

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

SENATE

S. No. 655



Office of the Secretary

19 JUL 22 P2:02

Introduced by SENATOR RAMON BONG REVILLA, JR.

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**ACT
CREATING THE OFFICE OF TANODBATA AND PROVIDING FUNDS THEREFOR**

EXPLANATORY NOTE

The State is dutybound as "*parens patriae*" or as the "father of our country" to protect the children who populate the country which it governs. The term "children" refers to those below eighteen (18) years old or older but are incapable of taking care of themselves or protect themselves from abuse, neglect, or cruelty, exploitation or discrimination because of a physical or mental disability or condition. It is, therefore, the fundamental policy of the State to promote and protect their welfare.

In line with this mandate, the Congress has passed numerous laws to shield children from the oppressions which this world presents -- the Child and Youth Welfare Code, Anti-Trafficking in Persons Act of 2003, Anti-Violence Against Women and Their Children Act of 2004, Juvenile Justice Act of 2006, to name a few. The Judiciary, on the other hand, adheres to the principle of giving the highest priority to the best interest of children when it comes to litigation which affects them. Hence, children's testimonies are given high regard. Thus, the Supreme Court in *People v. Tamayo*,¹ affirmed the decision of the Court of Appeals convicting Tamayo guilty of raping an 18-year old, as it gave credence to the testimony of the victim. It reasoned, that since the State, as *parens patriae*, is under the obligation to minimize the risk of harm to

¹ *People v. Tamayo*, GR 86162, Sept. 17, 1993.

those who, because of their minority, are not yet able to fully protect themselves, it should lend credence to the testimonies of victims are of tender years. Also, children below the age of criminality are presumed to have acted without discernment and thus incapable of contributory negligence or are exempt from criminal liability. Judge Sangco in his book, *Philippine Law on Torts and Damages*, enlightens us on the matter:

“In our jurisdiction, a person under nine years of age is conclusively presumed to have acted without discernment, and is, on that account, exempt from criminal liability. The same presumption and a like exemption from criminal liability obtains in a case of a person over nine and under fifteen years of age, unless it is shown that he has acted with discernment. Since negligence may be a felony and a quasi-delict and required discernment as a condition of liability, either criminal or civil, a child under nine years of age is, by analogy, conclusively presumed to be incapable of negligence; and that the presumption of lack of discernment or incapacity for negligence in the case of a child over nine but under fifteen years of age is a rebuttable one, under our law. The rule, therefore, is that a child under nine years of age must be conclusively presumed incapable of contributory negligence as a matter of law.”²

However, in spite of the presence of various legislation and jurisprudence, the children of our country remain victims of despotism and exploitation. It is for this reason that the establishment of the Office of the Tanodbata is sought.

The “Tanodbata bill” was first filed by Senator Juan Flavio Velasco in 2004.³ He envisioned it to be an independent body which exclusively pursued and ensured the successful prosecution of perpetrators. The bill mentions the situation where the accused goes “scot-free” because the complainant is forced to abandon the case due to financial restraints. This proposed measure, while based on the bill Sen. Flavio Velasco passed, offers and added more. Albeit not an independent office, the Tanodbata is imbued with powers to effectively prosecute and even defend a child involved in a

² “*Philippine Law on Torts and Damages*” by Judge Sangco, pp.70-71 (1993).

³ SB No. 27, June 4, 2003.

case. It is created under the wing of the Department of Social Welfare and Development to aid its operation.

The Tanodbata is a promising measure to safeguard the well-being of children all over the country. As evil surrounds innocent children, there will be an entity to fight for them.

Given the foregoing, the immediate passage of this measure is sought.


RAMON BONG REVILLA, JR.

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AN ACT

CREATING THE OFFICE OF TANODBATA AND PROVIDING FUNDS THEREFOR

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 "Tanodbata Act."

2 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State as
3 'PARENS PATRIAE' of the Filipino people, particularly of the Filipino children, to provide
4 not only special protection to children from all forms of abuse, neglect, cruelty,
5 exploitation and discrimination, and other conditions prejudicial to their development
6 but also to ensure the prosecution and conviction of perpetrators of child abuse,
7 exploitation and discrimination. The State shall intervene and initiate criminal
8 complaints on behalf of the child when the parent, guardian, teacher or person having
9 care or custody of the child fails or is unable to initiate and/or pursue the prosecution
10 for child abuse and exploitation.

