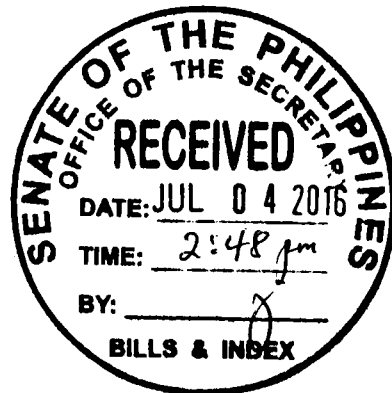


SEVENTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



SENATE
S. B. No. 365

Introduced by Senator Maria Lourdes Nancy S. Binay

AN ACT DIRECTING ESTABLISHMENTS TO SUPPORT THE INSTITUTION OF CHILD CARE FACILITIES AND GRANTING INCENTIVES THEREFOR

EXPLANATORY NOTE

The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development.¹ Further, 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 development².

Early childhood is the most formative and crucial stage in a person's development. Exploration and discovery, through activity and perseverance, are venues for development which must be nurtured not only through homes, but also through the community, recognizing both as important continuing contexts within which a person's development occurs and progresses.

The objectives of the proposed Employers Child Care Centers Act of 2016 is to promote the rights of children to survival, development and special protection; to support parents in their roles as primary providers and caregivers and as their children's first teachers; and to ensure that parents are provided with the adequate facilities and opportunities to properly rear their children and support their basic needs.

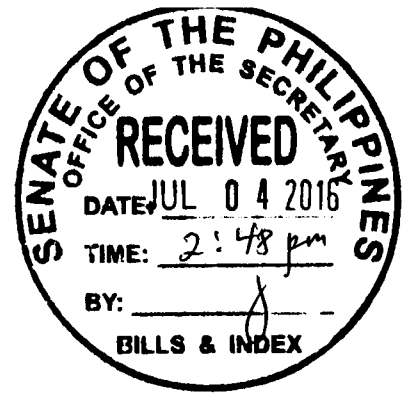
The participation and collective efforts of the private and public sectors are vital to the realization of these objectives. Thus, private and public establishments are directed to provide child care facilities for the children of their respective employees. Further, the penal clause imposes significant fines which may be used to support barangays with inadequate funds to establish and operate their own day care centers.

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


MARIA LOURDES NANCY S. BINAY

¹ The 1987 Constitution of the Republic of the Philippines, Art. XV, Sec. 1.

² The 1987 Constitution of the Republic of the Philippines, Art. XV, Sec. 3, par. (2).



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1 AN ACT DIRECTING ESTABLISHMENTS TO SUPPORT THE INSTITUTION OF CHILD
2 CARE FACILITIES AND GRANTING INCENTIVES THEREFOR
3

4 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
5 *assembled:*
6

7 SECTION 1. *Short Title.* This act shall be known as the “Employers Child Care Centers Act
8 of 2016.”
9

10 SECTION 2. *Declaration of Policy.* Early childhood is the most formative and crucial stage in
11 a person’s development. Exploration and discovery, through activity and perseverance, are
12 venues for the development which must be nurtured not only through homes, but also through
13 the community, recognizing both as important continuing contexts within which a person’s
14 development occurs and progresses. Toward this end, it is hereby declared the policy of the
15 State to promote the rights of children to survival, development and special protection with full
16 recognition of the nature of childhood and its special needs; and to support parents in their roles
17 as primary providers and caregivers and as their children's first teachers. The State also
18 recognizes the natural and primary right and duty of parents in the rearing of their children. It
19 shall also be the policy of the State to ensure that parents are provided with the adequate
20 facilities and opportunities to properly rear their children and support their basic needs. This
21 shall be anchored on complementary strategies for Early Childhood Care and Development
22 that include service delivery for children from conception to age six (6).
23

24 SECTION 3. *Definition of Terms.* As used in this Act, the following terms are defined as
25 follows:
26

27 a. Accreditation – A document issued by the Department of Social Welfare
28 and Development to a legal entity permitting said entity to operate a day or night
29 care facility at a specific location, in accordance with applicable Department
30 regulations;
31

32 b. Covered Institution – Any private or public establishment, including, but
33 not limited to, businesses or other private institutions, non-governmental
34 organizations, government owned and controlled corporations, and
35 governmental institutions, offices, or agencies who employ at least one (1)
36 person to perform acts necessary and desirable for the business or functions of
37 the aforementioned. *Provided*, that charitable institutions which are engaged in
38 caring for children shall not be considered a covered institution;
39

