

SEVENTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

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SENATE

S.B. No. 1607

RECEIVED BY: _____

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Introduced by: Senator Paolo Benigno "Bam" A. Aquino IV

AN ACT STRENGTHENING THE EMPLOYMENT RIGHTS FOR MEMBERS OF THE CITIZEN ARMED FORCES OR THE RESERVE FORCE OF THE ARMED FORCES OF THE PHILIPPINES AND FOR OTHER PURPOSES

EXPLANATORY NOTE

On May 23, 2017, we were shocked by the news that the city of Marawi was besieged by terrorists carrying the flag of ISIS.

To ensure the safety of fellow Filipinos, our brave men and women in uniform put their lives on the line to evacuate civilians, now refugees, from Marawi City and engage the terrorists in a five-month battle to win back the city and defend the country's sovereignty.

Among these heroes is reservist Roberto Almario, a 48-year-old businessman who temporarily left his life as an entrepreneur, his supportive wife, and his two worried children to report for active service as lieutenant colonel in the Army reserve.

Almario was not the only reservist in the battlefield helping take back in Marawi City.

The Armed Forces of the Philippines mobilized two whole battalions from its Reserve Force to work alongside our regular force of the Armed Forces of the Philippines and help thwart terrorism. These citizen soldiers put their lives on the line to help keep our country safe.

Unfortunately, reservists risk losing their civilian careers when they render military service for our State. This is the gap in protection that we, together with AFP, aim to correct through the Reservist Employment Rights Act.

This measure aims to protect current and prospective reservists from discrimination in terms of job hiring, reinstatement, promotion, or any benefit of employment on the basis of rendering military service for the State.

It ensures that reservists will be reinstated to their civilian careers by the end of their required military service, whether for training or mobilization purposes.

Under the bill, reservists shall be entitled reinstatement to their original position, or to a substantially equivalent position, without loss of seniority rights, and diminution of pay.

This bill also ensures that companies cannot require reservists to use their standard leave credits entitled them for absences for the military service they are required to render.

Furthermore, the bill protects reservists who suffered any injury or disability as they would still be entitled to reinstatement as long as they can perform the essential function of their original employment.

The measure also gives adequate training for reservists, compensation for non-reinstatement and military service, and protection through penalties for discrimination on the basis of their current or prospective membership in the Reserve Force of the AFP.

Our reservists make tremendous sacrifices each time they respond to the State's called to duty.

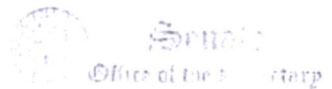
We owe it to these courageous Filipinos to professionalize the Reserve Force and assure them their employment rights.

Let's give our Reservists the legal rights and protections they deserve.

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


Senator Paolo Benigno "Bam" Aquino IV

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

**CHAPTER 1
GENERAL PROVISIONS**

SECTION 1. *Short Title.* – This Act shall be known as the “Reservist Employment Rights Act”.

SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to:

- a. Strengthen the Citizen Armed Forces or the Reserve Force of the Armed Forces of the Philippines (AFP) and recognize its role in the mission areas of the AFP and in national security;
- b. Protect the rights of reservists, and prevent and prohibit discrimination on the basis of rendering military service to the State;
- c. Encourage service in the AFP Reserve Force by eliminating or minimizing the disadvantages to civilian careers and employment which can result from rendering military service to the State; and
- d. Ensure the observance of all employers of the rights of reservists called to perform military service to the State, while the overall operation of their organization are not severely prejudiced.

1 The prime duty of the State is to serve and protect the people. For this reason, the State may
2 call upon the people to defend the State, and in fulfillment thereof, may require its citizens to
3 render military or civil service under conditions provided by law.

4 **SECTION 3. Coverage.** – The provisions of this Act shall apply to all employers, whether private
5 or public, including all government agencies and political subdivisions as well as government-
6 owned or controlled corporations.

