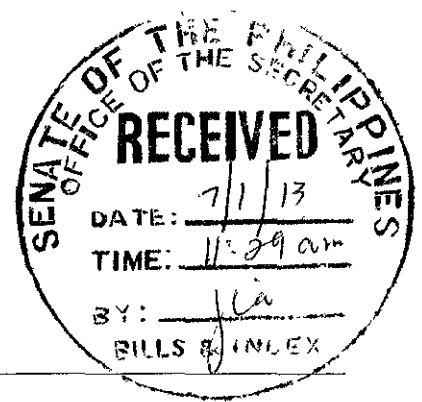


SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

SENATE  
S. B. No. 80



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Introduced by Senator Maria Lourdes Nancy S. Binay

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#### 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.<sup>1</sup> 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 development<sup>2</sup>.

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 2013 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 timely passage of this bill is earnestly recommended.

  
MARIA LOURDES NANCY S. BINAY  
Senator

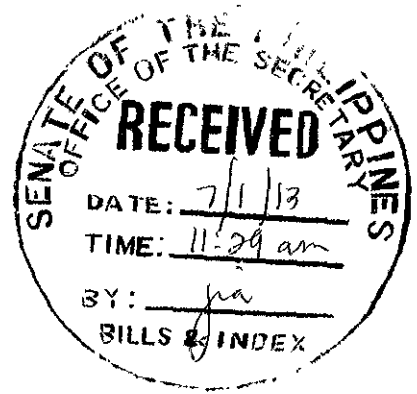
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<sup>1</sup> The 1987 Constitution of the Republic of the Philippines, Art. XV, Sec. 1.

<sup>2</sup> 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  
8 Act of 2013.”  
9

10 **SECTION 2. Declaration of Policy.** – Early childhood is the most formative and crucial  
11 stage in a person’s development. Exploration and discovery, through activity and  
12 perseverance, are venues for the development which must be nurtured not only through  
13 homes, but also through the community, recognizing both as important continuing contexts  
14 within which a person’s development occurs and progresses. Toward this end, it is hereby  
15 declared the policy of the State to promote the rights of children to survival, development and  
16 special protection with full recognition of the nature of childhood and its special needs; and  
17 to support parents in their roles as primary providers and caregivers and as their children’s  
18 first teachers. The State also recognizes the natural and primary right and duty of parents in  
19 the rearing of their children. It shall also be the policy of the State to ensure that parents are  
20 provided with the adequate facilities and opportunities to properly rear their children and  
21 support their basic needs. This shall be anchored on complementary strategies for Early  
22 Childhood Care and Development that include service delivery for children from conception  
23 to age six (6).  
24

25 **SECTION 3. Definition of Terms.** – As used in this Act, the following terms are defined as  
26 follows:  
27

- 28 a. Accreditation – A document issued by the Department of Social Welfare and  
29 Development to a legal entity permitting said entity to operate a day or night  
30 care facility at a specific location, in accordance with applicable Department  
31 regulations;  
32
- 33 b. Covered Institution - Any private or public establishment, including, but not  
34 limited to, businesses or other private institutions, non-governmental  
35 organizations, government owned and controlled corporations, and  
36 governmental institutions, offices, or agencies who employ at least one (1)  
37 person to perform acts necessary and desirable for the business or functions of

1 the aforementioned. *Provided*, that charitable institutions which are engaged in  
2 caring for children shall not be considered a covered institution;

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

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

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

48  
49 **SECTION 6. Programs and Services.** – The day or night care centers established pursuant to  
50 this Act shall offer substituted care services principally to children of employees of covered  
51 institutions free of charge during working hours. *Provided*, that should the day or night care  
52 facilities provided by covered institutions not be availed of by their respective employees due  
53 to the lack of qualified children, as defined under this Act, the same shall be open to the

1 public, subject to reasonable rules and guidelines as may be provided under the implementing  
2 rules and regulations of this Act. Services extended by the day or night care centers shall  
3 include, but are not limited to, the following:

- 4
- 5 a. Creation and fostering of a support system and assistance between and among  
6 employees for the total development and protection of children;
  - 7
  - 8 b. Growth and nutritional monitoring of the children, with supplementary  
9 nutritional feeding and supervision of nutritional intake at home.

10  
11 **SECTION 7. *Operations and Management.***

- 12
- 13 a. A day or night care center must be located in an area which is safe and well-  
14 ventilated. It must likewise have adequate toilet and washroom facilities within  
15 its premises.
  - 16
  - 17 b. Standards for health and nutrition in the day or night care center as provided for  
18 in DSWD Administrative Order No. 29, series of 2004, or such other standard  
19 as may be subsequently found proper by the Department, in coordination with  
20 the appropriate government agencies, shall be strictly implemented.
  - 21
  - 22 c. None of the costs involved with the establishment, operation and maintenance  
23 of the day or night care center shall be passed on whether directly or indirectly  
24 to the employees of covered institutions.

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

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

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

44  
45 **SECTION 11. *Cooperative or Parent Committee.*** – The employees whose children avail of  
46 the services of the day or night care center may form a Committee for the purpose of  
47 supporting and planning programs and activities of the said day or night care center.  
48 *Provided*, that the employees who are members of the Committee may augment the personnel  
49 of the day or night care center by volunteering to provide care for children. *Provided, further*,  
50 that only two (2) volunteers may serve with the day or night care center personnel in any  
51 given day. *Provided, further*, that the time spent by employees in assisting the day or night  
52 care center personnel shall be considered compensable work but shall not entitle the  
53 volunteer to any other compensation apart from what they ordinarily receive. *Provided*,

1 *further*, that no person may volunteer more than once within twenty (20) working days.  
2 *Provided, finally*, that if a day or night care center is established using the pooled resources of  
3 several covered institutions, all of which employ less than two hundred (200) employees, but  
4 the aggregate of which does not exceed two hundred (200) employees, each covered  
5 institution may only allow their employees to volunteer in proportion to the total number of  
6 employees under the several covered institutions.

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

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

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

- 20  
21 a. The amount spent by the covered institution for constructing the day or night care  
22 center may be claimed as a tax deduction up to one hundred percent (100%) of the  
23 actual cost but which shall not exceed One Million Five Hundred Thousand Pesos  
24 (P1,500,000.00). This incentive may be availed of only once by any covered  
25 institution. In the event that a day or night care center is established by several covered  
26 institutions who pooled their resources, they may claim the incentive up to only the  
27 actual amount that each of them contributed.  
28  
29 b. Up to one hundred percent (100%) of the actual operating expenses of the day or night  
30 care center may be claimed as a tax deduction, but which shall not exceed One Million  
31 Pesos (P1,000,000.00) for every taxable year.

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

- 36  
37 a. First (1<sup>st</sup>) Violation – A fine of One Million Five Hundred Thousand Pesos  
38 (P1,500,000.00) with a warning to comply with the provisions of this Act within  
39 one (1) year from the discovery of the covered institution's failure to comply;  
40  
41 b. Second (2<sup>nd</sup>) Violation – A fine of Two Million Pesos (P2,000,000.00) with a  
42 second warning to comply with the provisions of this Act within one (1) year  
43 from the discovery of the covered institution's failure to comply with the first  
44 warning; and  
45 c. Third (3<sup>rd</sup>) Violation – A fine of Two Million Five Hundred Thousand Pesos  
46 (P2,500,000.00) with a final warning to comply with the provisions of this Act  
47 within one (1) year from the discovery of the covered institution's failure to  
48 comply with the second warning and possible revocation of business permit to  
49 operate within the concerned local government unit.

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

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

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

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

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

Approved,