- 1 c. Child – Any person below six (6) years of age;
2
3 d. Day care or night care center – Any employer-funded child care facility
4 which receives for care the children of its employees during the entire or part of
5 a work day; A workplace facility providing a full range of health, nutrition, early
6 education, psycho-social and other services to children below six (6) years of
7 age during the entire or part of the work day;
8
9 e. Department – The Department of Social Welfare and Development;
10
11 f. Employee – Any person who performs acts necessary and desirable for
12 the business or functions of any of the covered institutions. *Provided*, that
13 *Kasambahays*, as defined under Republic Act No. 10361, shall not be
14 considered an employee for the purposes of this Act.
15
16 g. Qualified and competent childcare personnel – Any person who has the
17 necessary educational qualifications and professional licenses to engage in the
18 practice of child care services; and
19
20 h. Work day – Composed of normal work hours as defined under existing
21 law, excluding hours spent working overtime.
22

23 SECTION 4. *Scope*. The provisions of this Act shall apply to any private or public
24 establishment, including, but not limited to, businesses or other private institutions, non-
25 governmental organizations, government owned and controlled corporations, and
26 governmental institutions, offices, or agencies who employ at least one (1) person to perform
27 acts necessary and desirable for the business or functions of the aforementioned. *Provided*, that
28 charitable institutions which are engaged in caring for children shall not be covered by the
29 provisions of this Act.
30

31 SECTION 5. *Framework*. The total development of children during the official working hours
32 of their parents shall be provided for children up to six (6) years of age. To this end, covered
33 institutions shall establish day or night care centers inside or within the immediate vicinity of
34 their place of business or not further than four hundred (400) meters therefrom. *Provided*, that
35 covered institutions which employ at least two hundred (200) employees shall provide a day or
36 night care facility within their place of business. *Provided, further*, that covered institutions
37 which employ less than two hundred (200) employees shall pool their resources, in accordance
38 with the system to be established by the Department, as provided in Section 10 of this Act.
39 *Provided, finally*, that government-owned and controlled corporation and governmental
40 institutions shall provide a day or night care facility within their offices, regardless of the
41 number of employees they employ. Covered institutions which have branches in different
42 cities, provinces or regions shall establish several day or night care centers, in accordance with
43 the provisions of this Act and its implementing rules and regulations.
44

45 SECTION 6. *Programs and Services*. The day or night care centers established pursuant to this
46 Act shall offer substituted care services principally to children of employees of covered
47 institutions free of charge during working hours. *Provided*, that should the day or night care
48 facilities provided by covered institutions not be availed of by their respective employees due
49 to the lack of qualified children, as defined under this Act, the same shall be open to the public,
50 subject to reasonable rules and guidelines as may be provided under the implementing rules
51 and regulations of this Act. Services extended by the day or night care centers shall include,
52 but are not limited to, the following:
53

1 a. Creation and fostering of a support system and assistance between and
2 among employees for the total development and protection of children; and
3

4 b. Growth and nutritional monitoring of the children, with supplementary
5 nutritional feeding and supervision of nutritional intake at home.
6

7 SECTION 7. *Operations and Management.*
8

9 a. A day or night care center must be located in an area which is safe and
10 well-ventilated. It must likewise have adequate toilet and washroom facilities
11 within its premises.
12

13 b. Standards for health and nutrition in the day or night care center as
14 provided for in DSWD Administrative Order No. 29, series of 2004, or such
15 other standard as may be subsequently found proper by the Department, in
16 coordination with the appropriate government agencies, shall be strictly
17 implemented.
18

19 c. None of the costs involved with the establishment, operation and
20 maintenance of the day or night care center shall be passed on whether directly
21 or indirectly to the employees of covered institutions.
22

23 SECTION 8. *Personnel.* Day or night care centers established pursuant to this Act shall be
24 staffed with qualified and competent childcare personnel, *Provided* that the personnel to child
25 ratio shall not go below 1:30.
26

27 SECTION 9. *Compensation of Personnel.* Any personnel whose services are engaged for the
28 purpose of caring for the children in the day or night care centers shall be adequately
29 compensated by the covered institutions. The compensation of a qualified and competent
30 childcare personnel shall be considered adequate if it is at least one hundred and fifty percent
31 (150%) of the compensation of an entry level position at the covered institution. For purposes
32 of complying with mandatory contributions under the pertinent labor laws, the personnel
33 engaged under this provision shall be considered as an independent contractor.
34

35 SECTION 10. *Network of Businesses/Day Care Centers.* The Department shall establish a
36 system that would allow covered institutions which employ less than two hundred (200)
37 employees to enable such covered institutions to pool their resources with the objective of
38 establishing a common day or night care facility. *Provided*, that the Department shall limit the
39 number of covered institutions who may pool their resources up to only such number as to meet
40 the two hundred (200) employees per day or night care facility.
41

