

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH (20th) CONGRESS
FIRST REGULAR SESSION

House Bill No. **1027**



Introduced by
Rep. **ROBERT NAZAL**

AN ACT
PROMOTING POSITIVE AND NON-VIOLENT DISCIPLINE
OF CHILDREN AND APPROPRIATING FUNDS THEREFOR

EXPLANATORY NOTE

The United Nations Committee on the Rights of the Child defines "corporal" or "physical" punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light.¹ The UN Committee also considers as corporal punishment other non-physical but equally cruel degrading forms of punishment, which include "punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child."

Corporal punishment is very common in the Philippines. The most abusive acts were those inflicted by parents in the name of discipline. Studies and surveys show that parents in the Philippines discipline and punish their children through the use of corporal or physical punishment such as spanking with hand, pinching, hitting with an object, twisting the child's ear, pulling the hair, slapping the face or head, confinement in a sack, or shaking.² Filipino children also experience threats of physical punishment and humiliating treatments such as being shouted at in front of others, labeled, and denigrated.³ 85% of children surveyed said that they were punished in the home, and 82% said that they were hit in different parts of the body.

Corporal punishment is ineffective in disciplining children of all ages. Most often, it produces anger, resentment, and low-self-esteem among children.⁴ It also teaches the child that violence is acceptable behavior and is a solution to problems; thus, corporal

¹ PLCPD, *supra*, note I, World Health Organization, World Report on Violence and Health 63 (2002); Save the Children-Sweden, *What Children Say: Results of the Comparative Research on the Physical and Emotional Punishment of Children in Southeast Asia and Pacific 12-19* (2006).

² *Id.* Save the Children —Sweden (Unpublished; 2005), Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City.

³ Paintal, Sureshrani (2007), *Banning Corporal Punishment of Children: A Position Paper*, available at <http://www.stophitting.com/pdf/sureshrani.pdf>


⁴ *Supra* note 2.

punishment perpetuates itself as children imitate the violent actions of adults.⁵ In fact, parents admit that they feel guilty and sorry about punishing their children but they are not aware of any other way of disciplining children except for what they learned from their own parents and grandparents. Parents have expressed the need for alternative positive and non-violent methods for disciplining children.⁶

The proposed Positive and Non-Violent Discipline of Children Bill aims to prohibit corporal punishment and all other forms of humiliating or degrading punishment of children in all settings and to promote positive and non-violent discipline of children. It borrows from and builds upon House Bill No. 8239 (17th Congress), which the House of Representatives approved on the third and final reading, effectively reintroducing the measure.

The bill seeks to strengthen the country's laws, policies, and programs in respecting children's rights, human dignity, physical integrity, and equal protection of law in compliance with the Philippine government's obligation to the UN Convention on the Rights of the Child. The bill specifically outlines all prohibited forms of physical and degrading or humiliating punishment of children at home, in schools, in institutions, in alternative care systems, and in all other settings. The proposed prohibited acts include but shall not be limited to forcing the minor to kneel on stones, salt or pebbles, squatting, public humiliation, deliberate neglect of child's physical needs, exposure to substances that can cause discomfort or pain, verbal assaults, and imposing tasks that the minor is incapable of doing such as forcing to skip sleeping or eating.

In view of the foregoing, the urgent approval of this bill is earnestly sought.



Rep. ROBERT NAZAL
Bagong Henerasyon Party-List

⁵ Harper, Kate et.al (2005), Ending Physical and Humiliating Punishment of Children, A Manual for Action, Save the Children, pp. 8-11.

⁶ Save the Children-Sweden (Unpublished;2005), Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City, Philippines; NORFIL (2005), Documentation of a consultation with the Active Youth movement and Children and Youth Organization on physical and emotional punishment of children, NORFIL, Quezon City, p.12.

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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 "Positive and Nonviolent Discipline of Children Act".

SECTION 2. Declaration of Policy.

