



SENATE

'19 NOV 27 P3:29

S. No. 1203

REC- 613

Introduced by SENATOR RAMON BONG REVILLA, JR.

AN ACT

**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

The Marawi siege in May 2017 was one of the biggest security crisis the Armed Forces of the Philippines (AFP) has experienced. The five-month-long armed conflict in Marawi claimed over a thousand lives, civilians as well as from our armed forces, and forced thousands to flee.

The Armed Forces of the Philippines mobilized around two whole battalions from its Reserve Force to work alongside our regular force of the Armed Forces of the Philippines and help fight against terrorists in a war that drew out for months. Crisis such as this is clouded in uncertainty on the duration thus, reservists called out to serve have no guarantee when it will end, putting their lives at stake, not knowing if they will end the battle dead or alive.

The risk for reservists to lose their civilian careers when they render military service for our State, despite fighting for the country, is unforgiving. The siege created a problem making it difficult for the reservists to reintegrate back to their old jobs, since there is no current law covering that.

This bill seeks to strengthen the employment rights of Citizen Armed Forces or the Reserve Force of the AFP to give recognition to its role in mission areas and in national security. It aims to ensure the security of tenure of reservists and entitle them to their original position or substantially equivalent position, without loss of seniority rights and diminution of pay. It also intends to institute programs that will 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 our country.

With this measure, the government can strengthen its advocacy on reservist employment rights and ensure that the men who have heed the call to service are given the what they deserve.

In view of the foregoing, the passage of this bill into law is earnestly sought.


RAMON BONG REVILLA JR.



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*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 "Reservist Employment
2 *Rights Act*".

3 Sec. 2. *Declaration of Policy.* — It is hereby declared the policy of the State to:

- 4 a. Strengthen the Citizen Armed Forces or the Reserve Force of the Armed
5 Forces of the Philippines (AFP) and recognize its role in the mission areas of
6 the AFP and in national security;
- 7 b. Protect the rights of reservists, and prevent and prohibit discrimination on
8 the basis of rendering military service to the State;
- 9 c. Encourage service in the AFP Reserve Force by eliminating or minimizing the
10 disadvantages to civilian careers and employment which can result from
11 rendering military service to the State; and
- 12 d. Ensure the observance of all employers of the rights of reservists called to
13 perform military service to the State, while the overall operation of their
14 organization is not severely prejudiced.
- 15

1 Sec. 3. *Coverage.* — The provisions of this Act shall apply to all employers,
2 whether private or public, including all government agencies and political subdivisions
3 as well as government-owned and/or -controlled corporations and their subsidiaries,
4 nongovernment organizations, and other socioeconomic entities.

5
6 Sec. 4. *Definition of Terms.* — As used in this Act, the following terms shall
7 mean:

- 8 a) Active Duty Training — the compulsory or voluntary trainings for reserve
9 units and/or individual reservists provided by the AFP to update their
10 working knowledge in the current military organization, doctrines,
11 tactics, techniques and procedures or TTPs, in order to maintain a
12 desirable state of readiness, enable them to satisfy the active service-in-
13 grade required for promotion to higher grades, and maintain a level of
14 proficiency and competency for those reservists designated as
15 instructors in Reserve Officers' Training Corps (ROTC) and other
16 reservists training programs;
- 17 b) Auxiliary Service — the voluntary performance of a service by a reservist
18 for the purpose of helping maintain local peace and order, meeting local
19 insurgency and terror threats for intelligence requirements, assisting in
20 rescue and relief operations during disasters and calamities, health
21 welfare activities and participating in local socioeconomic development
22 projects;
- 23 c) Citizen Soldier or Reservist — members of the Reserve Force of the AFP
24 composed of the following;
- 25 a. Graduates of the ROTC basic and advance courses and who were
26 issued orders as enlisted reservists or reserve officers of the AFP;
27 (2) Graduates of authorized basic military training instructions
28 who, as a result thereof, were issued orders as enlisted reservists
29 or reserve officers;
- 30 b. Ex-servicemen and retired officers of the AFP who have been
31 incorporated into the Reserve Force of the AFP; and

- 1 c. Reservist officers and enlisted reservists including those procured
2 under existing laws and included in the present AFP roster.

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

- 6 1. First Category Reserve — The First Category Reserve shall be
7 composed of able-bodied reservist whose ages are between
8 eighteen (18) years and thirty- five (35) years, inclusive.
9 2. Second Category Reserve — The Second Category Reserve shall
10 be composed of able-bodied reservist whose ages are between
11 thirty-six (36) years and fifty- one (51) years, inclusive.
12 3. Third Category Reserve - The Third Category Reserve shall be
13 composed of able- bodied reservist who are above fifty-one years
14 (51) of age.

