

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 3974



Introduced by: **REPRESENTATIVE ERIC L. OLIVAREZ**

EXPLANATORY NOTE

Filipinos are known to be a people with close familial ties. Also notable of the Filipino is their paying respect to those who have set the path for us to walk on today. Those who laid that path, yes some are no longer around but others are still alive. They are our senior citizens. They have cared for the present generation by imparting wisdom upon those who are still treading on the path they have set years ago.

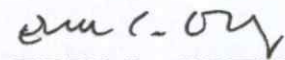
Senior citizens are given benefits protected upon by law in the Philippines. They have cared for the present generation in their own special way. The state recognizes their contribution to society and appreciates it through several privileges and benefits. These privileges and benefits include but are not limited to discounts in malls and certain establishments and even special lanes in offices and grocery stores.

Despite this appreciation enjoyed by them through laws and benefits, there are still some senior citizens deprived of these benefits and even subjected to abuse, be it physical, verbal, mental and psychological to name a few, by other members of society and sadly even by their own family. It is because of the frailty of old age of the elderly that some take advantage or allow abuse to occur as the elderly, especially those who have become disabled, may no longer protect themselves from abuse.

This phenomenon of violence towards senior citizens runs counter to the Filipino trait of respect for elders. It is sad to see that the kindness, wisdom and care given by these senior citizens are being repaid with acts of abuse and violence at a point when the senior citizen is at his or her most vulnerable. While the benefits and privileges are given out of respect for the senior citizens, this act aims to give more protection to the senior citizens who are victimized by abuse of any form or kind as well as to end this disturbing trend of abuse towards the senior citizens who have imparted all they have for the country and its people.

While it was known that there are steps being made to curb this disturbing trend of differently-abled senior citizen abuse, this Bill seeks to give the differently-abled senior citizens protection from abuse just as children and women have as dictated by the law.

It is only for this reason that the approval of this bill is being sought.


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**AN ACT DEFINING ABUSE TOWARDS DIFFERENTLY ABLED
SENIOR CITIZENS, PROVIDING FOR PROTECTIVE
MEASURES FOR VICTIMS, PROTECTION FROM ABUSE, AND
PRESCRIBING PENALTIES THEREFOR**

Section 1. Short Title. This Act shall be known as the Anti-Differently Abled Elders Abuse Act of 2017.

Section 2. Coverage. This Act shall protect differently-abled senior citizens living in the Philippines, who are now vulnerable physically, or psychologically, from any abuse, be it verbal, physical, mental or psychological from any entity or person.

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

- 1) Differently-able persons – individuals who are impaired physically and/or mentally. This condition may either be permanent or temporary.
- 2) Senior Citizen – refers to any resident or citizen of the Philippines aged sixty (60) years old and above
- 3) Vulnerable – refers to an individual who is defenseless or has no capability to defend him or herself as well as incapable to provide for himself or herself. This also includes the following:

- a. Individual who is crippled or suffering from a debilitating disease rendering him/her unable to work and is dependent upon strict care of a medically trained professional (i.e. caregivers, personal nurses)
 - b. Individual who lacks psychological capacity in such a way that the individual can no longer respond normally and is in need of treatment and regular medication.
- 4) Abuse – refers to any kind or form of cruel treatment on a person which includes any of the following:
- a. Physical – refers to intended use of force against a senior citizen resulting in physical pain, injury or impairment as well as inappropriate use of drugs, restraints or confinement;
 - b. Emotional – refers to intimidation through verbal threats, humiliation and ridicule, and habitual blaming or scapegoating;
 - c. Psychological – refers to isolating a senior citizen from friends or activities, ignoring the senior citizen and terrorizing or menacing the senior citizen;
 - d. Sexual – refers to engaging in sexual activity with a senior citizen without consent;
 - e. Neglect – refers to a failure in fulfilling a caretaking obligation which can either be:
 - i. Active or intentional
 - ii. Passive or unintentional (based on factors such as ignorance or denial that a senior citizen being taken care of needs as much care as he or she does)
 - f. Fraud – refers to misuse of senior citizen's personal checks, credit cards or accounts. This also involves

stealing of cash, income checks or household goods as well as forging the senior citizen's signature and engagement in identity theft and;

- g. Scams – shall include any scheme of fraudulently awarding a “prize” to a senior citizen on the condition that the senior citizen pays money to claim said “prize”, or involvement in phony charities or any form of investment fraud.

