

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



'22 JUL 11 P4:11

SENATE

S. No. 256

RECEIVED BY: _____

Introduced by Senator **PIA S. CAYETANO**

**AN ACT
PROVIDING FOR SPOUSAL AND CHILD SUPPORT AND FOR OTHER
PURPOSES**

EXPLANATORY NOTE

Under Article 15, Section 3 (2) of the 1987 Constitution, 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. 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.¹ Article 194 of the Family Code further states that the education of the person entitled to be supported shall include his schooling or training for some profession, trade, or vocation, even beyond the age of majority, and that transportation shall include expenses in going to and from school, or to and from a place of work. In February 2022, the Philippines signed the Child Support Convention, which makes it both our national and international commitment to provide an easy way for children who were left behind to collect support, facilitate the applications of individuals seeking child support, including spousal support from foreign parents or spouses, and efficiently recognize and enforce support decisions even if rendered by foreign courts.²

¹ Family Code, Article 194.

² PH Signs Child Support Convention, (2022, February 24). *Embassy of the Philippines, The Hague*. <https://thehaguepe.dfa.gov.ph/press-releases/1621-ph-signs-child-support-convention>

To Filipinos, family always comes first, and having close family ties is one of our unique traits. Parents are primarily responsible for the support of their children. It is unfortunate that there are cases when parents neglect or willfully refuse to comply with their responsibilities of providing for the needs of their family or children, which is a constitutionally-protected right. Despite laws, such as Republic Act No. 9262, or the *Anti-Violence Against Women and Their Children Act of 2004* (VAWC Act), which penalizes economic abuse or the denial and/or refusal to provide financial support, there are parents or spouses who do not provide for their family, even if they are capable. 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 bill was originally drafted by the undersigned, which was inspired by a bill filed by the late Senator Miriam Defensor-Santiago in the 13th Congress. While this is the first comprehensive bill that seeks to address the gaps involving the claims for spousal and/or child support in the country, inputs from experts, including Family Law practitioners, will further enhance the mechanisms and policies provided under this bill. It seeks to simplify the process for claiming spousal and/or child support by making it administrative in nature. Instead of going to the courts, this proposed measure shall equip the Department of Social Welfare and Development (DSWD), through its Family Arbitrators, with quasi-judicial powers to determine the amount of support, based on the financial capacity of the person and the needs of the family, and ultimately resolve cases involving spousal and/or child support, in accordance with due process of law.

This bill shall also clarify 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 and effective 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. In this regard, the DSWD, in coordination with other government agencies, such as the Department of Labor and Employment (DOLE), Department of Migrant Workers (DMW), Department of Foreign Affairs (DFA), as well as local government units and barangays, shall be involved in ensuring and protecting the right of spouses and/or children to support. 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, the bill refers to provisions of relevant laws, including the VAWC Act.

In view of the foregoing, the immediate passage of the bill and approval of the same are earnestly sought.

Pia S. Cayetano
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AN ACT
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Be it enacted by the Senate and the House of Representatives of the Republic of the Philippines in Congress assembled:

1 Section 1. *Short Title.* – This Act shall be known as the "*Spousal and Child*
2 *Support Act.*"

3 Sec. 2. *Declaration of Policy.* – Pursuant to Article 15, Section 1 of the 1987
4 Constitution, it is the declared policy of the State to promote the family as the
5 foundation of the nation, strengthen its solidarity, and ensure its total development.
6 Article 15, Section 3 (2) of the 1987 Constitution further mandates the State to defend
7 the right of children to assistance, including proper care and nutrition, and special
8 protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions
9 prejudicial to their development. Article 70 of the Family Code provides that the
10 spouses are jointly responsible for the support of the family, which comprises
11 everything indispensable for sustenance, dwelling, clothing, medical attendance,
12 education, and transportation, in keeping with the financial capacity of the family.
13 Towards this end, the State shall institutionalize mechanisms and provide necessary
14 assistance to protect and enforce the rights of spouses and children to receive, among
15 others, financial support.

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

1 *Sec. 4. Spouse and/or Child's Right to Support.* – In accordance with the Family
2 Code, spouses and children shall continuously receive support, which is indispensable
3 for their sustenance, dwelling, clothing, medical attendance, education and
4 transportation, in keeping with the financial capacity of the family. The education of
5 the person entitled to be supported shall include his or her schooling or training for
6 profession, trade or vocation. Transportation shall include expenses in going to and
7 from school, or to and from place of work: *Provided*, That child support shall be given
8 even beyond the age of majority, depending on the needs of the child and in keeping
9 with the financial capacity of the person legally obligated to provide the same:
10 *Provided Further*, That in all cases, the best interest of the child shall be considered
11 when agreeing on or determining the terms of the support, which includes the amount
12 that should be provided.

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

- 18 (a) The spouses;
19 (b) The parents of the child; or
20 (c) A parent, or the parents of the child and the guardian of the child:
21 *Provided*, That for purposes of this Act, "guardian" shall refer to persons
22 exercising substitute parental authority over the child as provided under
23 Article 216 of the Family Code.

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

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

7 *Sec. 7. Family Arbitrator.* - A Family Arbitrator shall be a member of the
8 Philippine Bar and must have been engaged in the practice of law in the Philippines
9 with at least five (5) years of relevant experience. He/she shall act as the presiding
10 officer, assisted by a DSWD social worker, over cases involving spousal and/or child
11 support.