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

- 19 d. Employment — the act of hiring, and continued engagement
20 including the reintegration of an employee called to military
21 service to his or her former position, or if not practicable to a
22 substantially equivalent position, without loss of seniority rights
23 and diminution of pay:
24 e. Military Service — any service rendered by a citizen soldier or
25 reservist to the State upon orders of the AFP or call to active duty
26 (CAD) to meet active duty training (ADT) requirements, or for any
27 purpose that the AFP leadership may deem necessary in order to
28 augment and support the Regular Force operations in times of
29 war, national emergency or such other times as the national
30 security requires;
31 f. Mobilization — the utilization of the Reserve Force of the AFP in
32 times of emergency to meet threats to national security;

- 1 g. Reintegration — the actual resumption of work of an employee
2 after his or her military service to his or her former position, or if
3 not practicable to a substantially equivalent position, without loss
4 of seniority rights and diminution of pay;
- 5 h. Reserve Force — those composing of members of the reserve
6 components of the AFP;
- 7 i. Ready Reserve — citizen soldiers or reservists belonging mostly
8 to the First Category reserve, who shall be organized, trained and
9 maintained as mobilize- able ready reserve subject to being called
10 at any time to augment the regular armed force of the AFP not
11 only in times of war or national emergency but also to meet local
12 emergencies arising from calamities, disasters and threats to
13 peace, order, security and stability in any locality, including the
14 need to provide assistance in relief and rescue work and other
15 civil assistance activities;

16 Furthermore, members of the AFP Affiliated Reserve units
17 of various government and private utilities and services
18 considered essential for the preservation of economic Stability of
19 the country or particular locality, such as power and electricity,
20 water supply, transportation and communications, among others,
21 regardless of their categorization shall be classified as Ready
22 Reserve;

23 All citizen soldiers belonging to the First Category Reserve,
24 except those exempted under Republic Act No. 7077, otherwise
25 known as the "Citizen Armed Forces of the Philippines Reservist
26 Act", and other pertinent policies, shall be required to serve with
27 the Ready Reserve units and will have assignments and
28 promotions in accordance with existing policies of the AFP until
29 transferred to the Standby Reserve by virtue of their age;

- 30 j. Standby Reserve — citizen soldiers or reservists belonging mostly
31 to the Second Category Reserve and the Third Category Reserve.
32 The members of the Standby Reserve shall be organized and

1 assigned to specific reserve units and shall be maintained through
2 annual assembly test to update their records and present
3 addresses, among others. The Standby Reserve may be mobilized
4 or ordered to active duty only in times of national emergency or
5 war. The ranks of the members of the Standby Reserve may be
6 upgraded if they voluntarily participate in training or serve with
7 the Ready Reserve units in their areas or if their Standby Reserve
8 unit undergo retraining. They will however be encouraged to
9 upgrade their military knowledge and skills by taking up non-
10 resident or resident courses which shall be set up for the purpose;
11 and

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

22 *Sec. 5. Anti-Reservists Discrimination. —*

- 23 a. It shall be unlawful for an employer, or those acting in the interest of
24 the employer, whether private or public, including all government
25 agencies and political subdivisions, as well as government-owned and/or
26 -controlled corporations and their subsidiaries, nongovernment
27 organizations, and other socioeconomic entities to:
- 28 1. Discriminate against an individual in terms of compensation,
29 terms and conditions, or privileges of employment on account of
30 such individual's membership, application for membership,
31 performance of military service, application for military service or
32 obligation with the Reserve Force of the AFP:

- 1 2. Print or publish, or cause to be printed or published, in any form
2 of media, including the internet, any notice of advertisement
3 relating to employment suggesting preferences, limitations,
4 specifications, and discrimination based on membership,
5 application for membership, performance of military service,
6 application for military service or obligation with the Reserve
7 Force of the AFP;
- 8 3. Require the declaration of application for membership, or status
9 of membership in the Reserve Force of the AFP;
- 10 4. Decline employment on the basis of membership in the Reserve
11 Force of the AFP;
- 12 5. Deny any employee's or worker's promotion or opportunity for
13 training on the basis of membership, application for membership,
14 performance of military service, application for military service or
15 obligation with the Reserve Force of the AFP;
- 16 6. Lay off an employee or worker because of membership,
17 application for membership, performance of military service,
18 application for military service or obligation with the Reserve
19 Force of the AFP: or
- 20 7. Impose early retirement on the basis of such employee's or
21 worker's membership, application for membership, performance
22 of military service, application for military service or obligation
23 with the Reserve Force of the AFP.
- 24 8. It shall be unlawful for a labor contractor or subcontractor, if any,
25 to refuse to refer for employment or otherwise discriminate
26 against any individual because of such person's membership,
27 application for membership, performance of military service,
28 application for military service or obligation with the Reserve
29 Force of the AFP;
- 30 9. It shall be unlawful for any organization to:
31 i. Deny membership to any individual because of such
32 person's membership, application for membership,

1 performance of military service, application for military
2 service or obligation with the Reserve Force of the AFP:

3 ii. Exclude from its membership any individual because of
4 such person's membership, application for membership,
5 performance of military service, application for military
6 service or obligation with the Reserve Force of the AFP; or
7 (3) Cause or attempt to cause an employer to discriminate
8 against an individual in violation of this Act.

