



SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

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SENATE
S.B. No. **1136**

RECEIVED BY: 

Introduced by Senator Poe

AN ACT
PROHIBITING ALL FORMS OF CORPORAL AND HUMILIATING OR
DEGRADING PUNISHMENT OF CHILDREN, AND PROMOTING POSITIVE
DISCIPLINE OF CHILDREN

Explanatory Note

The United Nations (UN) Committee on the Rights of the Child defines “corporal” or “physical” punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. The UN Committee also considers corporal punishment to be other non-physical but equally cruel and degrading forms of punishment, such as “punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.”¹

Community studies point to evidence that physical and emotional maltreatment of children is widespread in the Philippines.² The most abusive acts are those inflicted by parents in the name of discipline. About 85 percent of children surveyed said that they were punished at home, while 82 percent said that they were hit in different parts of the body.³ Studies show that parents usually discipline and punish their children by spanking with the

¹ UN Committee on the Rights of the Child, General comment No. 13 (2011), https://www.unicef-irc.org/portfolios/general_comments/CRC.C.GC.13_en.doc.html. See also Philippine Legislators' Committee on Population and Development Foundation, Inc. (PLCPD), *To Spank or Not to Spank: A Primer on the Proposed Positive and Non-Violent Discipline of Children Act (2015)*, citing Committee on the Rights of the Child, CRC General Comment No. 8 (2006): The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (Arts. 19; 28, Para. 2; and 37, inter alia), 2 March 2007. CRC/C/GC/8., available at <http://www.plcpd.com/wp-content/uploads/2014/08/A-Primer-on-the-Proposed-Positive-and-Non-Violent-Discipline-of-Children-Act.pdf> (last accessed on Sept. 1, 2016).

² E.g. PLCPD, *supra* note 1; Save the Children, *A Time for Change: Ending All Forms of Corporal Punishment of Children* (2008), available at <http://resourcecentre.savethechildren.se/sites/default/files/documents/4895.pdf> (last accessed on Sept. 1, 2016).

³ *Id.* citing Save the Children-Sweden (Unpublished; 2005), Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City.

hand, pinching, hitting the child with an object, twisting the child's ear, pulling the child's hair, slapping the face or head, confining the child in a sack, or by shaking.⁴

Filipino children also experience threats of physical punishment and humiliation, such as being yelled at in front of others, or by labeling and denigration.⁵ Aside from actual physical punishment, studies highlight verbal and emotional forms of maltreatment, both of which are largely invisible in government statistics and reports. Verbal and emotional abuses have significant impact on children. A survey done with Filipino students on experiences of parental verbal abuse revealed that emotional, degrading, and psychological forms of punishment resulted in low self-worth, depression, displaced anger, and aggression among children.⁶

Why does corporal punishment persist from generation to generation? Why has corporal punishment, including humiliating punishment, remain to be a widely accepted, if not an encouraged parenting tool? Experts point to cultural beliefs and cultural practices that reinforce physical punishment. For example, Filipino parents who believe that children only understand the language of pain are more likely to use corporal punishment. Still other adults and parents believe that they have to exercise power or authority over their children through fear and intimidation or else they will not grow up to be good persons.⁷ In fact, while parents admit that they feel guilty and sorry about punishing their children, they say that they are not aware of any other way except for what they have learned from their own parents and grandparents. Parents have expressed the need for alternative positive and non-violent methods for disciplining children,⁸ but have not been able to practice non-violent methods.

Aside from cultural belief, the lack of explicit legal prohibition on the use of corporal punishment tends to legitimize such practices. While there are existing laws against maltreatment, there are no clear prohibitions against the use of corporal punishment

⁴ PLCPD, *supra* note 1, *citing* World Health Organization, World Report on Violence and Health 63 (2002); Save the Children-Sweden, What Children Say: Results of the Comparative Research on the Physical and Emotional Punishment of Children in Southeast Asia and the Pacific 12-19 (2006).

⁵ *Id.*

⁶ Save the Children, *supra* note 2, at 4 (citations omitted).

⁷ *Id.* at 4-5.