11 Sec. 3. *Definition of Terms.* – (a) "Children" refers to those below eighteen (18)
12 years of age or older but are incapable of taking care of themselves or protect
13 themselves from abuse, neglect, cruelty, exploitation or discrimination because of a
14 physical or mental disability or condition.

15 (b) "Child In Conflict With the Law" refers to a child who is alleged as, accused
16 of, or adjudged as, having committed an offense under Philippine laws.

17 (c) "Office" means the office of the Tanodbata.

18 (d) "Child Abuse" refers to any act or omission as defined and penalized by
19 Republic Act No. 7610, otherwise known as the "Special Protection of Children Against
20 Child Abuse, Exploitation and Discrimination Act," and/or crimes against children,

1 including the conceived but unborn child as provided for by the Revised Penal Code
2 and other pertinent laws.

3 *Sec. 4. The Office of the Tanodbata.* – The independent office of the Tanodbata
4 is hereby created, composed of the Chief Tanodbata and four (4) Tanodbata Deputies
5 who shall be appointed by the President. The Office shall be under the Department of
6 Social Welfare and Development.

7 The Chief Tanodbata shall have the rank and receive the salary of an associate
8 justice of the Court of Appeals while, the deputies shall have the rank and receive the
9 salary of a judge of the Regional Trial Court RTC).

10 *Sec. 5. Qualifications.* – The Chief Tanodbata and his deputies shall be natural-
11 born citizens of the Philippines, and at the same time of their appointment, at least
12 thirty-five (35) years old, of recognized probity and independence, members of the
13 Philippine Bar and have proven expertise and experience in youth-related cases. One
14 Tanodbata Deputy must come from Luzon, one from Visayas, one from Mindanao and
15 one at large. They must have for five (5) years or more been a judge or engaged in
16 the practice of law in the Philippines and shall not have been actively involved in
17 partisan politics.

18 *Sec. 6. Disqualification.* -- The Chief Tanodbata and his Deputies shall not,
19 during their tenure in office, engage in the practice of any profession or in the
20 management of any business, or be financially interested directly or indirectly in any
21 contract with or in any franchise or privilege granted by the Government or any
22 subdivision, agency, or instrumentality thereof including government-owned or
23 controlled corporations.

24 *Sec. 7. Power, Duties and Functions of the Chief Tanodbata and Deputies.* –

25 (a) The Chief Tanodbata and his Deputies shall have the power to intervene in
26 any case or file a petition as third-party complainant in any civil case involving children
27 with the sole purpose of ensuring their well-being. This includes cases to protect the
28 conceived and the unborn.

29 (b) The Office shall have the power to look into confidential records of a child
30 concerned in any civil or criminal case.

31 (c) The Office shall have the power to investigate and procure evidence to use
32 in any civil or criminal case it has pursued. It shall also be empowered to issue

1 subpoena to compel any person to appear, give sworn statement/testimony, or
2 produce documentary or other evidence which the Office deems relevant to a matter
3 under his inquiry.

4 (d) The Chief Tanodbata and his Deputies shall have locus standi to file a
5 petition before the Supreme Court of the Philippines in cases involving the
6 constitutionality of any legislation that involves children.

7 (e) The Chief Tanodbata and his Deputies shall have the power to receive a
8 CIICL released on recognizance.

9 (f) The Office shall prepare and present to the President and Congress an
10 annual report on its accomplishments, disposition of cases, other relevant funds,
11 problems and obstacles encountered, financial and other administrative information
12 as well as its insights and recommendations, when clearly in the public interest,
13 subject to law and regulations relating to protection of witness, the rights of the victim,
14 the collateral rights of the accused and his/her defense, sound prosecution practice
15 and proper administration of justice.

16 (g) The Office shall propose measures which can strengthen children's safety
17 under the law.

18 (h) The Office shall conduct research and gather information for statistics
19 regarding children which shall be published yearly.