The State recognizes that the family, being the foundation of the nation, is a basic social institution which public policy cherishes and protects, and that parents are primarily responsible in the rearing and nurturing of their children. To this end, the State shall, pursuant to its constitutional mandate, protect and strengthen the family as a basic, autonomous social institution, and support the natural, primary right and duty of parents in the rearing of youth for the development of their moral character and civic efficiency. As such, the State shall respect the rights of parents to rear their children in whatever manner they deem appropriate for as long as it does not violate the rights of the children.

The State likewise recognizes the vital role of the child and the youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. Pursuant thereto, a child has the right to be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, and maltreatment or exploitation, as a form of discipline while in the care of parents, legal guardians, or any other person who has the care and/or custody of the child, whether permanent or temporary. Such treatment or punishment violates the child's rights, human dignity and physical integrity.

As such, the State shall:

- A. Recognize and uphold the right of the child as human being, individual, and member of a family and community, to equal protection of the law;
- B. Promote positive and nonviolent discipline of children at home, in school, in institutions, in alternative care systems, in workplaces and in all other settings by encouraging behavior change in adults and establish the necessary structures and mechanisms and mobilize resources to make this possible;
- C. Defend the right of the child to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development;
- D. Protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those expressed in international conventions and treaties to which the Philippines is a party to, particularly the United Nations Convention on the Rights of a Child (UNCRC);
- E. Respect the responsibilities, rights and duties of parents, guardians or other persons legally responsible for the child, including those exercising special or substitute parental authority as those provided for under Presidential Decree No. 603, otherwise known as the "Child and Youth Welfare Code", as amended; Executive Order No. 209, otherwise known as the "Family Code of the Philippines", as amended; and Republic Act No. 7610, as amended, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act"; to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise of the child's rights;
- F. Provide an enabling environment for parents to empower themselves and fulfill their parental obligations to discipline their child through positive and nonviolent means;
- G. Ensure that school discipline is administered in a manner that respects the child's human dignity;
- H. Promote the principles of restorative justice in cases involving parents, guardians or other adults caring for the child; and
- I. Protect the child from all forms of physical or mental violence, injury from abuse, neglect or negligent treatment, maltreatment or exploitation, while in the custody of parents, guardians, or any other person under whose care the child is entrusted. Such protective measures shall include effective procedures for the establishment of social programs to provide necessary support for the child and for those who care for the child, other forms of prevention, identification, reporting, referral,

investigation, treatment and follow-up of instances of child maltreatment, and, as appropriate, for legal or judicial action.

This law is not meant to interfere with the primary responsibility of parents or persons legally responsible for the child in the home setting to rear and discipline their child as enshrined in the Constitution. Neither it is the intention to give the State control over the parenting or disciplinary method of a parent.

SECTION 3. Definition of Terms.

As used in this Act:

- A. Child refers to a person who is below eighteen (18) years of age, or over but is unable to fully take care of one's self or protect one's self from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, as defined under Republic Act No. 7610, as amended;
- B. Foster parents refer to persons duly licensed by the Department of Social Welfare and Development (DSWD) to provide planned, temporary, or substitute parental care to a child;
- C. Guardians refer to legal guardians, foster parents, and other persons, including relatives, with physical custody of a child;
- D. Institutions refer to residential and nonresidential child-caring agencies, including youth homes, youth rehabilitation centers, drop-in centers, temporary shelters and orphanages, and churches or religious centers, including places of worship and parish centers;
- E. Parents refer to biological parents, stepparents, adoptive parents, or the common-law spouse or partner of the parent;
- F. Persons legally responsible for the child, including those exercising special or substitute parental authority refer to those provided for under Executive Order No. 209 otherwise known as the "Family Code of the Philippines" as amended; In case of death, absence or unsuitability of the parents, the following shall exercise substitute parental authority in this order: (1) surviving grandparent; (2) the oldest brother or sister, over twenty-one (21) years of age; and (3) the child's actual custodian, over twenty one (21) years old. In case of foundlings, abandoned, neglected, or abused children, parental authority is entrusted to heads of children's homes, orphanages and similar institutions duly accredited by the proper government agency. School administrators and teachers, or the individual, entity or institution engaged in child care shall have parental authority and responsibility of the minor child while under their supervision, instruction and custody.
- G. Physical, humiliating or degrading acts as a form of punishment refer to any form