Section 4. Acts of Abuse towards Differently-abled Senior Citizens. The crime of abuse towards differently-abled senior citizens is committed through any of the following acts:

- a) Causing physical harm to differently-abled senior citizen;
- b) Threatening to cause the differently-abled senior citizen physical harm;
- c) Attempting to cause the differently-abled senior citizen physical harm;
- d) Placing the differently-abled senior citizen in fear of imminent physical harm;
- e) Attempting to compel or compelling the differently-abled senior citizen to engage in conduct with the differently-abled senior citizen has the right to desist from conduct which the differently-abled senior citizen has the right to engage in, or attempting to restrict or restricting the differently-abled senior citizen's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the differently-abled senior citizen. This shall include, but shall not be limited to the following acts committed with the purpose or effect of controlling or restricting the differently-abled senior citizen's movement or conduct.
 - 1. Threatening to deprive or actually depriving the differently-abled senior citizen of custody to his/her family;

2. Depriving or threatening to deprive the differently-abled senior citizen of a legal right;
 3. Controlling the differently-abled senior citizen's own money or properties, or solely controlling the conjugal or common money or properties with the purpose of depriving him/her of the same;
- f) Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling his/her actions or decisions;
- g) Causing or attempting to cause the differently-abled senior citizen to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the differently-abled senior citizen or his/her immediate family;
- h) Engaging in purposeful, knowing or reckless conduct, personally or through another that alarms or causes substantial emotional or psychological distress to the differently-abled senior citizen. This shall include, but not be limited to the following acts:
1. Stalking or following the differently-abled senior citizen in public or private places;
 2. Peering in the window or lingering outside the residence of the differently-abled senior citizen;
 3. Entering or remaining in the dwelling or on the property of the differently-abled senior citizen against his/her will;
 4. Destroying the property and personal belongings or inflicting harm to animals or pets of the differently-abled senior citizens; and

5. Engaging in any form of harassment or violence;

i) Causing mental or emotional anguish, public ridicule or humiliation to the differently-abled senior citizen, including but not limited to, repeated verbal and emotional abuse.

Section 5. Penalties – The crime of abuse towards differently-abled senior citizens, under Section 4 hereof shall be punished according to the following rules:

a. Acts falling under Section 4(a) constituting attempted, frustrated or consummated parricide or murder or homicide shall be punished in accordance with the provisions of the Revised Penal Code.

If these acts resulted in mutilation, it shall be punishable in accordance with the Revised Penal Code, those constituting serious physical injuries shall have the penalty of the prison mayor; those constituting less serious physical injuries shall be punished by prision correccional; and those constituting slight physical injuries shall be punished by arresto mayor.

Acts falling under section 4(b) shall be punished by imprisonment of two degrees lower than the prescribed penalty for the consummated crime but in no case be lower than as specified in the preceding paragraph provided, however, that it shall not be lower than arresto mayor.

b. Acts falling under Section 4(c) and 4(d) shall be punished by arresto mayor;

c. Acts falling under Section 4(e) shall be punished by prision correccional;

d. Acts falling under Section 4(f) shall be punished by prision mayor;

e. Acts falling under Section 4(g) and 4(h) shall be punished by prision mayor.

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Three Hundred Thousand Pesos (P300,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

Section 6. Venue. –Regional Trial Courts designated as Family Courts shall have original and exclusive jurisdiction over cases of abuse towards differently-abled senior citizens under this Bill. In the absence of such court in the place where the offense was committed, the case shall be filed in the Regional Trial Court where the crime or any of its elements was committed at the option of the complainant.

Section 7. Reporting Mechanisms. For reporting of incidences of abuse towards differently-abled senior citizens, there will be a special desk in every police precinct and barangay hall for differently-abled Senior Citizen Abuse concerns to monitor such incidences.

Section 8. Who may File a Complaint – Complaints on cases of abuse towards differently-abled senior citizen as enumerated herein may be filed by the following:

1. Offended party;
2. Descendant or collateral relative within the second degree of consanguinity;
3. Officer, social worker or representative of a licensed senior citizen- caring institution;
4. Officer or social worker of the Department of Social Welfare and Development;
5. Barangay chairman; or

6. At least three (3) concerned responsible citizens where the violation occurred.

Section 9. Public Crime. – Abuse towards differently-abled senior citizens shall be considered a public offense which may be prosecuted upon the filing of a complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime.

Section 10. Prohibited Defense. – Being under the influence of alcohol, any illicit drug, or any other mind-altering substance shall not be a defense under this Act.