9 iii. It shall be unlawful for a publisher to print or publish any
10 notice of advertisement relating to employment suggesting
11 preferences, limitations, specifications, and discrimination
12 based on a person's membership, application for
13 membership, performance of military service, application
14 for military service or obligation with the Reserve Force of
15 the AFP.

16 Sec. 6. *Employment Rights of Citizen Soldiers/Reservist.* — The following are
17 the rights of reservists who perform military service in the Reserve Force of the AFP:

- 18 a. Reservists who perform military service are entitled to their original position, or
19 when not practicable to a substantially equivalent position, without loss of
20 seniority rights and diminution of their pay:
- 21 b. Military service shall not be considered a break in the employment for
22 retirement purposes or for granting benefits provided for under the Labor Code
23 and other special laws;
- 24 c. Reservists cannot be required to use earned or entitled vacation or service
25 incentive leaves for leave of absence in connection with the performance of
26 military service in the Reserve Force; and
- 27 d. Reservists who suffer any temporary or permanent disability due to military
28 service shall not be denied reintegration if such employee can still perform the
29 essential functions of their original employment, whether with or without
30 reasonable accommodations

1 *Sec. 7. Hiring of Substitute Employee.* — An employer whose reservist employee
2 is called to military service may hire another employee as substitute during the period
3 of the military service of the reservist employee.

4 The employment of the substitute employee shall be deemed terminated upon
5 the reintegration of the reservist employee. The employer, or those acting in the
6 interest of the employer may, however, consider the substitute employee for another
7 position, if practicable.

8 *Sec. 8. Reintegration Duty of an Employer.* — It shall be the duty of the
9 employer, or those acting in the interest of the employer, to reintegrate reservists
10 returning from military service to their former position, or when not practicable to a
11 substantially equivalent position, without loss of seniority rights and diminution of their
12 pay.

13 *Sec. 9. Conditions for Reintegration of Reservists.* — Reservists shall be entitled
14 to reintegration as provided in Section 8 of this Act, subject to the following conditions:

- 15 a. The reservist has rendered or performed military service as a member of the
16 Reserve Force of the AFP;
- 17 b. The employer, or those acting in the interest of the employer, has been given
18 a written notice by the AFP or the reservist, which if practicable shall indicate
19 the duration of military service, at least thirty (30) days prior to departing for
20 military service unless precluded by military necessity, or under all of the
21 relevant circumstances, the timely provision of notice is otherwise impossible
22 or unreasonable;
- 23 c. The employer, or those acting in the interest of the employer, shall immediately
24 reintegrate the reservist after he or she is officially discharged from military
25 service in accordance with the notice issued by the AFP; and
- 26 d. The employer, or those acting in the interest of the employer, shall provide its
27 reservist employee the prevailing salary or wage at the time of reintegration of
28 the reservist.

29 The AFP shall issue and provide the pertinent notices and documents to
30 reservists and their employers, and those acting in the interest of the employers, in a
31 timely manner to facilitate the reintegration of the reservists to their employment.

1 Sec. 10. *Period to Notify of Intent to Return.* — Reservists are hereby required
2 to notify their employers, or those acting in the interest of the employer, of their intent
3 to return to work subject to the following circumstances and conditions:

4 a. In the case of reservists called to military service for a definite period
5 when indicated in the call for active duty training or such other notice
6 issued by the AFP, the employer, or those acting in the interest of the
7 employer, shall be deemed notified of the intent to return when
8 furnished a copy of the pertinent notice from the AFP prior to the
9 absence of the reservist for military service;

10 b. In the case of reservists called to military service for an indefinite
11 period when not indicated in the call for active duty training or such
12 other notices issued by the AFP, the employer, or those acting in the
13 interest of the employer, shall be deemed notified of the intent to
14 return when furnished a copy of the pertinent notice from the AFP
15 indicating the impending discharge of reservists at least fifteen (15)
16 days prior to the end of the military service: Provided, That the
17 reservists shall not be deemed ineligible when circumstances do not
18 permit the timely prior notification of absence due to military service
19 and/or intent to return of a reservist in compliance with this provision
20 in accordance with Sections 9(b) and 9(d) of this Act: Provided,
21 further, That reservists who suffer from illness or injury incurred in,
22 or aggravated during, the performance of military service shall be
23 allowed to indicate their desire to return to their former position within
24 a reasonable time as prescribed by a military doctor: Provided, finally,
25 That the AFP shall ensure that its policies and administrative
26 processes, whenever practicable, allow for at least fifteen (15) days
27 prior notification of employers, or those acting in their interest, of the
28 absence of reservists for military service and their capacity and intent
29 to return to their employment.