of punishment or discipline in which physical force is used and intended to cause pain or discomfort or any nonphysical act that causes a child to feel belittled, denigrated, threatened, or ridiculed;

- H. Positive and nonviolent discipline refers to a holistic, constructive and proactive approach to parenting or teaching that helps the child develop appropriate thinking and behavior in the short and long terms by providing tools that build self-discipline and emotional control, and to build a good relationship with the child by understanding the child's needs and capabilities at various ages and the behavior that is usual for the child at each stage of development. This is achieved by providing a warm and caring environment, building the child's competence and confidence, assisting the child in understanding and abiding by rules, fostering healthy relationships, and teaching the child life-long skills and respect for human rights. Positive and nonviolent discipline is based on the principles of child's rights and development and effective teaching and parenting;
- I. Restorative justice refers to a principle which requires a process of resolving conflicts with the involvement of the victim, the offender and the community. It focuses on the harm that has been done to people and relationships which create obligations and liabilities. The principle of restorative justice using positive and nonviolent discipline seeks to rebuild and strengthen the relationship between the parents and the child through mediation and agreement in the aftermath of a traumatic or violent experience in the family; and
- J. Service providers refer to persons who, whether in public or private settings, provide services to children. These include social workers, center administrators and personnel, interns, parent-teacher association officers, house parents, health care providers, day care workers, volunteers, security guards in schools and centers, guards in a youth detention home, law enforcement officers, barangay officials and tanods, and jail officers.

SECTION 4. Promotion of Positive and Nonviolent Discipline.

The DSWD shall, in consultation with the Council for the Welfare of Children (CWC), Department of the Interior and Local Government (DILG), Department of Education (DepEd), Commission on Higher Education (CHED), Technical Education and Skills Development Authority (TESDA), Department of Health (DOH), Department of Justice (DOJ), and Department of Labor and Employment (DOLE), formulate a comprehensive program that shall be implemented to promote positive and nonviolent discipline including prevention and response intervention programs. A continuing information dissemination campaign shall be conducted nationwide by the DSWD for the parents, DILG for the local government officials and the DepEd for the teachers on how to practice positive and nonviolent discipline.

All barangay personnel and service providers who will be involved in the management of cases and the provision of interventions shall receive the necessary capacity-building

programs for the implementation of this Act.

SECTION 5. Protection of the Child from Physical, Humiliating and Degrading Acts as a Form of Punishment.

No child shall be subjected to any form of physical, humiliating or degrading acts as a form of punishment as defined in Section 3(g) in homes, schools, institutions, alternative care systems, the juvenile welfare system, places of religious worship, and in all other settings where there is direct contact with a child.

SECTION 6. Reporting Physical, Humiliating and Degrading Acts as a Form of Punishment of a Child.

Reports of any physical, humiliating or degrading acts as a form of punishment of a child may be filed by any person having personal knowledge of the act or acts complained of.

All reports of the commission of physical, humiliating or degrading acts as a form of punishment of a child shall be brought to the attention of the barangay or the police or both. The police shall bring the report to the attention of the barangay and, if needed, a health care provider: Provided, That for acts committed in school settings, the reporting mechanism to be followed shall be in accordance with the guidelines to be drafted under Section 10 (r) of this Act.

SECTION 7. Interventions.