Section 11. Duties of Prosecutors/Court Personnel. – Prosecutors and court personnel should observe the following duties when dealing with victims under this Act:

- a) communicate with the victim in a language understood by the differently-abled senior citizen; and
- b) inform the victim of her/his rights including legal remedies available and procedure, and privileges for indigent litigants.

Section 12. Duties of Barangay Officials and Law Enforcers. – Barangay officials and law enforcers shall have the following duties:

- (a) respond immediately to a call for help or request for assistance or protection of the victim by entering the necessary dwelling or household whether or not a protection order has been issued and ensure the safety of the victim/s;
- (b) confiscate any deadly weapon in the possession of the perpetrator or within plain view;
- (c) transport or escort the victim/s to a safe place of their choice or to a clinic or hospital;
- (d) assist the victim in removing personal belongs from the house;

(e) assist the barangay officials and other government officers and employees who respond to a call for help;

(f) ensure the enforcement of the Protection Orders issued by the *Punong Barangy* or the courts;

(g) arrest the suspected perpetrator without a warrant when any of the acts of violence defined by this Act are occurring, or when he/she has personal knowledge that any act of abuse has just been committed, and there is imminent danger to the life or limb of the victim as defined in this Act; and

(h) immediately report the call for assessment or assistance of the DSWD, social Welfare Department of LGUs or accredited non-government organizations (NGOs).

Any barangay official or law enforcer who fails to report the incident shall be criminally, civilly or administratively liable as the case may be and in addition be liable for the payment of a fine not exceeding Fifty Thousand Pesos (P50,000.00);

Section 13. Healthcare Provider Response to Abuse –

Any healthcare provider, including, but not limited to, an attending physician, nurse, clinician, barangay health worker, therapist or counselor who suspects abuse or has been informed by the victim of violence shall:

(a) properly document any of the victim's physical, emotional or psychological injuries;

(b) properly record any of victim's suspicions, observations and circumstances of the examination or visit;

(c) automatically provide the victim free of charge a medical certificate concerning the examination or visit;

(d) safeguard the records and make them available to the victim upon request at actual cost; and

- (e) provide the victim immediate and adequate notice of rights and remedies provided under this Act, and services available to them.

Section 14. Duties of Other Government Agencies and LGUs – Other government agencies and LGUs shall establish programs such as, but not limited to, education and information campaign and seminars or symposia on the nature, causes, incidence and consequences of such violence particularly towards educating the public on its social impacts.

It shall be the duty of the concerned government agencies and LGU's to ensure the sustained education and training of their officers and personnel on the prevention of abuse towards differently-abled senior citizens under the Act.

Section 15. Prohibited Acts. – A *Punong Barangay*, *Barangay Kagawad* or the court hearing an application for a protection order shall not order, direct, force or in any way unduly influence the applicant for a protection order to compromise or abandon any of the reliefs sought in the application for protection under this Act. Section 7 of the Family Courts Act of 1997 and Sections 410, 411, 412 and 413 of the Local Government Code of 1991 shall not apply in proceedings where relief is sought under this Act.

Failure to comply with this Section shall render the official or judge administratively liable.

Section 16. Persons Intervening Exempt from Liability. – In every case of abuse towards differently-abled senior citizens as herein defined, any person, private individual or police authority or barangay official who, acting in accordance with law, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall not be liable for any criminal, civil or administrative liability resulting therefrom.

Section 17. Rights of Victims. – In addition to their rights under existing laws, victims of abuse towards differently-abled senior citizens shall have the following rights:

- (a) to be treated with respect and dignity;
- (b) to avail of legal assistance from the PAO of the Department of Justice (DOJ) or any public legal assistance office;
- (c) To be entitled to support services from the DSWD and LGUs;
- (d) To be entitled to all legal remedies and support as provided under the Family Code; and
- (e) To be informed of their rights and the services available to them including their right to apply for a protection order.

Section 18. Damages. – Any victim of violence under this Act shall be entitled to actual, compensatory, moral and exemplary damages.

Section 19. Hold Departure Order. – The court shall expedite the process of issuance of a hold departure order in cases prosecuted under this Act.

Section 20. Exemption from Payment of Docket Fee and Other Expenses. – If the victim is an indigent or there is an immediate necessity due to imminent danger or threat of danger to act on an application for a protection order, the court shall accept the application without payment of the filing fee and other fees and of transcript of stenographic notes.