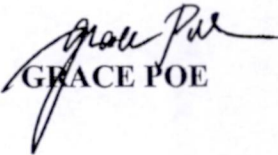
⁸ *Id.* *citing* Save the Children-Sweden (Unpublished; 2005), Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City, Philippines; NORFIL (2005), Documentation of a consultation with the Active Youth movement and the Children and Youth Organization on physical and emotional punishment of children, NORFIL, Quezon City, p. 12.

especially in the home where a lot of the violence takes place. While the home, being a child's immediate environment, plays a primary role in his/her upbringing and formation, it is sadly also where the incidence of violence in the form of corporal punishment most often takes place.⁹

Corporal punishment is ineffective in disciplining children of all ages. Most often, it produces anger, resentment, and low-self-esteem among children.¹⁰ It also teaches the child that violence is an acceptable behavior and is a solution to problems; thus, corporal punishment perpetuates itself as children imitate the actions of adults.¹¹

This bill aims to prohibit corporal punishment and all other forms of humiliating or degrading punishment of children in all settings and promote positive and non-violent discipline of children. It seeks to prohibit corporal or physical punishment by strengthening the country's laws, policies and programs in respecting child's rights, human dignity, physical integrity, and equal protection of the law in compliance with the Philippine government's obligation to the UN Convention on the Rights of the Child.

In view of the foregoing, the urgent approval of this bill is earnestly sought.



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⁹ *Id.* at 5.

¹⁰ *Id.* citing Paintal, Sureshrani (2007), Banning Corporal Punishment of Children: A Position Paper, available at <http://www.stophitting.com/pdf/sureshrani.pdf>

¹¹ *Id.* citing Harper, Kate et al.(2005), Ending Physical and Humiliating Punishment of Children, A Manual for Action, Save the Children, pp. 8-11.

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DISCIPLINE OF CHILDREN

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

1 **SECTION 1. *Short Title.*** – This Act shall be known as the “Positive Discipline Act
2 of 2016”.

3
4 **SECTION 2. *Declaration of Policy.*** – The State recognizes the vital role of children
5 and youth in nation building, and shall promote and protect their physical, moral, spiritual,
6 intellectual, and social well-being. Pursuant to this, no child shall be subjected to torture or
7 other cruel, inhuman or degrading treatment or punishment. Such treatment or punishment
8 violates the child’s rights, human dignity, and physical integrity. It shall be a policy of the
9 State to affirm that corporal punishment of children is invariably degrading, as well as
10 recognize that there are other non-physical forms of punishment that are cruel and degrading
11 as would include, for example, punishment which belittles, humiliates, denigrates,
12 scapegoats, threatens, scares, or ridicules the child.

13
14 As such, the State shall:

15
16 a. Recognize and uphold the right of children as human beings, individuals, and
17 members of a family and community, to equal protection of the law;

18
19 b. Respect the responsibilities, rights and duties of parents, guardians or other persons
20 legally responsible for the child, including those exercising special or substitute

1 parental authority; to provide, in a manner consistent with the evolving capacities of
2 the child and their best interests, appropriate direction and guidance in the exercise of
3 the children's rights;

4
5 c. Uphold the right of children to assistance, including proper care and nutrition, and
6 special protection from all forms of neglect, abuse, cruelty, exploitation, and other
7 conditions prejudicial to their development, including physical and humiliating or
8 degrading treatment for the purpose of correction;

9
10 d. Make better provision for children to live in a safe and secure environment through
11 the promotion of positive discipline of children in the homes, schools, institutions,
12 alternative care systems, workplaces and all other settings; and establish the necessary
13 structures and mechanisms and mobilize resources to make this possible;

14
15 **SECTION 3. *Definition of Terms.*** – As used in this Act:

16
17 (a) “*CHED*” shall refer to the Commission on Higher Education;

18
19 (b) “*Child*” shall refer to a person who is below eighteen (18) years of age, or one over
20 eighteen years but is unable to fully take care of one's self or protect one's self from
21 abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental
22 disability or condition;

23
24 (c) “*Corporal punishment*” or “*physical punishment*” shall refer to any punishment in
25 which physical force is used and intended to cause some degree of pain or discomfort,
26 however light, including, without limitation, hitting; smacking; slapping; or spanking
27 children with the hand or with an implement, such as a whip, stick, belt, shoe, wooden
28 spoon, etc.; kicking, shaking or throwing children; scratching; pinching; biting;
29 pulling hair or boxing ears; forcing children to stay in uncomfortable positions;
30 burning, scalding or forced ingestion, such as washing children's mouths out with
31 soap or forcing them to swallow hot spices;

32
33 (d) “*CWC*” shall refer to the Council for the Welfare of Children;

34

1 (e) “*DepED*” shall refer to the Department of Education;

2
3 (f) “*DILG*” shall refer to the Department of Interior and Local Government;

4
5 (g) “*DOH*” shall refer to the Department of Health;

6
7 (h) “*DOJ*” shall refer to the Department of Justice;

8
9 (i) “*DOLE*” shall refer to the Department of Labor and Employment;

10
11 (j) “*DSWD*” shall refer to the Department of Social Welfare and Development;

12
13 (k) “*LGU*” shall refer to the Local Government Unit;

14
15 (l) “*TESDA*” shall refer to the Technical Education and Skills Development Authority.