Upon receipt of a report, the Punong Barangay shall determine if the act committed falls under the definition of physical, humiliating or degrading acts as a form of punishment of a child under Section 3(g) of this Act. If there is such determination, the Punong Barangay shall inform the offender that there is a finding of commission of physical, humiliating or degrading acts as a form of punishment. The Punong Barangay shall ensure that the offender is familiar with, and understands, positive and nonviolent discipline, provide reading materials to the latter, and may:

- A. Refer both the offender and the offended party to mediation and conciliation; and
- B. In extreme cases where the safety of the child is at stake, recommend temporary protection orders, taking into consideration the best interest of the child.

The Local Social Welfare Development Officer (LSWDO) shall be informed that a case of physical, humiliating or degrading acts as a form of punishment of a child has been reported to the barangay. The LSWDO shall conduct an assessment pursuant to Section 10 (e) of this Act. The process of coordination between the barangay, Local Council for the Protection of Children (LCPC), and the LSWDO shall be defined in the implementing rules and regulations of this Act. In cases of repeat offenders, the Punong Barangay shall require the offender to: (1) undertake seminars on positive and nonviolent discipline, anger management, and child's rights; (2) undergo counseling or

therapy; and/or (3) avail of other rehabilitative services as may be applicable. The child shall also be provided counseling and, if necessary, be accorded other proper interventions. In school settings, interventions shall be in accordance with the guidelines to be drafted under Section 10 (r) of this Act.

Nothing in this Act shall prevent the filing of appropriate criminal cases if the offense is punishable under the "Revised Penal Code", as amended, and other special laws.

SECTION 8. Intervening Persons.

In every case of physical, humiliating or degrading acts as a form of punishment, any person who, acting in good faith, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall not be criminally, civilly or administratively liable.

However, persons causing a child to lie or fabricate about incidents of physical, humiliating and degrading acts shall be liable under existing civil and criminal laws.

SECTION 9. Confidentiality

All records pertaining to cases of physical, humiliating, or degrading acts as a form of punishment of a child, including those in the barangay, the police, school, or public or private health care facility shall be kept confidential and the right to privacy of the victim shall be respected, except upon order of the court for the benefit of the child or to prosecute the offender. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, or any identifying information of a victim or immediate family member of the victim, without consent, shall be penalized under existing laws.

The victim, or an immediate family member of the victim, may file an action for damages against whoever publishes or causes to be published, in any format, the name, address, telephone number, school or any identifying information of a victim or immediate family member of the victim, without prior consent.

SECTION 10. Duties and Responsibilities of Government Agencies.

To achieve the policy and objectives of this Act, the duties and responsibilities of the implementing agencies are as follows:

- A. The DSWD, in coordination with the DepEd, other relevant government agencies, the private sector, including academic institutions, nongovernment organizations (NGOs), and General Parents Teachers Associations (GPTA) shall formulate a comprehensive program to promote the positive and nonviolent discipline of children and the prevention of the use of physical, humiliating, or degrading acts as a form of punishment of children. The program shall include capacity building of service providers, content development of reading materials and other promotional items, parenting education on positive and nonviolent discipline of children,

child-friendly reporting mechanisms, child protection and support services, and documentation, data management and monitoring systems.

