

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 7114



Introduced by: Kababaihan Kabalikatan para sa Kapakanan at Kaunlaran ng Bayan (4K) Party-list
Representative Iris Marie D. Montes

AN ACT
PROVIDING FOR SPOUSAL AND CHILD SUPPORT

EXPLANATORY NOTE

Article XV, Section 3 (2) of the 1987 Philippine Constitution states that the State shall defend "The right of children 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".

In line with this, Article 70 of the Family Code provides that "The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from the separate properties."

Also, Article 194 of the Family Code states that "Support comprises everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family.

The education of the person entitled to be supported referred to in the preceding paragraph shall include his schooling or training for some profession, trade or vocation, even beyond the age of majority. Transportation shall include expenses in going to and from school, or to and from place of work."

In February 2022, the Philippines signed the Child Support Convention¹, which makes it both our national and international commitment to provide an accessible and effective mechanism for securing child and spousal support. This includes facilitating the applications of individuals seeking child support, including spousal support from foreign parents or spouses, and efficiently recognizing and enforcing support decisions even if rendered by foreign courts.

Family is at the heart of Filipino culture, and parental responsibility for children is a deeply rooted value. Parents are primarily responsible for the

¹ Philippine Department of Foreign Affairs. (2022, February 18). PH signs Child Support Convention.

<https://dfa.gov.ph/dfa-news/news-from-our-foreign-service-postsupdate/30148-ph-signs-child-supportconvention>

support of their children. Despite being a constitutionally protected right, there are cases when parents neglect or willfully refuse to comply with their responsibilities of providing for the needs of their family. Moreover, persons seeking to receive financial support need to file a case before a court, which is a lengthy and tedious process, and typically takes years to resolve.

This proposal, which is being filed as a counterpart measure to Senate Bill No. 23 by Sen. Pia Cayetano, clarifies that the support arising from spousal and familial ties under the Family Code shall be demandable even beyond the age of majority of the children, taking into consideration the needs of the family and the financial capacity of the person legally obligated to provide the same. The bill also establishes other efficient legal mechanisms in order to ensure compliance of spouses' or parents' legal obligation to give support to their family, such that even if they refuse, or in their absence or physical inability to provide the same, there shall be available modes of claiming spousal and/or child support.

Hence, the DSWD, in coordination with other government agencies, such as the Department of Labor and Employment, Department of Migrant Workers, Department of Foreign Affairs, as well as local government units and barangays, shall be involved in ensuring and protecting the right of spouses and/or children for financial support.

The bill also refers to relevant laws, including Republic Act No. 9262, or the Anti-Violence Against Women and Their Children Act of 2004 for the imposition of penalties on those who fail to pay, willfully evade, and withdraw or threaten to withdraw any spousal and/or child support obligation.

In view of the foregoing, the immediate passage of the bill is earnestly sought.



IRIS MARIE D. MONTES

Kababaihan Kabalikatan para sa Kapakanan
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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 "Spousal and Child Support Act."

SEC. 2. *Declaration of Policy.* - Pursuant to Article XV, Section 1 of the 1987 Constitution, it is the declared policy of the State to promote the family as the foundation of the nation, strengthen its solidarity, and ensure its total development.

Article XV, Section 3 (2) of the 1987 Constitution further mandates the State to defend the right of children 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. Article 70 of the Family Code provides that the spouses are jointly responsible for the support of the family, which comprises everything indispensable for sustenance, dwelling, clothing, medical attendance, education, and transportation, in keeping with the financial capacity of the family.

Towards this end, the State shall institutionalize mechanisms and provide necessary assistance to protect and enforce the rights of spouses and children to receive, among others, financial support.

SEC. 3. *Coverage.* - This Act is limited to the legal obligation to provide financial support for spouses and/or children and does not include the provision involving financial support for other entitled persons as provided in the Family Code.

SEC. 4. *Spouse and/or Child's Right to Support.* - In accordance with the Family Code, spouses and children shall continuously receive support, which is indispensable for their sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family. The education of the person entitled to be supported shall include his or her schooling or training for profession, trade or vocation. Transportation shall include expenses in going to and from school, or to and from place of work: Provided, That child support shall be given even beyond the age of majority,

depending on the needs of the child and in keeping with the financial capacity of the person legally obligated to provide the same:

Provided Further, That in all cases, the best interest of the child shall be considered when agreeing on or determining the terms of the support, which includes the amount that should be provided.

SEC. 5. *Voluntary Spousal and/or Child Support.* - Notwithstanding the provisions of the Family Code, the following persons may enter into a written agreement setting forth the specific terms for spousal and/or child support, in accordance with Section 4 of this Act and other relevant laws, including the Family Code:

(a) The spouses;

(b) The parents of the child; or

(c) A parent, or the parents of the child and the guardian of the child: Provided, That for purposes of this Act, "guardian" shall refer to persons exercising substitute parental authority over the child as provided under Article 216 of the Family Code.