Section 21. Inter-Agency Council on Abuse toward Differently - Abled Senior Citizens (IAC-ATDASC). In pursuance of the abovementioned policy, there is hereby established an Inter-Agency Council on abuse towards differently-abled Senior Citizens, hereinafter known as the Council, which shall be composed of the following agencies:

- (a) Department of Social Welfare and Development (DSWD);
- (b) Commission on Human rights (CHR);

- (c) Department of Justice (DOJ);
- (d) Department of the Interior and Local Government (DILG);
- (e) Philippine National Police (PNP);
- (f) Department of Health (DOH);
- (g) Department of Education (DepEd);
- (h) National Council on Disabled Affairs (NCDA);and
- (i) National Bureau of Investigation (NBI).

These agencies are tasked to formulate programs and projects to eliminate abuse against differently-abled senior citizens based on their mandates as well as develop capability programs for their employees to become more sensitive to the needs of their clients.

The Council members may designate their duly authorized representative who shall have a rank not lower than an assistant secretary or its equivalent. These representatives shall attend Council meetings in their behalf, and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations.

Section 22. Mandatory Programs and Services for Victims. –The DSWD, and LGU's shall provide the victims temporary shelters, provide counseling, psycho-social services and /or, recovery, rehabilitation programs and livelihood assistance.

The DOH shall provide medical assistance to victims.

Section 23. Counseling and Treatment of Offenders. –

The DSWD shall provide rehabilitative counseling and treatment to perpetrators towards learning constructive ways of coping with anger and emotional outbursts and reforming their ways. When necessary, the offender shall be ordered by the Court to submit to psychiatric treatment or confinement.

Section 24. Training of Persons Involved in Responding to Abuse towards Differently-Abled Senior Citizens Cases. –

All agencies involved in responding to abuse towards differently-abled senior citizens cases shall be required to undergo education and training to acquaint them with:

- a. the nature, extend and causes of abuse towards differently-abled senior citizens;
- b. the legal rights of, and remedies available to, victims of abuse towards differently-abled senior citizens;
- c. the services and facilities available to victims or survivors;
- d. the legal duties imposed on police officers to make arrest and to offer protection and assistance; and
- e. techniques for handling incidents of abuse towards senior citizens that minimize the likelihood of injury to the officer and promote the safety of the victim or survivor.

The PNP, in coordination with LGU's shall establish an education and training program for police officers and barangay officials to enable them to properly handle cases of abuse towards differently-abled senior citizens.

Section 25. Confidentiality. – All records pertaining to cases of abuse towards differently-abled senior citizens including those in the barangay shall be confidential and all public officers and employees and public or private clinics to hospitals shall respect the right to privacy of the victim. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other

identifying information of a victim or an immediate family member, without the latter's consent, shall be liable to the contempt power of the court.

Any person who violates this provision shall suffer the penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand Pesos (P500,000.00).

Section 26. Common Penal Provisions.

- a. The penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act;
- b. The penalty provided herein shall be imposed in its maximum period when the perpetrator is a collateral relative within the second degree of consanguinity or affinity or a manager or owner of an establishment which has no license to operate or its license has expired or has otherwise been revoked;
- c. The penalty provided for in this Act shall be imposed in its maximum period if the offender is a public officer or employee. Provided however, that if the penalty imposed is reclusion perpetua or reclusion temporal, then the penalty of perpetual or temporary absolute disqualification shall also be imposed. Provided finally, that if the penalty imposed is prision correccional or arresto mayor, the penalty of suspension shall also be imposed, and
- d. A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each differently-abled senior citizen victim, or any immediate member of his family if the latter is the perpetrator of the offense.

SECTION 27. Implementing Rules and Regulations. – Within six (6) months from the approval of this Act, the DOJ, the DSWD, the DILG, the DOH, the NCDA and the PNP, shall promulgate the Implementing Rules and Regulations (IRR) of this Act.

Such rules and regulations shall take effect upon their publication in two (2) national newspapers of general circulation.

SECTION 28. *Suppletory Application* – For purposes of this Act, the Revised Penal Code and other applicable laws, shall have suppletory application.

Section 29. *Repealing Clause*. – All laws, presidential decrees, letters of instructions, executive orders, rules and regulations insofar as they are inconsistent with this Act, are hereby repealed or amended as the case may be.

Section 30. *Separability Clause*. – In the event that any provision of this Act or any portion thereof is declared unconstitutional by a competent court, the other provisions shall not be affected thereby and shall remain valid and enforceable.

Section 31. *Effectivity Clause*. – This Act shall take effect after its complete publication in at least three (3) newspapers of general circulation.

APPROVED.