- B. The DSWD shall integrate positive and nonviolent discipline of children in the training of officials and staff of child-caring institutions. It shall ensure that officials and staff institutions do not use physical, humiliating or degrading acts as a form of punishment of children under their custody. It shall also ensure that appropriate action is taken against erring officials and staff of the institutions.
- C. The DSWD shall integrate positive and nonviolent discipline in the capacity-building activities for the Local Social Welfare Development Office (LSWDO) to enable them to provide counseling and appropriate intervention programs for both offended child and offender.
- D. All LSWDOs shall adopt and implement programs and services to promote the positive and nonviolent discipline of a child and the prevention of the use of physical, humiliating or degrading acts as a form of punishment of a child. They shall also provide assistance to victims of physical, humiliating or degrading acts as a form of punishment and their families. It shall, together with the DSWD and the local government units (LGUs), ensure the delivery of intervention programs such as seminars and counseling for offenders.
- E. The LSWDO shall immediately conduct an assessment of every reported instance of physical, humiliating or degrading acts as a form of punishment of a child, and determine the appropriate interventions, considering the best interest of the children at all times. The assessment shall be completed within three (3) calendar days from the report of the incident, without prejudice to the conduct of a more comprehensive case study report. The interventions may include psychosocial interventions for the children and their families, protective custody by the social worker, temporary placement, medical, counseling and legal services for a child, and for the offenders, counseling and seminar on children's rights, positive and nonviolent discipline of children, anger management, mental, psychological or psychiatric services, and referrals to other rehabilitative services. The assessment shall be conducted and interventions shall be provided by the LSWDO whether or not a criminal case is filed.
- F. The Council for the Welfare of Children (CWC) shall disseminate all relevant information of this Act among concerned government agencies and entities. It shall monitor the enforcement and the implementation of all programs and services provided for under this Act. It shall also mobilize the different inter-agency mechanisms within its national and local structures to support the implementation of programs and services. It shall, together with the Philippine Information Agency, devise and implement an information campaign or program for popularizing the use of positive and nonviolent discipline of children nationwide.
- G. The DepEd shall integrate positive and nonviolent discipline of children in the

training of school officials, teachers and personnel. It shall ensure that school officials, teachers and personnel do not use physical, humiliating or degrading acts as a form of punishment on any pupil or student. The DepEd shall also integrate discussions on positive and nonviolent discipline in the relevant subjects in the curriculum of students. The rights of the child shall also be discussed along with their responsibilities in the home, community, and school. It shall likewise strengthen its Values Education in the K-12 curriculum to instill obedience, courtesy and open communication to help foster parent-child relationships.

- H. The Early Childhood Care and Development Council (ECCDC) shall develop an appropriate approach on positive and nonviolent disciplining of children 0-4 years old in child development centers. It shall integrate positive and nonviolent discipline of children in the training of child development workers and personnel of the child development centers. (i) The DILG shall mandate the LGUs to strengthen and support local structures involved in the protection of a child. It shall, together with the DSWD and the LSWDO, encourage parents and individuals who are not married but exercise parental authority to participate in training, seminars or counseling on positive and nonviolent discipline, and child's rights, and ensure the delivery of intervention programs for offenders. In accordance with Section 7 of this Act, the DILG shall cause the printing and distribution to barangays of reading materials on positive and nonviolent discipline.
- I. The CHED and the TESDA shall integrate positive and nonviolent discipline of children in the curricula of education, psychology, social work, and other disciplines. They shall also ensure that appropriate training on positive and nonviolent discipline is provided for school officials, teachers and other non-teaching personnel.
- J. The LGUs shall mobilize, strengthen and support local structures, such as the Local Councils for the Protection of Children (LCPC), local special bodies, Lupong Tagapamayapa, and children's welfare and protection organizations in facilitating the reporting and prevention of, and response to instances of physical, humiliating or degrading acts as a form of punishment and promotion of positive and nonviolent discipline in their respective localities. It shall, together with the DSWD and the LSWDO, ensure the delivery of intervention programs such as seminars and counseling for offenders.
- K. The LCPC shall support programs that promote the positive and nonviolent discipline of children, prevent the use of physical, humiliating or degrading acts as a form of punishment of children, and coordinate with the LSWDO in responding to such cases.
- L. The Department of Labor and Employment (DOLE) shall make the attendance of employers to positive and nonviolent discipline trainings as a prerequisite to the issuance of employment permits for children. (n) The DOH shall integrate early child development interventions in the various health and nutrition programs and

services with emphasis on family-child interaction during well—and—sick child visits. It shall also provide technical assistance to LGUs, through the DOH Regional Offices, to enhance the capabilities of local health offices in the implementation of early child development interventions, including the promotion of age appropriate parent-child interactions to foster understanding of the child's behavior and needs.

