

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

8 JUN 10 P6:41

SENATE  
S. No. 2389

RECEIVED BY: 

---

Introduced by Senator Miriam Defensor Santiago

---

EXPLANATORY NOTE

The Constitution, Article 2, Section 11 provides that:

The State values the dignity of every 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.

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 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.

  
MIRIAM DEFENSOR SANTIAGO

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

8 JUN 10 P6:41

SENATE  
S. No. 2389

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

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

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

6 SECTION 1. *Short Title.* – This Act shall be known as “Care for the Elderly and  
7 the Disabled Act of 2008.”

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

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

13 1. “Vulnerable elderly person” means a person sixty (60) years of age or older  
14 who is suffering from a disease or infirmity associated with advanced age.

15 2. “Person with a disability” means a person who has a physical, mental or  
16 medical impairment resulting from anatomical, physiological, or neurological conditions  
17 that prevent the exercise of a normal bodily function or that substantially impair cognitive  
18 function, and include but is not limited to, impairments requiring the use of an artificial  
19 device to move, walk, see, hear or breathe, such as a wheelchair, braces, crutches,  
20 respirator, or other supportive equipment, or use of a guide dog or other guiding device,  
21 and which renders such person incapable of adequately providing for his or her own health  
22 and personal care.

23 3. “Caregiver” means a person who provides for the health, welfare and personal  
24 care of a vulnerable elderly person or a person with a disability, at such person’s place of

1 residence, including but not limited to, food and nutrition, shelter, hygiene, prescribed  
2 medication and medical care or treatment. The term caregiver shall include:

3 (a) a parent, spouse, adult child or other relative by blood or marriage  
4 who resides with or resides in the same building with and who regularly visits  
5 the vulnerable elderly person or the person with a disability, and who knows or  
6 reasonably should know of such person's physical or mental impairment and  
7 knows or reasonably should know that such person is unable to adequately  
8 provide for his or her own health and personal care;

9 (b) a person employed by the vulnerable elderly person or a person with a  
10 disability or by another to reside with or regularly visit the vulnerable elderly  
11 person or the person with a disability and provide for such person's health and  
12 personal care;

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

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

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

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

26 4. "abandon" means to desert a vulnerable elderly person with intent to wholly  
27 abandon him or her.

1           SECTION 4. *Criminal Neglect of a Vulnerable Elderly Person or a Person*  
2 *with a Disability.* – A person is guilty of criminal neglect of a vulnerable elderly person  
3 or a 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 the  
5 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 article 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 but not exceeding  
24 One Hundred Thousand (Php 100,00.00) Pesos.

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

1           SECTION 8. *Separability Clause.* – If any provision or part thereof, is held  
2   invalid or unconstitutional, the remainder of the law or the provision not otherwise  
3   affected shall remain valid and subsisting.

4           SECTION 9. *Repealing Clause.* – Any law, presidential decree or issuance,  
5   executive order, letter of instruction, administrative order, rule or regulation contrary to,  
6   or inconsistent with the provisions of this Act is hereby repealed, modified or amended  
7   accordingly.

8           SECTION 10. *Effectivity Clause.* – This Act shall take effect fifteen (15) days  
9   after its publication in at least two (2) newspapers of general circulation.

10          Approved,

/jps2/29/08