42 SECTION 11. *Cooperative or Parent Committee.* The employees whose children avail of the
43 services of the day or night care center may form a Committee for the purpose of supporting
44 and planning programs and activities of the said day or night care center. *Provided*, that the
45 employees who are members of the Committee may augment the personnel of the day or night
46 care center by volunteering to provide care for children. *Provided, further*, that only two (2)
47 volunteers may serve with the day or night care center personnel in any given day. *Provided,*
48 *further*, that the time spent by employees in assisting the day or night care center personnel
49 shall be considered compensable work but shall not entitle the volunteer to any other
50 compensation apart from what they ordinarily receive. *Provided, further*, that no person may
51 volunteer more than once within twenty (20) working days. *Provided, finally*, that if a day or
52 night care center is established using the pooled resources of several covered institutions, all
53 of which employ less than two hundred (200) employees, but the aggregate of which does not

1 exceed two hundred (200) employees, each covered institution may only allow their employees
2 to volunteer in proportion to the total number of employees under the several covered
3 institutions.

4
5 SECTION 12. *Integration of Barangay Day Care Centers.* The Department, in coordination
6 with the Department of the Interior and Local Government shall integrate pre-existing barangay
7 day care centers with day or night care centers to be established by covered institutions in their
8 respective areas.

9
10 SECTION 13. *Accreditation.* The covered institutions shall comply with the standards
11 prescribed by the Department and shall secure the necessary accreditation for the respective
12 day or night care center from the Department to ensure compliance with this Act.

13
14 SECTION 14. *Tax Incentives.* The amount spent by covered institutions under this Act shall
15 be allowed as tax deductions from the covered institution's gross income for purposes of
16 determining the taxable income, in accordance with the following limitations:

17
18 a. The amount spent by the covered institution for constructing the day or
19 night care center may be claimed as a tax deduction up to one hundred percent
20 (100%) of the actual cost but which shall not exceed One Million Five Hundred
21 Thousand Pesos (P1,500,000.00). This incentive may be availed of only once
22 by any covered institution. In the event that a day or night care center is
23 established by several covered institutions who pooled their resources, they may
24 claim the incentive up to only the actual amount that each of them contributed.

25
26 b. Up to one hundred percent (100%) of the actual operating expenses of
27 the day or night care center may be claimed as a tax deduction, but which shall
28 not exceed One Million Pesos (P1,000,000.00) for every taxable year.

29
30 SECTION 15. *Penalties.* The failure of any covered institution to comply with the provisions
31 of this Act and its Implementing Rules and Regulations within one (1) year from the effectivity
32 hereof shall subject the covered institution to the following penalties:

33
34 a. First (1st) Violation – A fine of One Million Five Hundred Thousand
35 Pesos (P1,500,000.00) with a warning to comply with the provisions of this Act
36 within one (1) year from the discovery of the covered institution's failure to
37 comply;

38
39 b. Second (2nd) Violation – A fine of Two Million Pesos (P2,000,000.00)
40 with a second warning to comply with the provisions of this Act within one (1)
41 year from the discovery of the covered institution's failure to comply with the
42 first warning; and

43
44 c. Third (3rd) Violation – A fine of Two Million Five Hundred Thousand
45 Pesos (P2,500,000.00) with a final warning to comply with the provisions of
46 this Act within one (1) year from the discovery of the covered institution's
47 failure to comply with the second warning and possible revocation of business
48 permit to operate within the concerned local government unit.

49
50 The fines imposed under this provision shall be paid to the Department, which shall utilize the
51 same to establish barangay day care centers in barangays which lack adequate funds to establish
52 a sufficient number of barangay day care centers within their barangay.

1 SECTION 16. *Implementing Rules and Regulations.* The Department, in coordination with the
2 Department of Health, Department of Interior and Local Government, Department of Finance,
3 Bureau of Internal Revenue and the Department of Labor and Employment, shall issue the
4 necessary implementing rules and regulations within ninety (90) days from the approval of this
5 Act.

6
7 SECTION 17. *Repealing Clause.* All laws, decrees, orders, rules and regulations, or portions
8 thereof, inconsistent with this Act are hereby repealed or modified accordingly.

9
10 SECTION 18. *Separability Clause.* Should any part or provision of this Act be declared
11 unconstitutional or invalid, other parts or provisions hereof not otherwise affected thereby shall
12 remain in full force and effect.

13
14 SECTION 19. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in at
15 least two (2) newspapers of general circulation.

16
17 Approved,