- M. The PNP shall promote positive and nonviolent ways of treating and handling children in conflict with the law. It shall ensure that officials and staff do not use physical, humiliating or degrading acts as a form of punishment to a child under their custody. It shall integrate into their training curriculum the training of all police officers on child-friendly and child-sensitive procedures in handling children, and coordinate closely with government and private organizations for effective investigation of cases.
- N. The Sangguniang Kabataan (SK) shall include in its programs the prevention of physical, humiliating or degrading acts as a form of punishment of children.
- O. The DSWD shall seek assistance from other relevant government agencies such as the DOJ, Commission on Human Rights (CHR), Philippine Information Agency (PIA), and the National Commission on Indigenous Peoples (NCIP) to perform specific duties for the implementation of this Act.
- P. School administrators and teachers exercise special parental authority over their students while under their supervision, instruction and custody. As such, guidelines to be produced by DepEd shall recognize their authority in the schools and in school-sanctioned events, and the need to conduct their classes in an organized manner that is conducive to learning. Thus, teachers have the authority to ensure that their students behave, respond and treat their teachers and classmates in a respectful manner. They have the right to call out disorderly or disrespectful behavior and deal with the same consistent with the law and the guidelines to be implemented. The DepEd and ECCDC shall, within six (6) months from the effectivity of this Act, in consultation with students' organizations, GPTA, and teachers' unions, draft Guidelines on the implementation of positive and nonviolent discipline in school settings consistent with this Act and its Implementation Rules and Regulations (IRR). Positive and nonviolent discipline actions imposed in accordance with the said Guidelines shall not be considered as physical, humiliating or degrading acts under Section 3 (g) of this Act.
- Q. The Department of Budget and Management (DBM) shall ensure sufficient number of guidance counselors who will serve as support personnel in implementing positive and nonviolent discipline of students. For purposes of this Act, the DBM shall, in accordance with Republic Act No. 11036, otherwise known as the "Mental Health Act", endeavor to meet the recommended ratio of one (1) guidance counselor for every two hundred (200) students in public elementary and high schools.

SECTION 11. Appropriations.

The amount necessary for the initial implementation of this Act shall be charged against the current appropriations of the concerned agencies. Thereafter, the amount needed for the continued implementation of this Act shall be included in the annual General Appropriations Act. For LGUs, the implementation of the programs may be charged against the internal revenue allotment and other internally generated funds of the LGU concerned.

SECTION 12. Periodic Review.

The DSWD with the DepEd, the TESDA, the CHED, the DILG, the DOJ, the DOH, and other relevant government agencies, LGUs, and civil society organizations (CSOs) shall, after three (3) years upon effectivity of this Act, and every five (5) years thereafter, conduct a periodic review and evaluate the implementation of this Act and submit its report and recommendations to the Senate Committee on Women, Children, Family Relations and Gender Equality and the House of Representatives' Committee on the Welfare of Children.

SECTION 13. Implementing Rules and Regulations.

The DSWD Secretary, in coordination with the Executive Director of the CWC and in consultation with the DepEd, CHED, TESDA, DILG, DOH, other relevant government agencies, LGUs, NGOs, teacher's union and at least two (2) child focused organizations, shall promulgate the implementing rules and regulations (IRR) of this Act within six (6) months from its approval. They shall likewise ensure that techniques in, and examples of, practicing positive and nonviolent discipline shall be extensively enumerated, described and explained in the IRR.

SECTION 14. Suppletory Application.

For purposes of this Act, the Revised Penal Code, as amended; the Child and Youth Welfare Code, as amended; Republic Act No. 7610, as amended, and other applicable laws shall have suppletory application.

SECTION 15. Separability Clause.

If any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions shall not be affected.

SECTION 16. Repealing Clause.

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

SECTION 17. Effectivity.

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

Approved,