16
17 **SECTION 4. *Establishing a Program for the Promotion of Positive Discipline.*** –

18 The DSWD shall, in consultation with the CWC, DILG, DepEd, CHED, TESDA, DOH, DOJ
19 and DOLE, develop and implement a comprehensive program to promote positive discipline
20 as a prevention measure, which shall include appropriate intervention programs for offenders
21 and violators of this Act. This program shall be reinforced with a continuing awareness-
22 raising campaign conducted nationwide on how to practice positive discipline.

23
24 **SECTION 5. *Prohibition of Corporal Punishment.*** – The corporal punishment of
25 children, as defined in Section 3(c), is hereby prohibited in homes, schools, institutions,
26 alternative care systems, workplaces, the juvenile welfare system, places of religious
27 worship, and in all other settings with direct contact to children.

28
29 Any person who inflicts corporal punishment on the child shall be liable in
30 accordance with existing penal laws.

31
32 If the penalty imposable for the act is only *arresto menor* or *arresto mayor*, the
33 prosecutor may, instead of filing the case, refer the accused to the local Social Welfare and
34 Development Office (SWDO) for assessment and intervention, such as counseling, parenting

1 seminars that include topics such as children's rights, positive discipline, anger management,
2 stress management; and if necessary, referral to other providers for rehabilitative services:
3 *Provided*, that the offender has not been previously charged under this Act; *Provided further*,
4 if the offender or accused is a parent, then prosecution and other protective temporary legal
5 remedies should only proceed when they are regarded both as necessary to protect the child
6 from significant harm and as being in the best interest of the affected child.

7
8 The following shall be considered in determining the penalty applicable to an accused
9 parent:

10 1. *Slight Physical Punishment* – Any act of physical punishment that does not render
11 the child ill or incapacitated, the parent shall undergo intervention programs such
12 as seminars on parenting, positive discipline, anger management, stress
13 management; counselling; and if necessary, referral to other providers for
14 rehabilitative services;

15
16 A parent who is a habitual offender shall suffer the ordinary penalty imposed
17 under this section, with mandatory intervention programs mentioned in the
18 preceding paragraph.

19
20 A habitual offender is a parent who has been reported three times in violation of
21 either slight physical punishment or humiliating punishment of the first kind, or
22 both, within one year.

23
24 2. *Serious Physical Punishment* - Any act of physical punishment that renders the
25 child ill or incapacitated for at least one day or causes the child to require medical
26 attention shall suffer the ordinary penalty imposed under this section, with
27 mandatory interventions programs mentioned in the preceding paragraph.

28
29 3. *Humiliating Punishment* - Any act that does not fall under the acts mentioned in
30 the preceding paragraphs, such as but not limited to shaming, humiliating,
31 debasing, intimidating, and verbally abusing a child, or threatening to commit an
32 injury against the child, and causes the child to:

33
4

- 1 i. Not go to school, refuse to go home, refuse to be near the offender or a
2 combination of two or all behaviors, the parent shall undergo
3 intervention programs such as seminars on parenting, positive
4 discipline, anger management, stress management, counselling, and if
5 necessary, referral to other providers for rehabilitative services;
6
7 ii. Suffer psychological distress or trauma as certified by a psychologist
8 or psychiatrist, the offender shall suffer the ordinary penalty imposed
9 under this section, with mandatory interventions programs mentioned
10 in the preceding paragraph.
11

12 **SECTION 6. *Suspension of Parental Authority.*** – If the offender is a person
13 exercising parental authority but is not a parent, and has been previously charged under this
14 Act, the court may suspend parental authority in accordance with Executive Order 209 (s.
15 1987), as amended, otherwise known as “The Family Code of the Philippines”.
16

17 **SECTION 7. *Other Remedies.*** – The remedies available to the victim under Republic
18 Act No. 7610 and Republic Act No. 9262 shall be available to the child where applicable.
19