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

- 14 (a) Act on the petition for spousal and/or child support, on a case-to-case
15 basis in accordance with due process of law;
- 16 (b) Conduct hearings for the purpose of clarifying points of law or facts
17 involved in the case;
- 18 (c) Determine the amount for spousal and/or child support based on the
19 financial capacity of the person legally obligated to provide support and
20 the needs of the spouse and/or child, which shall be immediately
21 executory;
- 22 (d) If the person legally obligated to provide spousal and/or child support is
23 willing to enter into an agreement, the assigned Family Arbitrator shall
24 assist the parties in the execution of a written agreement.
- 25 (e) Prepare a written summary of the proceedings, including the substance
26 of the evidence presented, in consultation with the parties. The written
27 summary shall be signed by the parties and shall form part of the
28 records.
- 29 (f) Render an award or decision within thirty (30) calendar days, without
30 extension, after the submission of the case for decision: *Provided*, That
31 the decisions and orders shall be clear and concise and shall include a
32 brief statement of the (i) facts of the case; (ii) issues involved; (iii)

1 applicable laws or rules; (iv) conclusions and the reasons thereof; and
2 (v) specific remedy or relief granted. In cases involving monetary awards
3 on spousal and/or child support, specifically include the amount awarded

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

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

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

16 The proceedings before the Family Arbitrator shall be summary and non-
17 litigious in nature. Subject to the requirements of due process, the technicalities of
18 law and procedure and the rules in the courts of law shall not strictly apply thereto.
19 The Family Arbitrator may avail of all reasonable means to speedily ascertain the facts
20 of the controversy, including examination of persons.

21 *Sec. 10. Appeal of Family Arbitrator’s Awards or Decisions.* - Decisions, awards,
22 or orders of the Family Arbitrator may be appealed to the DSWD Secretary by any or
23 both parties within fifteen (15) days from receipt thereof. The DSWD Secretary shall
24 render a decision within thirty (30) days from receipt of the appeal. The judgment of
25 the Family Arbitrator is immediately executory, notwithstanding the appeal filed before
26 the DSWD Secretary.

27 *Sec. 11. Judicial Recourse and Execution.* – Decisions, awards, or orders of the
28 DSWD Secretary may be appealed to the Court of Appeals by any or both parties
29 within fifteen (15) days from receipt thereof. The judgment of the DSWD Secretary is
30 immediately executory. An appeal from the judgment shall not stay the execution
31 thereof. Any petition for *certiorari*, prohibition or *mandamus* filed based on the Rules
32 of Court shall not cause the suspension of the administrative proceedings or execution

1 of decisions, awards, or orders of the DSWD unless a restraining order is issued by a
2 competent court.

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

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

13 (i) *Automatic Salary Deduction.* –

14 (1) When the DSWD has determined an amount for support,
15 it shall order the employer to deduct from the salary of the
16 employee and directly deposit the same to the spouse,
17 child, and/or legal guardian of the child: *Provided,* That
18 due process of law was observed pursuant to the
19 provisions of this Act.

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

28 (ii) *Automatic Money Remittance.* – For Overseas Filipino Workers
29 (OFWs), the spouse, parent, or child’s legal guardian, whichever
30 is applicable, shall be provided a copy of the expected salary of a
31 person obliged to give support in order to come up with an
32 amicable amount or percentage of salary that shall be

1 automatically remitted to the spouse, parent, or the child's legal
2 guardian upon a written document signed by the employee.

3 (b) The Department of Foreign Affairs (DFA) shall review existing
4 conventions and treaties with other countries in relation to spousal
5 and/or child support, and provide concerned government agencies with
6 instructions on obligating neglectful spouses or parents abroad to
7 provide for their spouses or children left in the Philippines: *Provided*, that
8 the DFA, through Philippine embassies abroad, and in coordination with
9 the DMW, shall inform spouses, parents, or legal guardians of their
10 neglected duties to their families left in the country, and apprise them
11 of the imposable penalties of the country where they are staying, if any,
12 in light of any convention or treaty that such country and the Philippines
13 are both signatories.

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

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

28 (e) The Public Attorney's Office (PAO) shall provide training and seminars
29 regarding the mediation of spousal and/or child support cases to the
30 members of the Lupon Tagapamayapa, the BCPC, and social workers in
31 the LGUs. The PAO shall send a representative to a barangay at least

1 once a month to ensure effective mediation processes are being
2 followed.

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

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

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

22 Sec. 14. *Punishable Acts.* – Any person who wilfully fails, refuses, evades,
23 withdraws, or threatens to withdraw, or denies spousal and/or child support, or
24 violates any provisions of this Act shall be penalized under relevant laws, including
25 Republic Act No. 9262, or the *Anti-Violence Against Women and their Children.*

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

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

1 *Sec. 17. Separability Clause.* – If any provision or part of this Act shall be
2 declared invalid or unconstitutional, the remaining parts or provisions not affected
3 shall remain in full force and effect.

4 *Sec. 18. Repealing Clause.* – All laws, decrees, executive orders, issuances,
5 rules and regulations, or parts thereof inconsistent with the provisions of this Act are
6 hereby repealed or modified accordingly.

7 *Sec. 19. Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
8 publication in the Official Gazette or in at least two (2) newspapers of general
9 circulation.

Approved,