



HOUSE OF REPRESENTATIVES

HOUSE BILL No. 8723

Introduced by REPRESENTATIVES LANI MERCADO-REVILLA,
BRYAN B. REVILLA AND RAMON JOLO B. REVILLA III

AN ACT

CREATING THE OFFICE OF TANODBATA AND PROVIDING FUNDS THEREFOR,
AMENDING FOR THE PURPOSE EXECUTIVE ORDER NUMBERED 292, SERIES
OF 1987, OTHERWISE KNOWN AS THE ADMINISTRATIVE CODE OF 1987,
PRESCRIBING THE MANDATE, POWERS AND FUNCTIONS, AND
ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT OF JUSTICE, INCLUDING
THOSE OF ITS CONSTITUENT UNITS

EXPLANATORY NOTE

Violence against children is a global problem that threatens all nations.¹ In the Philippines, thousands of children are robbed of their childhood and suffer lifelong developmental challenges as a result of violence.² A national study on violence against children conducted in 2016 revealed that 80% of Filipino children have experienced some form of violence in their lifetime that includes physical and psychological violence, sexual violence, bullying, exploitation, and violence in the internet.³ These acts of violence are often perpetrated by people whom these children trust.

It is worrying to note that child sexual violence remains under-investigated despite evidence that 17.1% of children over the age of 13 have experienced such violence.⁴ Yet even with the pervasiveness of crimes against children, most of them are unaware that there are means to help them.⁵

The physical and emotional harm leave devastating effects to abused children. The impact of violence on them not only inflicts physical pain and suffering but also emotional and psychological scars that could result in lifetime impairment. Victims may themselves become offenders as a result of their experiences.⁶

¹ National Baseline Study on Violence against Children: Philippines, Council for the Welfare of Children, UNICEF, 2016

² Ibid

³ Save the Children, <https://www.savethechildren.org.ph>, Accessed June 22, 2023, <<https://www.savethechildren.org.ph/our-work/program/childs-rights-and-protection/>>

⁴ (Roche, S., & Flynn, C. (2021). Local child protection in the Philippines: A case study of actors, processes and key risks for children. *Asia & the Pacific Policy Studies*, 8(3), 367-383. <https://doi.org/10.1002/app5.332>)

⁵ UNICEF Philippines, <https://www.unicef.org/philippines>, Accessed June 22, 2023, https://www.unicef.org/philippines/child-protection?gad=1&gclid=Cj0KCQIwy9-kBhCHARIsAHpBIHJ0tFaSTO1MTEll1k1lwP0w8pxaECu4h58ZB12qs9XOJDiusTQ9Xx4aAlndEALw_wcB

⁶ Ibid

Victims are not the only ones who suffer, society does, too. "The burden of violence to society is enormous; the costs of health care, child welfare support services, as well as the increased costs to the criminal justice system when child victims are at an increased risk of becoming children in conflict with the law. Finally, society also loses when abused children are less able to contribute and become productive members of their community."⁷

While the Philippines' current child protection system has a clear legislation and national policy, these policies, however are poorly implemented.⁸ Thus, the need for the government to beef up its efforts in ending violence against children cannot be overemphasized. It is imperative for the government to establish more stringent child protection measures that will provide a coherent structure, including a combination of policy, programs and efforts, to prevent, respond and resolve child maltreatment.⁹

With the growing number and complexity of child abuse cases and perpetrators' increasing technological sophistication, people who work to address these crimes are severely challenged. Small, rural communities, in particular, face serious difficulties in responding to abuse cases because these communities often possess limited resources and their prosecutors and investigators cannot specialize in child abuse.¹⁰

This measure aims to strengthen government efforts to protect children from violence by creating the Tanodbata, a government arm that will specialize in the prosecution of violence against children. This bill was inspired by the proposed measure first filed by Senator Juan Flavio in 2004 who envisioned the Tanodbata to be an independent body, which exclusively pursued and ensured the successful prosecution of perpetrators, to ensure that the complainant will not abandon the case due to financial restraints.

This measure empowers the State, through the Tanodbata, to intervene and initiate criminal complaints on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to initiate and/or pursue the prosecution for child abuse and exploitation.

In consideration of the foregoing, the immediate passage of this measure is earnestly sought.


REP. LAN MERCADO-REVILLA
Representative
2nd District of Cavite


REP. BRYAN B. REVILLA
Representative
AGIMAT Partylist


REP. RAMON JOLO REVILLA III
Representative
1st District of Cavite

⁷ *ibid*

⁸ (Roche et al., 2021; UNICEF, 2016) In Roche, S., & Flynn, C. (2021)

⁹ (Pells, 2012; Wessells et al., 2012) In Roche, S., & Flynn, C. (2021)

¹⁰ <https://www.ojp.gov/pdffiles1/oisd/fis200133.pdf>

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

Section 1. *Short Title.* This Act shall be known as the "Tanodbata Act."

Sec. 2. *Declaration of Policy.* It is hereby declared the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development.

Towards this end, the State shall ensure the investigation, prosecution and conviction of perpetrators of child abuse, exploitation and discrimination through the establishment of an independent Children's Ombudsman.

Sec. 3. *Children Defined.* As used in this Act, "children" shall refer to those persons below eighteen (18) years of age or older but are incapable of taking care of themselves, or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of physical or mental disability or condition.