SEC. 6. *Involuntary Spousal and/or Child Support.* - In case there is a denial, refusal, or failure to provide support by the person legally obligated to provide the same, the spouse and/or child may file a petition for financial support with the Department of Social Welfare and Development (DSWD), through the Family Arbitrator. The spouse and/or child may file a petition before a Family Arbitrator in any of its designated offices nearest the said person's residence, which shall have the power to act on such petitions, in accordance with the provisions of this Act. The best interest of the child shall be the paramount consideration of the Family Arbitrator when deciding on petitions for involuntary spousal and/or child support.

Nothing in this Act shall prevent or limit the neglected spouse and/or child from applying for any injunctive relief or protection, including, but not limited to Barangay Protection Orders (BPOs), Temporary Protection Orders, and Permanent Protection Orders, or pursuing or filing any criminal case involving the violation of relevant laws, such as the Revised Penal Code and Republic Act No. 9262, otherwise known as the Anti- Violence Against Women and Their Children Act of 2004.

SEC. 7. *Family Arbitrator.* - A Family Arbitrator shall be a member of the Philippine Bar and must have been engaged in the practice of law in the Philippines with at least five (5) years of relevant experience. He/she must be of good moral character with proven competence and integrity and has not been charged or convicted of a crime involving moral turpitude. He/she shall act as the presiding officer, assisted by a DSWD social worker, over cases involving spousal and/or child support.

SEC. 8. *Powers and Functions of a Family Arbitrator.* - The family arbitrators shall have the following functions:

(a) Act on the petition for spousal and/or child support, on a case-to-case basis in accordance with due process of law.

(b) Conduct hearings for the purpose of clarifying points of law or facts involved in the case.

(c) Determine the amount for spousal and/or child support based on the financial capacity of the person legally obligated to provide support and the needs of the spouse and/or child, which shall be immediately executory.

(d) Assist the concerned parties, who are willing to enter into an agreement, in the execution of a written agreement for spousal and/or child support;

(e) Prepare a written summary of the proceedings, including the substance of the evidence presented, in consultation with the parties. The written summary shall be signed by the parties and shall form part of the records.

(f) Render an award or decision within thirty (30) calendar days, without extension, after the submission of the case for decision: Provided, That the decisions and orders shall be clear and concise and shall include a brief Statement of the (i) facts of the case; (ii) issues involved; (iii) applicable laws or rules; (iv) conclusions and the reasons thereof; and (v) specific remedy or relief granted. In cases involving monetary awards on spousal and/or child support, specifically include the amount awarded.

(g) Re-evaluate the awards according to the necessities of the recipient and the resources or means of the person obliged to furnish the same.

(h) Exercise such other powers and functions as may be necessary or incidental to attain the objectives of this Act.

SEC. 9. *Jurisdiction over Spousal and/or Child Support.* - The Family Arbitrator shall have original and exclusive jurisdiction to hear and decide over all cases involving claims for spousal and/or child support, whether voluntary or involuntary. For voluntary spousal and/or child support, any agreement executed between the parties shall be binding between them without the need for DSWD's intervention: Provided, That the parties may seek assistance from the Family Arbitrator in cases involving conflicts or issues arising from the execution or implementation of a voluntary spousal and/or child support agreement.

The proceedings before the Family Arbitrator shall be summary and non litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure, and the rules in the courts of law shall not strictly apply thereto.

The Family Arbitrator may avail of all reasonable means to speedily ascertain the facts of the controversy, including examination of persons.

SEC. 10. *Appeal of Family Arbitrator's Awards or Decisions.* - Decisions, awards, or orders of the Family Arbitrator may be appealed to the DSWD Secretary by any or both parties within fifteen (15) days from receipt thereof. The DSWD Secretary shall render a decision within thirty (30) days from receipt

of the appeal. The judgment of the Family Arbitrator is immediately executory, notwithstanding the appeal filed before the DSWD Secretary.

SEC. 11. *Judicial Recourse and Execution.* - Decisions, awards, or orders of the DSWD Secretary may be appealed to the Court of Appeals by any or both parties within fifteen (15) days from receipt thereof. The judgment of the DSWD Secretary is immediately executory. An appeal from the judgment shall not stay the execution thereof. Any petition for certiorari, prohibition or mandamus filed based on the Rules of Court shall not cause the suspension of the administrative proceedings or execution of decisions, awards, or orders of the DSWD unless a restraining order is issued by a competent court.

SEC. 12. *Programs and Mechanisms on Spousal and/or Child Support.* - To ensure that a spouse and/or child shall continue to receive financial support, even in the absence or physical inability of the person legally obligated to provide the same, the DSWD, in coordination with other government agencies, shall establish modes or mechanisms of claiming, resolving or addressing cases involving spousal and/or child support.