20 *Sec. 8. Term of Office.* – The Chief Tanodbata shall have a term of six (6) years.
21 The Tanodbata Deputies shall each have a term of three (3) years. In no case shall
22 the Chief Tanodbata or his Deputies be allowed to serve more than 2 consecutive
23 terms.

24 *Sec. 9. Organization of Office.* – The Office shall have one (1) Executive Director
25 and an Administrative Officer, a Finance, Management and Planning Office, a Legal
26 Office and an Investigation and Prosecution Office.

27 The Executive director shall have the rank of a judge of the Metropolitan Trial
28 Court and shall receive the same salary. Each of the aforesaid offices shall be Headed
29 by a Director which shall have the rank and receive the salary of a Clerk of Court of
30 the Regional Trial Courts.

31 The Investigation and Prosecution Office shall, aside from the Director, have
32 three (3) special prosecutors and three (3) investigators or one (1) special prosecutor

1 and one (1) investigator for Luzon, Visayas and Mindanao. The Special Prosecutors
2 shall have the rank and receive compensation equivalent to that of an Assistance City
3 Prosecutor (Assistant Fiscal); while the investigators shall have the rank and receive
4 the salary of a Regional Trial Court Assistant Sheriff.

5 The Legal Office shall aside from the Director have three (3) Legal Officers or
6 one (1) each for Luzon, Visayas and Mindanao. They shall also have the rank and
7 receive salary equivalent to an Assistant City Prosecutor.

8 The Administrative Office shall consist of the General Services Division and
9 Personnel Division.

10 The Finance, Management and Planning Office shall consist of the Budget
11 Division, Accounting Division and Management Planning Division.

12 All of these officials shall be appointed by the President upon recommendation
13 of the Chief Tanodbata. The Chief Tanodbata may also select, appoint, and
14 compensate in accordance with law and within the amount available by appropriation,
15 such other assistants and employees as may be necessary to discharge the
16 responsibilities of the Office under this law.

17 When the Chief Tanodbata is disabled or absent and so notifies his office, the
18 Senior Deputy Tanodbata shall have authority to act on his stead.

19 The Chief Tanodbata may delegate to other members of his staff any of his
20 authority or duties under this law except his power of decision in all cases and duty of
21 formally making recommendations to administrative agencies or reports to the
22 President or to Congress.

23 *Sec. 11. Duty to Render Assistance to the Office of the Tanodbata.* - Any public
24 official or employee when called upon or required by the Office, is duty bound to
25 render assistance to the office, otherwise he shall be subject to administrative
26 disciplinary action.

27 *Sec. 12. Obstruction.* - Any person who shall willfully obstruct or hinder the
28 proper exercise of the office's functions or who shall, after due hearing, be punished
29 with a fine not exceeding FIFTEEN THOUSAND PESOS (P15, 000.00) without prejudice
30 to any criminal or other administrative liability.

1 Sec. 13. *Implementing Rules and Regulations.* – The Department of Social
2 Welfare and Development shall formulate the rules and regulations within 90 days to
3 effectively implement the provisions of this Act.

4 Sec. 14. *Appropriations.* – The amount of FIFTEEN MILLION PESOS (PhP15,
5 000.000.00) is hereby authorized to be appropriated equally from the savings of the
6 Department of justice, Department of Social Welfare and Development and from the
7 Office of the President as the initial amount to implement the provision of this Act.

8 Thereafter a regular appropriation shall be included in the annual General
9 Appropriations Act for the support and maintenance of the office.

10 Sec. 15. *Separability Clause.* – If any portion or provision of this Act is declared
11 unconstitutional, the remainder of this Act or any provisions not affected thereby shall
12 remain in force and effect.

13 Sec. 16. *Repealing Clause.* – Any law, presidential decree or issuance, executive
14 order, letter of instruction, rule or regulation inconsistent with the provisions of this
15 Act is hereby repealed or modified accordingly.

16 Sec. 17. *Effectivity.* – This Act shall take effect fifteen (15) days following its
17 complete publication in a newspaper of general circulation.

18
19 *Approved,*