Sec. 4. *The Office of the Tanodbata.* There is hereby created an independent Office of the Tanodbata attached to the Department of Justice (DOJ) for purposes of policy and program coordination. It shall consist of:

- (1) The Tanodbata, assisted by four (4) Tanodbata Deputies: the overall deputy, the deputy for Luzon, the deputy for Visayas, and the deputy for Mindanao, who shall be appointed by the President.
- (2) Five (5) line divisions, namely: (i) Administrative and Finance, (ii) Case Records Evaluation and Monitoring, (iii) Public Relations and Assistance, (iv)

Investigation and Prosecution, and (v) Policy and Legal, to be headed each by a Director, who shall be appointed by the Chief Tanodbata.

The Investigation, Conflict Resolution, and Prosecution Office shall, aside from the Director, have one (1) Special Prosecutor, to be appointed by the President, and one (1) Investigator each for Luzon, Visayas and Mindanao.

The Tanodbata shall appoint all officers and employees of the Office of the Tanodbata, in accordance with the rules and regulations of the Civil Service Commission and the Department of Budget and Management.

Sec. 5. Powers and Functions. The Office of the Tanodbata shall have the following powers, functions and duties:

- (a) Investigate and prosecute on its own or on complaint by any person, any act or omission committed against children;
- (b) Move to intervene in any civil case involving children with the sole purpose of ensuring their wellbeing;
- (c) Examine and have access to confidential records relative to any civil or criminal case involving children;
- (d) Administer oaths, issue subpoenas, and take testimony in any investigation or inquiry;
- (e) Initiate the proper action to challenge the validity of any legislation involving children;
- (f) Call on any department, bureau, office, agency and other instrumentalities of the government for assistance in the discharge of its responsibilities;
- (g) Serve as an oversight body over the Committees, Councils, and other structures created for the purpose of safeguarding the welfare of children;
- (h) Submit an annual report of its activities and performance to the President and to Congress to be submitted within thirty (30) days from the start of the regular session of Congress;
- (i) Exercise such other powers and functions as are necessary for the implementation of this Act.

Sec. 6. The Tanodbata and Tanodbata Deputies. The Tanodbata shall be a natural-born citizen of the Philippines, and at the time of his or her appointment, at least forty (40) years of age, of recognized probity and independence, a member of the Philippine Bar, and has been a judge or engaged in the practice of law in the Philippines for at least fifteen (15) years.

The Tanodbata Deputies shall be natural-born citizens of the Philippines, and at the time of his or her appointment, at least thirty-five (35) years of age, of recognized

probity and independence, a member of the Philippine Bar, and has been a judge or engaged in the practice of law in the Philippine for at least ten (10) years.

The Tanodbata and his or her Deputies shall have the same ranks, salaries, and privileges as those of Prosecutors with the rank of Prosecutor V and Prosecutor IV, respectively, in accordance with Republic Act No. 10071, otherwise known as the "National Prosecution Service Act of 2010".

Sec. 7. *Other Tanodbata Officials.* The Special Prosecutors shall have the same qualifications for appointment, rank, salaries and privileges as that of the Tanodbata Deputies.

Those appointed as Directors shall have the rank and salary of Prosecutors with the rank of Prosecutor I, in accordance with RA No. 10071.

Sec. 8. *Term of Office.* The Tanodbata and his or her Deputies, including the Special Prosecutors, shall serve for a term of seven (7) years without reappointment. They shall continue to hold office until their successors have been appointed. Any aforementioned officer who shall be appointed to fill a vacancy shall serve only the unexpired portion of the term of the predecessor.

Sec. 9. *Disqualification.* The Tanodbata, his or her Deputies, and the Special Prosecutors shall not, during their tenure, hold any other office or employment. They shall not, during said tenure, directly or indirectly practice any other profession, participate in any business, or be financially interested in any contract with or in any franchise, or special privilege granted by the Government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries.

Sec. 10. *Official Stations.* – The Chief Tanodbata, the Overall Deputy, and the Deputy for Luzon shall hold office in Metropolitan Manila; the Deputy for the Visayas, in Cebu City; and the Deputy for Mindanao, in Davao City. The Chief Tanodbata may transfer their stations within their respective geographical regions, as public interest may require.

Sec. 11. *Penalties for Obstruction.* Any person who willfully obstructs or hinders the proper exercise of the functions of the Office of the Tanodbata, or who willfully misleads or attempts to mislead the Tanodbata, his or her Deputies and the Special Prosecutors in replying to their inquiries, shall be punished with a fine not exceeding fifteen thousand pesos (P15,000.00), without prejudice to any civil, criminal, or administrative liability.

Sec. 12. *Implementing Rules and Regulations (IRR).* Within ninety (90) days from the appointment of the Tanodbata and his or her Deputies, the Office of the Tanodbata, in coordination with the Committee for the Special Protection of Children created under Executive Order No. 275, s. 1995, as amended by EO No. 53, s. 2011, shall promulgate the necessary rules and regulations for the effective implementation of this Act.

Sec. 13. Appropriations. The amount of necessary for the initial implementation of this Act shall be charged against the current fiscal year's appropriations under the budget of the DOJ.

Sec. 14. Separability Clause. – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or provision or part not otherwise affected thereby shall remain in full force and effect.

Sec. 15. Repealing Clause. – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule, or regulation contrary to, or inconsistent with, the provisions of this Act are hereby repealed, modified, or amended accordingly.

Sec. 16. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,