30 Sec. 11. *Compensation for Non-Reintegration of Reservists.* — In cases of
31 authorized causes or circumstances, subject to the determination and approval of
32 Department of Labor and Employment (DOLE), where reintegration is impossible or

1 unreasonable, the reservist shall be entitled to at least three (3) months' worth of his
2 or her basic salary or to a separation pay equivalent to his or her one-month basic
3 salary per year of service, whichever is higher.

4 Sec. 12. *Compensation of Reservists for Military Service.* — order to enhance
5 the general welfare, commitment to service and professionalism of the members of
6 the Reserve Force of the AFP, the reservist rendering military service shall be entitled
7 to the base pay commensurate to their rank consistent with their counterpart in the
8 regular force.

9 The mother agency of the reservist shall promptly pay and remit the reservist
10 employees' premium contributions, based on his or her salary, during their absence
11 due to military service, whether to the Government Service Insurance System (GSIS),
12 PAG- IBIG, Philippine Health Insurance Corporation (PhilHealth), and all pertinent
13 contributions related to his or her employment, and shall not reflect any gap in
14 contributions in the records.

15 Reservists shall have the option to pay their Social Security System (SSS)
16 contributions as a voluntary paying SSS member to avoid any gap in their contribution
17 records and afford their full entitlement to SSS benefits in accordance with existing
18 guidelines.

19 The AFP shall establish the necessary administrative process to assist reservists
20 in the timely remittance of pertinent contributions, whether mandatory or voluntary.

21 Sec. 13. *Multi-stakeholder Engagements and Advocacies.* - The Department of
22 National Defense (DND) and AFP shall strengthen coordination and cooperation
23 among stakeholders through a sustained and comprehensive advocacy campaign for
24 the purpose of ensuring that the employment rights of reservists are understood and
25 protected by all concerned.

26 For this purpose, the Department of Budget and Management (DBM), in
27 consultation with the DND and the AFP, shall create the necessary plantilla or non-
28 tenured positions. The necessary funds for the implementation of this provision shall
29 be included in the budget of the DND and AFP in the annual General Appropriations
30 Act.

31 Sec. 14. *Tax Benefits and Incentives.* - The Department of Finance (DOF), in
32 coordination with the DND, AFP, and other appropriate government agencies, shall

1 develop the appropriate rules and regulations on the provision of tax benefits and
2 incentives based on justified costs and expenses by employers associated with
3 organizational adjustments borne out of the absence of reservists in an organization
4 in compliance with this Act, Republic Act No. 7077, and other appropriate laws, rules,
5 and regulations.

6 Sec. 15. *Administrative Fines and Penalties.* — Violation of any of the provision
7 of this Act shall be punished with a fine of not less than Fifty thousand pesos
8 (P50,000.00) but not more than One million pesos (P1,000,000.00), or imprisonment
9 of not less than three (3) months but not more than two (2) years, or both, at the
10 discretion of the court. If the offense is committed by a corporation, trust, firm,
11 partnership or association or other entity, the penalty shall be imposed upon the
12 responsible officer or officers of such corporation, trust, firm, partnership or
13 association or entity.

14 Sec. 16. *Military Duty Leave.* — Every reservist shall be entitled to a leave of
15 seven (7) days with pay per year for the purposes of military training or military
16 activities. This shall be on top of applicable leaves entitled to a reservist from his or
17 her employer.

18 Sec. 17. *Appropriations.* - The amount necessary for the immediate and
19 effective implementation of this Act shall be charged against any available funds of
20 the DND and the AFP. Thereafter, such sums as may be necessary for the
21 implementation of this Act shall be included in the annual appropriations of the AFP.

22 Sec. 18. *Implementing Rules and Regulations.* — Within sixty (60) days from
23 the effectivity of this Act, the DOLE in coordination with the DND, the AFP, the Civil
24 Service Commission (CSC) and appropriate government agencies shall promulgate the
25 rules and regulations for the effective implementation of this Act.

26 Sec. 19. *Separability Clause.* — Should any provision herein be declared
27 unconstitutional, the same shall not affect the validity of the other provisions of this
28 Act.

29 Sec. 20. *Repealing Clause.* - All laws, decrees, orders, rules, and regulations
30 or other issuances or parts inconsistent with the provisions of this Act are hereby
31 repealed, amended, or modified accordingly.

1 Sec. 21. *Effectivity Clause.* - This Act shall take effect in fifteen (15) days after
2 publication in the Official Gazette or in one (1) newspaper of general circulation in the
3 Philippines.

4

5 *Approved,*