7 **SECTION 4. Definitions.** – As used in this Act, the following terms shall mean:

8 a. Active Duty Training – trainings aimed at improving the competence and skills of officers
9 and enlisted reservists to fill the needs of the Armed Forces of the Philippines (AFP) in
10 time of war, national emergency, or such other times as the national security requires;

11 b. Auxiliary Service – the voluntary performance of a service by a reservist for the purpose
12 of helping maintain local peace and order, meeting local insurgency and terror threats
13 for intelligence requirements, assisting in rescue and relief operations during disasters
14 and calamities, health welfare activities and participating in local socioeconomic
15 development projects;

16 c. Citizen Soldier or Reservist – members of the Reserve Force of the AFP composed of the
17 following:

18 i. Graduates of the Reserve Officers' Training Corps (ROTC) basic and advance
19 courses and who were issued orders as enlisted reservists or reserve officers of
20 the AFP;

21 ii. Graduates of authorized basic military training instructions who, as a result
22 thereof, were issued orders as enlisted reservists or reserve officers;

23 iii. Ex-servicemen and retired officers of the AFP who have been incorporated into
24 the Reserve Force of the AFP;

25 iv. Commissioned and noncommissioned officers under the affiliated Reserves
26 category and graduates of the National Defense College of the Philippines
27 (NDCP); and

28 v. Commissioned, noncommissioned officers, and privates under the existing laws
29 and including those procured under existing laws and included in the present
30 AFP roster.

31 There shall be three (3) categories of citizen soldiers or AFP reservists: the First Category
32 Reserve, the Second Category Reserve, and the Third Category Reserve based on age.

33 First Category Reserve – The First Category Reserve shall be composed of able bodied
34 reservist whose ages are between eighteen (18) years and thirty-five (35) years,
35 inclusive.

1 Second Category Reserve – The Second Category Reserve shall be composed of able-
2 bodied reservist whose ages are between thirty-six (36) years and fifty-one (51) years,
3 inclusive.

4 Third Category Reserve – The Third Category Reserve shall be composed of able- bodied
5 reservist who are above fifty-one years (51) of age.

6 Based on the categorization above, the Reserve Force units shall further be classified
7 into the Ready Reserve, the Standby Reserve, and the Retired Reserve based on their
8 operational readiness for immediate deployment/utilization.

9 d. Employment – the act of hiring, and continued employment including the reinstatement
10 of an employee called to military service to his/her former position, or if not practicable
11 to a substantially equivalent position, without loss of seniority rights and diminution of
12 pay;

13 e. Military Service – any service rendered by a citizen soldier or reservist to the State upon
14 orders of the AFP or call to active duty (CAD) to meet active duty training (ADT)
15 requirements, or for any purpose that the AFP leadership may deem necessary in order
16 to augment and support the Regular Force operations in times of war, national
17 emergency or such other times as the national security requires;

18 f. Mobilization – the utilization of the Reserve Force of the AFP in times of emergency to
19 meet threats to national security;

20 g. Reinstatement – the actual resumption of work of an employee after his/her military
21 service to his/her former position, or if not practicable to a substantially equivalent
22 position, without loss of seniority rights and diminution of pay;

23 h. Reserve Force – those composing of members of the reserve components of the AFP;

24 i. Standby Reserve – citizen soldiers or reservists belonging mostly to the Second Category
25 Reserve and the Third Category Reserve. The members of the Standby Reserve shall be
26 organized and assigned to specific reserve units and shall be maintained through annual
27 assembly test to update their records and present addresses, among others. The
28 Standby Reserve may be mobilized or ordered to active duty only in times of national
29 emergency or war. The ranks of the members of the Standby Reserve may be upgraded
30 if they voluntarily participate in training or serve with the Ready Reserve units in their
31 areas or if their Standby Reserve unit undergo retraining. They will however be
32 encouraged to upgrade their military knowledge and skills by taking up nonresident or
33 resident courses which shall be set up for the purpose.

