

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

Office of the Secretary

15 DEC 16 P4 57

SENATE
S. No. 3039

RECEIVED BY: J

Introduced by Senator Miriam Defensor Santiago

AN ACT
DEFINING AND PENALIZING THE CRIME OF CRIMINAL NEGLECT OF A
VULNERABLE ELDERLY PERSON OR A PERSON WITH DISABILITY

EXPLANATORY NOTE

The Constitution, Article 2, Section 11 provides that:

The State values the dignity of every human person and guarantees full respect for human rights.

In addition, Article 15, Section 4 provides that:

The family has the duty to care for its elderly members but the state may also do so through just programs of social security.

The Penal Code is replete with provisions penalizing abandonment of children and other persons in danger. Articles 275 to 378 of the Penal Code punish various forms of abandonment or neglect. However, there is no punishment for abandoning or neglecting elderly people and people with disability.

While Republic Act No. 9994, also known as the Expanded Senior Citizens Act of 2010, and Republic Act No. 7277, also known as the Magna Carta for Disabled Persons, were enacted to "recognize the rights of senior citizens"¹ and to "give full support to the improvement of the total well-being of disabled persons"², respectively, both laws failed to address cases of neglect of the elderly and persons with disabilities.

Our country is known for caring for our elders and our family members who have disabilities. However, there are still reported cases of neglect and abandonment of

¹ Republic Act No. 9994, Section 1 (a).
² Republic Act No. 7277, Section 2 (a).

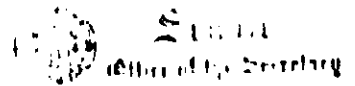
vulnerable elderly persons and persons with disabilities. Admittedly, the government has very limited resources to provide for each and every vulnerable elderly person and person with disability. It still must rely primarily on these persons' family members

Therefore, in order to protect this vulnerable sector of our society, this bill aims to penalize neglect of vulnerable elderly persons and persons with disabilities.³


MIRIAM DEFENSOR SANTIAGO
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³ This bill was originally filed during the Fourteenth Congress, First Regular Session.

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

1 SECTION 1. *Short Title.* – This Act shall be known as “Care for the Elderly and
2 the Disabled Act”.

3 SECTION 2. *Declaration of Policy* – The State values the dignity of every person
4 and guarantees full respect for human rights. To this end, the State will penalize the
5 neglect of a vulnerable elderly person.

6 SECTION 3. *Definition of Terms.* – For the purposes of this Act, the following
7 terms shall mean:

8 (1) “Abandon” means to desert a vulnerable elderly person with intent to
9 wholly abandon him or her.

10 (2) “Caregiver” means a person who provides for the health, welfare, and
11 personal care of a vulnerable elderly person or a person with a disability, at such person’s
12 place of residence, including but not limited to, food and nutrition, shelter, hygiene,
13 prescribed medication and medical care or treatment. The term caregiver shall include:

14 (a) a parent, spouse, adult, child or other relative by blood or marriage
15 who resides with or resides in the same building with and who regularly visits the
16 vulnerable elderly person or the person with a disability, and who knows or

1 reasonably should know that such person is unable to adequately provide for his or
2 her own health and personal care;

3 (b) a person employed by the vulnerable elderly person or a person with
4 a disability or by another to reside with or regularly visit the vulnerable elderly
5 person or the person with a disability and provide for such person's health and
6 personal care;

7 (c) a person who has agreed for consideration to reside with or regularly
8 visit the vulnerable elderly person or the person with a disability and provide for
9 such person's health and personal care;

10 (d) a person who has been appointed by a private or public agency or by
11 a court of competent jurisdiction to provide for the health and personal care of the
12 vulnerable elderly person or the person with a disability; and

13 (e) a person who holds a power of attorney or other legal or fiduciary
14 relationship that requires such person to provide for the health and personal care of
15 the vulnerable elderly person or the person with a disability.

16 The term caregiver shall not include a long-term health care facility licensed or
17 certified under the provisions of public health laws or any administrative, medical or
18 other personnel of such a facility, or a health care provider who is licensed under the law
19 and renders care in the ordinary course of his or her profession.

20 (3) "Person with a disability" refers to any person who is suffering from
21 restriction of different abilities, as a result of a mental, physical or sensory impairment, to
22 perform an activity in the manner or within the range considered normal for a human
23 being.

24 (4) "Vulnerable elderly person" refers to any resident of the Philippines at least
25 sixty (60) years old who is suffering from a disease or infirmity associated with advanced
26 age.

1 **SECTION 4. *Criminal Neglect of a Vulnerable Elderly Person or a Person with a***
2 ***Disability.*** – A person is guilty of criminal neglect of a vulnerable elderly person or a
3 person with a disability when he or she is a caregiver and:

4 (1) knowingly acts in a manner likely to cause the vulnerable elderly person or
5 the person with a disability's life to be endangered, health to be injured, or pre-existing
6 physical or mental condition to deteriorate; or

7 (2) fails to perform acts which he or she knows or reasonably should know are
8 necessary to maintain or preserve the life or health of the vulnerable elderly person or the
9 person with a disability and such failure causes said person's life to be endangered, health
10 to be injured or pre-existing physical or mental condition to deteriorate; or

11 (3) abandons the vulnerable elderly person or the person with a disability.

12 **SECTION 5. *Exceptions.*** - No provision of this Act shall be deemed to impose
13 criminal liability upon any person who has made a good faith effort to provide for the
14 health and personal care of the vulnerable elderly person or the person with a disability
15 but through no fault of his or her own has been unable to provide such care. In addition,
16 no provision of this Act shall be construed as prohibiting a person from providing
17 treatment by spiritual means through prayer alone and care consistent therewith in lieu of
18 medical care and treatment in accordance with the tenets and practices of any church or
19 religious denomination of which the vulnerable elderly person or the person with a
20 disability is a member.

21 **SECTION 6. *Penalty.*** – Any person found guilty of committing the acts punished
22 in this Act shall be punished by imprisonment of not less than one (1) year but not
23 exceeding five (5) years and a fine not less than Ten Thousand Pesos (P10,000.00) but
24 not exceeding One Hundred Thousand Pesos (P100,000.00).

1 SECTION 7. *Other Remedies.* – No provision of this Act shall be construed to
2 limit the remedies available to the vulnerable elderly person or the person with a
3 disability under any other provision of law.

4 SECTION 8. *Separability Clause.* – If any provision or part hereof is held invalid
5 or unconstitutional, the same shall not affect the validity and effectivity of the other
6 provisions hereof.

7 SECTION 9. *Repealing Clause.* – All laws, decrees, orders, and issuances, or
8 portions thereof, which are inconsistent with the provisions of this Act, are hereby
9 repealed, amended or modified accordingly.

10 SECTION 10. *Effectivity.* – This Act shall take effect fifteen (15) days after its
11 publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,

/rapt27November2015