(a) The Department of Labor and Employment (DOLE) and the Department of Migrant Workers (DMW) shall coordinate with local and foreign employers in establishing a system of claiming spousal and/or child support through, but not limited to, the following:

(i) Automatic Salary Deduction. -

(1) When the DSWD has determined an amount for support, it shall order the employer to deduct from the salary of the employee and directly deposit the same to the spouse, child, and/or legal guardian of the child:

Provided, That due process of law was observed pursuant to the provisions of this Act.

2) When a spouse, parent, or a child's legal guardian, whichever is applicable, has agreed upon, an amount for support, the person legally obligated to provide the same shall, through a written document, authorize their employer to deduct from their salary a percentage for spousal and/or child support: Provided, That the amount thereby deducted shall be directly given by the employer to the spouse, child and/or legal guardian of the child.

(ii) Automatic Money Remittance. - For Overseas Filipino Workers (OFWs), the spouse, parent, or child's legal guardian, whichever is applicable, shall be provided a copy of the expected salary of a person obliged to give support in order to come up with an amicable amount or percentage of salary that shall be automatically remitted to the spouse, parent, or the child's legal guardian upon a written document signed by the employee.

(b) The Department of Foreign Affairs (DFA) shall review existing conventions and treaties with other countries in relation to spousal and/or child support, and provide concerned government agencies with instructions on obligating neglectful spouses or parents abroad to provide for their spouses or children left in the Philippines: Provided, that the DFA, through Philippine embassies abroad,

and in coordination with the DMW, shall inform spouses, parents, or legal guardians of their neglected duties to their families left in the Philippines, and apprise them of the imposable penalties of the country where they are staying, if any, in light of any convention or treaty that such country and the Philippines are both signatories.

(c) The Lupon Tagapamayapa shall act as a mediator and, as far as practicable, assist in a possible amicable settlement between the parties, in cases involving spousal and/or child support filed at the barangay level, in coordination with a duly recognized social worker assigned in the local government unit (LGU) where the barangay is located. The Barangay Council for the Protection of Children (BCPC) shall provide counseling and guidance to parents and children involved in support cases, and assistance to parents, who lack the resources for providing support, in finding employment or livelihood training available in the barangay or LGU.

(d) The DSWD, together with LGU social workers, shall closely work with barangay officials, by conducting training and seminars and providing modules on how to address, assist, and mediate parties in spousal and/or child support cases, especially on proper counseling of children.

(e) The Public Attorney's Office (PAO) shall provide training and seminars regarding the mediation of spousal and/or child support cases to the members of the Lupon Tagapamayapa, the BCPC, and social workers in the LGUs. The PAO shall send a representative to a barangay at least once every three (3) months to ensure effective mediation processes are being followed.

SEC. 13. Assistance to Neglected Families. - The Professional Regulatory Commission (PRC) and Civil Service Commission (CSC) shall utilize their database to locate and compel neglectful spouses, parents, or legal guardians to fulfill their financial duty to their family: Provided, That only those who are able to prove, by competent evidence of identity, that they are the spouse, child, or the child's legal guardian, may seek assistance from the PRC and CSC: Provided Further, That access to the database shall be in accordance with the provisions of Republic Act No. 10173, or the "Data Privacy Act of 2012."

(a) *Cancellation of Professional Licenses.* - The PRC and the CSC shall issue a notice for possible cancellation of license, if a professional continues to evade their duties to provide spousal and/or child support, in violation of applicable code of ethics of their professional regulatory boards and the CSC: Provided, That the claim is supported by available evidence and due process of law was observed.

(b) *Inclusion in Barangay Watchlist.* - All barangay councils shall coordinate with members of the neglected family in locating a neglectful spouse, parent, or legal guardian, and seek assistance from other barangays in finding or tracing a neglectful spouse, parent, or legal guardian who may be reported or found to be living in a different barangay.

SEC. 14. Punishable Acts. - Any person who willfully fails, refuses, evades, withdraws, or threatens to withdraw, or denies spousal and/or child support, or violates any provisions of this Act shall be penalized under relevant laws,

including Republic Act No. 9262, or the "Anti-Violence Against Women and their Children Act of 2004."

SEC. 15. *Implementing Rules and Regulations.* - The DSWD, in coordination with the DOLE, DMW, DFA, PAO, LGUs, barangay councils, and other relevant government and non-government agencies, shall promulgate the implementing rules and regulations of this Act within ninety (90) days from its effectivity.

SEC. 16. *Appropriations.* - The amount necessary for the proper and full implementation of the provisions of this Act shall be incorporated in the annual General Appropriations Act.

SEC. 17. *Separability Clause.* -If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

SEC. 18. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, rule or regulation inconsistent with the provisions of this Act is hereby repealed or modified accordingly.

SEC. 19. *Effectivity Clause.* - This Act shall take effect after fifteen (15) days following its complete publication in the Official Gazette or a newspaper of general circulation.

Approved,