1 j. Ready Reserve – citizen soldiers/reservists belonging mostly to the First Category
2 reserve, who shall be organized, trained and maintained as mobilizable ready reserve
3 subject to being called at any time to augment the regular armed force of the AFP not
4 only in times of war or national emergency but also to meet local emergencies arising
5 from calamities, disasters and threats to peace, order, security and stability in any
6 locality, including the need to provide assistance in relief and rescue work and other civil
7 assistance activities.

8 Furthermore, members of the AFP Affiliated Reserve units of various government and
9 private utilities and services considered essential for the preservation of economic
10 stability of the country or particular locality, such as power and electricity, water supply,
11 transportation and communications, among others, regardless of their categorization
12 shall be classified as Ready Reserve.

13 All citizen soldiers belonging to the First Category Reserve, except those exempted
14 under Republic Act No. 7077, otherwise known as the Citizen Armed Forces of the
15 Philippines Reservist Act, and other pertinent policies, shall be required to serve with
16 the Ready Reserve units and will have assignments and promotions in accordance with
17 existing policies of the AFP until transferred to the Standby Reserve by virtue of their
18 age;

19 k. Retired Reserve – citizen soldiers who have qualified for retirement through length of
20 service, old age or disability. For this purpose, sixty-five (65) years shall be considered as
21 the retirement age. However, if qualified and fit for duty, a member of the Retired
22 Reserve may be ordered to active duty in times of local or national emergencies if
23 he/she volunteers for active duty and when the Secretary of National Defense
24 determines that there are not enough qualified citizen soldiers with his/her special skills
25 and qualifications in the Ready Reserve or Standby Reserve in his/her particular area of
26 residence.

27 **CHAPTER 2**
28 **NON-DISCRIMINATION OF RESERVISTS**

29 **SECTION 5. *Anti-Reservists Discrimination.* –**
30

- 31 1. It shall be unlawful for an employer whether government, government-owned-or-
32 controlled company or private to:
- 33
 - 34 i. Discriminate against an individual in terms of compensation, terms and
35 conditions, or privileges of employment on account of such individual's
36 membership, application for membership, performance of military service,
37 application for military service or obligation with the Reserve Force of the AFP;
 - 38 ii. Print or publish, or cause to be printed or published, in any form of media,
39 including the internet, any notice of advertisement relating to employment

- 1 suggesting preferences, limitations, specifications, and discrimination based on
2 membership, application for membership, performance of military service,
3 application for military service or obligation with the Reserve Force of the AFP;
4 iii. Require the declaration of application for membership, or status of membership
5 in the Reserve Force of the AFP;
6 iv. Decline employment on the basis of membership in the Reserve Force of the
7 AFP;
8 v. Deny any employee's or worker's promotion or opportunity for training on the
9 basis of membership, application for membership, performance of military
10 service, application for military service or obligation with the Reserve Force of
11 the AFP;
12 vi. Forcibly lay off an employee or worker because of membership, application for
13 membership, performance of military service, application for military service or
14 obligation with the Reserve Force of the AFP;
15 vii. Impose early retirement on the basis of such employee's or worker's
16 membership, application for membership, performance of military service,
17 application for military service or obligation with the Reserve Force of the AFP;
- 18 2. It shall be unlawful for a labor contractor or subcontractor, if any, to refuse to refer for
19 employment or otherwise discriminate against any individual because of such persons'
20 membership, application for membership, performance of military service, application
21 for military service or obligation with the Reserve Force of the AFP.
- 22 3. It shall be unlawful for any organization to:
- 23 i. Deny membership to any individual because of such person's membership,
24 application for membership, performance of military service, application for
25 military service or obligation with the Reserve Force of the AFP;
26 ii. Exclude from its membership any individual because of such person's
27 membership, application for membership, performance of military service,
28 application for military service or obligation with the Reserve Force of the AFP;
29 iii. Cause or attempt to cause an employer to discriminate against an individual in
30 violation of this Act.
- 31 4. It shall be unlawful for a publisher to print or publish any notice of advertisement
32 relating to employment suggesting preferences, limitations, specifications, and
33 discrimination based on a person's membership, application for membership,
34 performance of military service, application for military service or obligation with the
35 Reserve Force of the AFP.