20 **SECTION 8. *Reporting.*** – All instances of corporal punishment of children brought
21 to the attention of the barangay or the police, or a healthcare provider, shall be reported to the
22 local SWDO within eight (8) hours from the time of the complaint, without prejudice to the
23 continuation of the investigation or the filing of the appropriate criminal case. Failure to
24 report within the prescribed period shall be a ground for administrative action against the
25 barangay official or police officer, or healthcare provider: *Provided*, that any person who is
26 found to have reported a case of corporal punishment that is proven baseless or malicious
27 shall be criminally, civilly, or administratively liable, as appropriate.
28

29 **SECTION 10. *Persons Intervening Exempt from Liability.*** – In every case of
30 corporal punishment or humiliating punishment, any person who, acting in good faith,
31 responds or intervenes without using violence or restraint greater than necessary to ensure the
32 safety of the victim shall not be criminally, civilly, or administratively liable.

1 **SEC 11. *Who May File a Complaint.*** – Complaints on cases of unlawful acts
2 committed against the children as enumerated in this Act may be filed by the following:

- 3 (a) Offended party;
4 (b) Parent or guardian;
5 (c) Ascendant or collateral relative within the third (3rd) degree of consanguinity;
6 (d) Officer, social worker or representative of a licensed child-caring institution;
7 (e) Officer or social worker of the DSWD or the local SWDO;
8 (f) Police officer;
9 (g) The National Bureau of Investigation;
10 (h) Barangay official;
11 (i) Teacher, nongovernmental organization (NGO) worker, health provider, day care
12 worker; or
13 (j) At least three (3) concerned responsible citizens where the violation occurred.

14
15 **SECTION 12. *Jurisdiction.*** – The Regional Trial Court (RTC) designated as a
16 Family Court shall have original and exclusive jurisdiction over cases of corporal punishment
17 of children. In the absence of such court in the place where the offense was committed, the
18 case shall be filed with the RTC in the place where the crime or any of its elements was
19 committed at the option of the complainant.

20
21 **SECTION 13. *Confidentiality.*** – All records pertaining to cases of corporal
22 punishment of children, including those in the barangay, the police, school, or public or
23 private healthcare facility shall be kept confidential, and the right to privacy of the victim
24 shall be respected.

25
26 Whoever publishes or causes to be published, in any format, the name, address,
27 telephone number, school or any identifying information of a victim or an immediate family
28 member of the victim, without consent, shall be penalized with a fine of not more than two
29 hundred thousand pesos (P200,000.00).

30
31 **SECTION 14. *Appropriations.*** – The amount necessary for the initial
32 implementation of this Act shall be charged against the current appropriations of the DSWD,
33 DepED, TESDA, and DOLE. Thereafter, the amount needed for the continued
34 implementation of this Act shall be included in the annual General Appropriations Act. For

1 LGUs, the implementation of the programs may be charged against the internal revenue
2 allotment and other internally generated funds of the LGU concerned.

3
4 **SECTION 15. *Implementing Rules and Regulations.*** – The DSWD, in consultation
5 with the CWC, DepED, CHED, TESDA, DILG, DOH, DOLE, DOJ other relevant
6 government agencies, LGUs, NGOs, and at least two (2) child-focused organizations, shall
7 promulgate the implementing rules and regulations (IRR) of this Act within six (6) months
8 from its effectivity. It shall likewise ensure that techniques in, and examples of, practicing
9 positive discipline shall be extensively enumerated, described, and explained in the IRR.

10
11 **SECTION 16. *Suppletory Application.*** – For purposes of this Act, The Revised
12 Penal Code, as amended; The Child and Youth Welfare Code, as amended; Republic Act No.
13 7610; or under Republic Act No. 9262, otherwise known as the “Anti-Violence Against
14 Women and Their Children Act of 2004; and other applicable laws shall have suppletory
15 application.

16
17 **SECTION 17. *Separability Clause.*** – If any section or provision of this Act is held
18 unconstitutional or invalid, the other sections or provisions shall not be affected.

19
20 **SECTION 18. *Repealing Clause.*** – Article 218 and 220 (7) of Executive Order 209,
21 otherwise known as the Family Code; Article 45 of Presidential Decree No. 603, otherwise
22 known as the Child and Youth Welfare Code, as amended; Article 74 of Presidential Decree
23 No. 1083, otherwise known as the Code of Muslim Personal Laws; and all laws, acts,
24 presidential decrees, executive orders, administrative orders, rules, and regulations
25 inconsistent with or contrary to the provisions of this Act are deemed amended, modified, or
26 repealed accordingly.

27
28 **SECTION 19. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
29 publication in the *Official Gazette* or in a newspaper of general circulation.

30
31 *Approved,*