children are also affected.

Children, particularly minors, are often vulnerable to insidious forms of violence, exploitation and abuse that may occur in their homes, schools, online, and in other places they usually frequent. The United Nations (UN) Report on 'Migration, Development and Children Left Behind'¹ observed that separation of children from their parents who work abroad exposes them to certain risks, such as being abused or trafficked. It is important to ensure that children are safe and secure while their parents are working overseas.

On March 9, 2023, a Filipina overseas worker in the Kingdom of Saudi Arabia was shocked to be informed that 4 of her 5 children, aged 5,9,12 and 14, have been stabbed to death by her live-in partner who eventually killed himself after the massacre of the victims. Earlier in November last year, two children aged 11 and 15 years old,

¹ (n.d.). *MIGRATION, DEVELOPMENT AND CHILDREN LEFT BEHIND: A MULTIDIMENSIONAL PERSPECTIVE*. Office of the High Commissioner for Human Rights (UN Human Rights. (n.d.). *MIGRATION, DEVELOPMENT AND CHILDREN LEFT BEHIND: A MULTIDIMENSIONAL PERSPECTIVE*.

https://www.Ohchr.org/Sites/Default/Files/Documents/Issues/MHR/Consultation2010/5.UNICEF_Working_Paper_Migration_Dev_CLB.pdf.

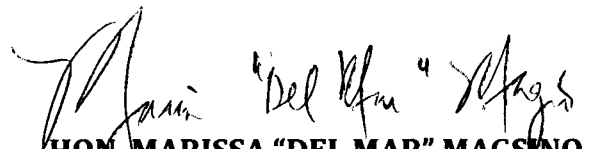
were raped and killed in Davao del Sur by the boyfriend of their mother, an OFW in the Middle East. These tragedies were so serious that it prompted the Department of Migrant Workers (DMW) to look at developing a program to care for the children of OFWs who are left to non-parents to prevent a repeat of the violence that killed the children

This bill seeks to institutionalize mechanisms, under the *Parens Patriae* doctrine, for the protection of minor children whose parents are Overseas Filipino Workers (OFWs) employed abroad. Specifically, it provides for a system of temporary guardianship through which absentee OFW-parents can ensure their children's safety by designating a trusted 'temporary guardian', set-up regular communication with the children and continue to provide them the necessary emotional and financial support. The engagement will be subject to monitoring by barangay officials and the Department of Social Welfare and Development (DSWD), to make certain the responsibilities of the parties are faithfully complied with, and with appropriate sanctions in cases of dereliction.

To further strengthen the system, barangay officials are mandated to conduct regular visitations to residences of the minor children left behind to check on their condition, and to oversee any sign of dysfunction or threat affecting the children and have the same reported to proper authorities and parties for timely and appropriate interventions.

No matter the circumstance, every child has the right to be protected from violence, exploitation and abuse. Above all, protecting children means protecting their physical, mental and psychosocial needs to safeguard their future. And that is the primordial duty of responsible parenting, with more reason for those who work abroad and leave their children behind.

For the foregoing reasons, the immediate consideration and approval of this bill is earnestly urged.


HON. MARISSA "DEL MAR" MAGSINO
Assistant Minority Leader



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AN ACT
INSTITUTIONALIZING MECHANISMS FOR THE PROTECTION OF MINOR CHILDREN
WHOSE PARENT OR BOTH PARENTS ARE OVERSEAS FILIPINO WORKERS
EMPLOYED ABROAD

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 ‘Overseas Filipino Workers’ Left Behind-Children Protection Act’.

Section 2. *Declaration of Policy* – It is the policy of the State to safeguard the well-being of its citizenry, particularly of minor children whose parent or both parents are employed abroad and where the safety and security of the children are compromised due to lack of effective parental supervision. Toward this end, the State shall provide mechanisms, under the *parens patriae* doctrine, that will ensure the safety and well-being of minor children of parents who are Filipino migrant workers actively employed abroad, such as the provision of temporary guardianship, monitoring and visitation of concerned government agencies, and further defining the responsibilities of the absentee parents and temporary guardians.

Section 3. *Definition of Terms* – For purposes of this Act:

- a) *Absentee Parent* refers to an Overseas Filipino Worker actually employed or living outside the Philippines and who have a minor child/children left behind in the Philippines;
- b) *Parent* refers to a biological parent or adoptive parent; and,
- c) *Temporary Guardian* refers to a relative or individual taking custody of, and/or parental responsibility of a minor child in the absence of the parents, or anyone to whom a child is given or left for care or custody on a temporary basis as provided for in this Act.

Section 4. *Coverage* – This Act shall apply to all Overseas Filipino Workers (OFWs), whether land-based or sea-based, who are actually employed outside the Philippines, regardless whether documented or undocumented, including those who may not be actually employed at a given time while abroad due to a current employment or immigration-related issue, and who have minor child/children left behind in the Philippines.

Section 5. *Temporary Guardianship* – A solo-parent OFW, or legal spouses or common-law partners who are both OFWs and are both employed overseas at the same time, and who have a minor child or children who will be left in the Philippines, shall, prior to departure to their host countries, execute a written document, duly verified, designating another person as temporary guardian for the purpose of exercising parental responsibility over the minor child/children for a specified period of time coinciding with the former's absence. The designation shall be accepted by the temporary guardian regardless of any consideration attached thereto, if any.

Any of the following persons may be designated as temporary guardian under this Act in no specific order, unless unfit or disqualified:

- a) A surviving grandparent;
- b) Elder sibling over twenty-one years of age;
- c) A relative of the minor child within the third degree of consanguinity;
- d) The minor child's actual custodian over twenty-one years of age; and,
- e) Any person known to possess a good moral character as certified by the barangay unit having jurisdiction over the residence of the minor child and with no known criminal record or history.