36 **CHAPTER 3**
37 **EMPLOYMENT AND REINSTATEMENT RIGHTS**

1 **SECTION 6. *Employment Rights of Citizen Soldiers/Reservist.*** – The following are the rights of
2 reservists who perform military service in the Reserve Force of the Armed Forces of the
3 Philippines (AFP):

- 4 1. Reservists who perform military service are entitled to their original position, or when
5 not practicable to a substantially equivalent position, without loss of seniority rights and
6 diminution of their pay;
- 7 2. Military service shall not be considered a break in the employment for retirement
8 purposes or for granting benefits provided for under the Labor Code and other special
9 laws;
- 10 3. Reservists cannot be required to use earned or entitled vacation or service incentive
11 leaves for leave of absence in connection with the performance of military service in the
12 Reserve Force; and
- 13 4. Reservists who suffer any temporary or permanent disability due to military service shall
14 not be denied reinstatement if such employee can still perform the essential functions
15 of their original employment, whether with or without reasonable accommodations.

16 **SECTION 7. *Hiring of Substitute Employee.*** – An employer whose reservist employee is called to
17 military service may hire another employee as substitute during the period of the military
18 service of the reservist employee.

19 The employment of the substitute employee shall be deemed terminated upon the
20 reinstatement of the reservist employee. The employer may, however, consider the substitute
21 employee for another position, if practicable.

22 **SECTION 8. *Reinstatement Duty of an Employer.*** – It shall be the duty of the employer to
23 reinstate reservists returning from military service to their former position, or when not
24 practicable to a substantially equivalent position, without loss of seniority rights and diminution
25 of their pay.

26 **SECTION 9. *Conditions for Reinstatement by Employers.*** – Reservists shall be reinstated as
27 provided in Section 8 of this Act, subject to the following conditions:

- 28 1. The reservist has rendered or performed military service as a member of the Reserve
29 Force of the AFP;
- 30 2. The reservist has given a written notice to his/her employer at least thirty (30) days
31 prior to departing for military service unless precluded by military necessity or, under all
32 of the relevant circumstances, the provision of notice is otherwise impossible or
33 unreasonable. The notice shall indicate the duration of military service, if practicable;

- 1 3. The employer shall immediately reinstate the reservist after the reservist is officially
2 discharged from military service in accordance with the notice received from the AFP;
3 and
- 4 4. The employer shall provide its reservist employee the prevailing salary or wage at the
5 time of the reinstatement of the reservist.

6 The AFP shall provide the necessary documents to reservists in a timely manner to facilitate the
7 reinstatement of their employment for purposes not limited to the justification of their absence
8 due to military service.

9 **SECTION 10. *Period to Notify Employer of Intent to Return.*** – Reservists are hereby required to
10 notify their employers of their intent to return to work under the following circumstances:

- 11 1. In the case of reservists called to military service for a definite period when indicated in
12 the call for active duty training or such other notice issued by the AFP, the employer
13 shall be deemed notified of the intent to return when furnished a copy of the pertinent
14 notice from the AFP prior to the absence of the reservist for military service;
- 15 2. In the case of reservists called to military service for an indefinite period when not
16 indicated in the call for active duty training or such other notices issued by the AFP, the
17 employer shall be deemed notified of the intent to return when furnished a copy of the
18 pertinent notice from the AFP indicating the impending discharge of reservists at least
19 fifteen (15) days prior to the end of the military service;

20 *Provided,* That the reservists shall not be deemed ineligible when circumstances do not permit
21 the timely prior notification of absence due to military service and/or intent to return of a
22 reservist in compliance with this provision in accordance with Section 9(2) and 9(4) of this Act.

23 *Provided, further,* That reservists who suffer from illness or injury incurred in, or aggravated
24 during, the performance of military service shall be allowed to indicate their desire to return to
25 their former position within a reasonable time as prescribed by a military doctor.

26 *Provided, finally,* That the AFP shall ensure that its policies and administrative processes,
27 whenever practicable, allow for at least fifteen (15) days prior notification of employers of the
28 absence of reservists for military service and their capacity and intent to return to their
29 employment.

30 **SECTION 11. *Compensation for Non-Reinstatement.*** – In case the circumstances of an
31 employer have so changed so as to make such reinstatement impossible or unreasonable, the
32 reservist shall be entitled to at least three (3) months pay based on the salary or wage of the
33 reservist prior to the absence for military service or to separation pay in accordance with
34 existing laws, whichever is higher.

1 **SECTION 12. *Compensation of Reservists for Military Service.*** – In order to enhance the general
2 welfare, commitment to service and professionalism of the members the Reserve Force of the
3 AFP, the reservist rendering military service shall be entitled to the base pay commensurate to
4 their rank consistent with their counterpart in the regular force.

5 Reservist employees' contributions during their absence due to military service, whether to the
6 Social Security System (SSS), Government Service Insurance System (GSIS), Pagtutulungan sa
7 Kinabukasan: Ikaw, Bangko, Industriya, at Gobyerno (PAG-IBIG), and/or the Philippine Health
8 Insurance Company (PhilHealth) shall be deemed paid and remitted, and shall not reflect any
9 gap in contributions in the records.

10 **SECTION 13. *Multi-stakeholder Engagements and Advocacies.*** – The AFP shall strengthen
11 coordination and cooperation among stakeholders through a sustained and comprehensive
12 advocacy campaign for the purpose of ensuring that the employment rights of reservists are
13 understood and protected by all concerned.

14 For this purpose, the Department of Budget and Management (DBM) in consultation with the
15 AFP shall create the necessary plantilla positions within the Office of the Deputy Chief of Staff
16 for Reservists and Retirees (OJ9) and within the different Reserve Commands of the AFP Major
17 Services.

18 **SECTION 14. *Corporate Social Responsibility.*** – Expenses and costs justified to be associated
19 with organizational adjustments borne out of the absence of reservists in an organization shall
20 be a qualified expense in the implementation of corporate social responsibility subject to
21 existing policies and programs providing tax benefits and other incentives.

22 **SECTION 15. *Administrative Fines and Penalties.*** – Violation of any of the provision of this Act
23 shall be punished with a fine of not less than Fifty thousand pesos (PHP 50,000.00) but not
24 more than One million pesos (PHP 1,000,000.00), or imprisonment of not less than three (3)
25 months but not more than two (2) years, or both, at the discretion of the court. If the offense is
26 committed by a corporation, trust, firm, partnership or association or other entity, the penalty
27 shall be imposed upon the guilty officer or officers of such corporation, trust, firm, partnership
28 or association or entity.

29 **CHAPTER 4**
30 **Final Provisions**

31 **SECTION. 16. *Appropriations.*** – The amount necessary for the immediate and effective
32 implementation of this Act shall be charged against any available funds of the Armed Forces of
33 the Philippine. Thereafter, such sums as may be necessary for the implementation of this Act
34 shall be included in the annual appropriations of the Armed Forces of the Philippines.

35 **SECTION 17. *Implementing Rules and Regulations.*** – Within sixty (60) days from the effectivity
36 of this Act, the Department of Labor in coordination with AFP Reserve Command and the

1 Department of National Defense, shall promulgate the necessary rules and regulations for the
2 effective implementation of this Act.

3 **SECTION 18. *Separability Clause.*** – Should any provision herein be declared unconstitutional,
4 the same shall not affect the validity of the provisions of this Act.

5 **SECTION 19. *Repealing Clause.*** – All laws, decrees, orders, rules, and regulations or other
6 issuances or parts inconsistent with the provisions of this Act are hereby repealed or modified
7 accordingly.

8 **SECTION 20. *Effectivity Clause.*** – This Act shall take effect in fifteen (15) days after publication
9 in the Official Gazette or in one (1) newspaper of general circulation in the Philippines.

10 *Approved,*