The Department of Social Welfare and Development (DSWD), the Department of Migrant Workers (DMW), and the barangay unit having jurisdiction over the residence of the minor child/children shall be furnished copies of the verified document of Temporary Guardianship for monitoring and documentation purposes. These agencies shall maintain their respective registries for the purpose.

Section 6. *Duties and Responsibilities of the Temporary Guardian* – The duly designated temporary guardian shall have the following parental responsibility over the person of the minor child/children subject of the temporary guardianship:

- a) Ensure their personal security and well-being in the home, community, school, and other relevant places, particularly against any form of discrimination, violence, exploitation, harassment, abuse, and any form of inhuman treatment which degrades their dignity as human beings;
- b) Protect them against substance abuse or misuse, gambling, and from other forms of addiction and harmful habits;
- c) Provide them just, favorable and healthy living conditions, including safeguarding their general physical, emotional and mental health; and,
- d) Provide them with affection, companionship, moral guidance and understanding.

In addition to the foregoing responsibilities, the temporary guardian shall establish constant communication with the absentee parent/s for the purpose of ensuring the extension and provision of necessary material and financial support for the use and benefit of the minor child/children under his/her supervision, and to regularly update the absentee parent/s on the status and condition of their minor child/children. The temporary guardian shall also coordinate and report to the barangay officials concerned and to the DSWD in cases provided for in Section 11 of this Act.

Section 7. *Duties of the Absentee OFW Parent* – An absentee OFW parent shall have the following duties under this Act:

- a) Provide and extend material and financial support, through the designated temporary guardian, for the upkeep of the well-being of his/her minor child/children and to cover the expenses for their basic needs such as food, education, shelter, medical attention, and other daily requirements;
- b) Establish and maintain constant communication with the temporary guardian to facilitate the attainment of the preceding paragraph, and to enable himself/herself to be updated on the status and condition of his/her minor child/children; and,
- c) Whenever practicable, to establish communication with his/her minor child/children under temporary guardianship for continued demonstration of affection and imparting of moral guidance, and to verify the actual status and condition of his/her minor child/children.

Section 8. *Sanctions* - For failure to discharge any of their respective duties and responsibilities under this Act, the following sanctions shall be imposed upon :

- a) The absentee OFW parent/parents:
 - 1) Temporary or permanent suspension of parental authority over his/her minor child/children concerned through a petition that may be initiated by

the temporary guardian, any relative of the concerned minor child/children by consanguinity, or the DSWD in appropriate cases before the proper court. Other remedies for compulsion or provisional and injunctive reliefs, as the case may be, may also be sought in the proceedings; and/or,

- 2) A civil suit for damages, or criminal prosecution under existing laws for culpable negligence arising therefrom as the case may be, and as may be initiated by the temporary guardian, any relative of the concerned minor child/children by consanguinity not otherwise prohibited by law, or the DSWD.

b) The temporary guardian:

- 1) Cancellation of the temporary guardianship.
- 2) A civil suit for damages, or criminal prosecution under existing laws for culpable negligence arising therefrom as the case may be, and as may be initiated by the absentee parent/s, any relative of the concerned minor child/children by consanguinity, or the DSWD in appropriate cases; and/or,
- 3) Criminal prosecution for any unlawful act committed against the minor child/children under his/her supervision in accordance with existing and applicable penal laws.

Section 9. *Interpretation* - Nothing in this Act shall be construed to modify or repeal the relevant provisions of Executive Order No. 292, or the Family Code of the Philippines, and Presidential Decree No. 603, or the Child and Youth Welfare Code, and other special laws on child protection: *Provided*, That they shall be applied suppletorily whenever pertinent to the attending circumstances.

Section 10. *Requirement for the Issuance of Overseas Employment Certificate* – The execution and submission of a verified document on temporary guardianship to the DMW, the DSWD and the concerned barangay shall be required for the issuance of an Overseas Employment Certificate (OEC). Failure to comply with this Section, or any non-disclosure or misrepresentation in relation herewith shall invalidate the OEC.

Section 11. *Establishment of Parens Patriae Desks* – A *Parens Patriae* Desk shall be established in every barangay which shall monitor the status and condition of the minor child/children under temporary guardianship as listed in their registries under Section 7 of this Act, and for the provision of security and protection assistance when called for. The Desks shall be manned by barangay officials and personnel 24 hours a day and 7 days a week.

The barangay officials and personnel shall also regularly conduct friendly visits to the respective homes of the minor child/children under their monitoring to detect any signs of depression, abuse, or any of threat to their person and well-being, including

involvement in the use of any dangerous drugs or substances, or gambling or other forms of harmful habits or activities.

Upon finding of any of these, the barangay officials and personnel shall immediately coordinate with the temporary guardian and with the DSWD for appropriate health and social welfare, as well as administrative interventions needed. The concerned absentee OFW parent/s shall also be informed by the DSWD. The DSWD shall also engage the concerned temporary guardian in counselling sessions to assist him/her in addressing the problem and prevent the deterioration or repetition of the situation, and to determine any dereliction on the part of the temporary guardian for appropriate action.

Section 12. *Implementing Rules and Regulations* – Within ninety (90) days from the effectivity of this Act, the DSWD, the DMW and the Department of the Interior and Local Government (DILG), in coordination with the Department of Health (DOH) and other government agencies concerned with child protection, shall promulgate the rules and regulations necessary for the effective implementation of this Act.

Section 13. *Separability Clause* - If any part or provision of this Act shall be declared unconstitutional or invalid, the other provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 14. *Repealing Clause* – Except as provided for in Section 9 of this Act, all laws, presidential decrees, executive orders, rules and regulations, other issuances and parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

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

Approved.