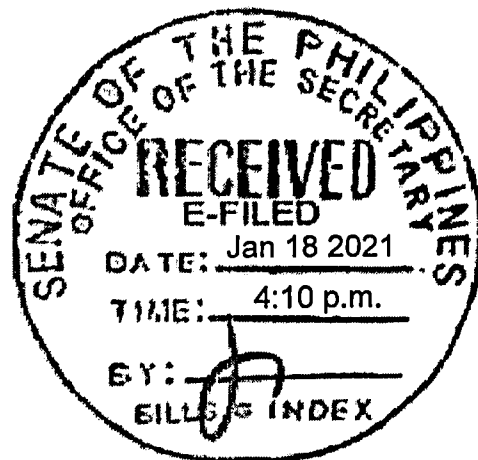


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE

S. No. 1993

Introduced by Senator Manuel "Lito" M. Lapid

AN ACT
AMENDING SECTION 3(H) OF REPUBLIC ACT NO. 9262, OTHERWISE
KNOWN AS THE "ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN
ACT OF 2004," THEREBY PROVIDING PROTECTION TO PERSONS OVER
EIGHTEEN (18) YEARS OF AGE BUT WHO ARE SUFFERING FROM A
DISABILITY, ILLNESS, CONDITION OR INCAPACITY

EXPLANATORY NOTE

Republic Act No. 9262, or the "Anti-Violence Against Women and Their Children Act of 2004" is Exhibit "A" in our country's commitment to the protection of the dignity and human rights of women and children enshrined in our Constitution and laws, as well as its adherence to the provisions of the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments. More than 15 years after its enactment, this law continues to be the primary tool to bring justice for the women and children who are victims of abuse, violence and maltreatment.

However, amendment must be made to ensure that the lofty goals and purposes of the law are still being achieved notwithstanding the passage of time. One such provision that needs updating in order to effect a clearer and less ambiguous language is Section 3(h) regarding the definition of "Children."

The current words in the said subsection are as follows: "Children' refers to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610." The phrase "incapable of taking care of themselves" is open to interpretation that may be exploited to the detriment of the victim. Since R.A. No. 9262 refers to the definition under R.A. No. 7610 (Special Protection of Children Against Abuse, Exploitation and Discrimination Act), jurisprudence on the latter law is instructive on how this definition is being applied. One Supreme Court decision worth noting is *People v. Abello* (G.R. No. 151952, March 25, 2009). In this case, despite the 21-year-old victim's polio illness and her difficulty in walking (which was uncontroverted), her inclusion into the definition of a "child" was not upheld because of the prosecution's failure to present any evidence of a medical evaluation or finding from a qualified physician, psychologist or psychiatrist attesting to her incapacity to fully take care of or protect herself. The Court based the requirement of medical evaluation on R.A. No. 7610's Implementing Rules and Regulations (IRR)¹. To reiterate and further emphasize the absurdity, the victim here had polio and difficulty in walking yet her incapacity to take care of herself was not appreciated by the court. This is all rooted in the ambiguity and openness to interpretation of the definition which, in turn, necessitated an IRR requirement that obliges an exploited and abused person, despite a proven and undisputed illness, to still undergo medical evaluation. This is re-victimization arising from the unreasonableness of the legal processes.

To remove this ambiguity, this bill intends to clarify this definition by specifying that persons over 18 years of age but who are suffering from a mental or physical disability, illness, condition or incapacity are included therein. A non-exclusive enumeration is presented in this amendment, to wit:

1. Autism;
2. Down syndrome;
3. Congenital birth defects;
4. Polio;

¹<https://library.pcw.gov.ph/sites/default/files/Special%20protection%20against%20children.pdf>

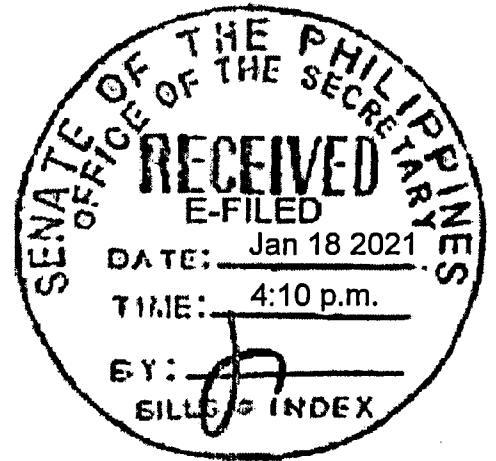
5. Intellectual disabilities;
6. Deafness;
7. Blindness and other visual impairment;
8. Deaf-blindness;
9. Learning disabilities;
10. Speech or language impairment;
11. Orthopedic impairment;
12. Cerebral palsy;
13. Any disease included in the rare disease registry established under Republic Act No. 10747, otherwise known as the "Rare Diseases Act of The Philippines";
14. Any other similar medically-recognized disease or condition that results in incapacity or disability.

Persons who are designated as "persons with disability" under Republic Act No. 7277, as amended, otherwise known as the "Magna Carta for Persons with Disability," are also automatically included in this category. Thus, if a victim has any of these disabilities or diseases, no further medical evaluation is necessary.

In view of this, early passage of this bill is sought.


MANUEL "LITO" M. LAPID
Senator

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EIGHTEEN (18) YEARS OF AGE BUT WHO ARE SUFFERING FROM A
DISABILITY, ILLNESS, CONDITION OR INCAPACITY

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

1 SECTION 1. Section 3(h) of Republic Act No. 9262, otherwise known as the
2 "Anti-Violence Against Women and Their Children Act of 2004" is hereby amended to
3 read as follows:

4
5 "SECTION 3. Definition of Terms. - As used in this Act,

6 x x x

7 (h) "Children" refers to those below eighteen (18) years of age or [older
8 but are incapable of taking care of themselves as defined under Republic
9 Act No. 7610.] **THOSE OVER WHO ARE SUFFERING FROM A**
10 **MENTAL OR PHYSICAL DISABILITY, ILLNESS, CONDITION, OR**
11 **INCAPACITY INCLUDING, BUT NOT LIMITED TO, THE**
12 **FOLLOWING:**

13 **1. AUTISM;**

- 1 2. **DOWN SYNDROME;**
- 2 3. **CONGENITAL BIRTH DEFECTS;**
- 3 4. **POLIO**
- 4 5. **INTELLECTUAL DISABILITIES;**
- 5 6. **DEAFNESS;**
- 6 7. **BLINDNESS AND OTHER VISUAL IMPAIRMENT;**
- 7 8. **DEAF-BLINDNESS;**
- 8 9. **LEARNING DISABILITIES;**
- 9 10. **SPEECH OR LANGUAGE IMPAIRMENT;**
- 10 11. **ORTHOPEDIC IMPAIRMENT;**
- 11 12. **CEREBRAL PALSY;**
- 12 13. **ANY DISEASE INCLUDED IN THE RARE DISEASE**
- 13 **REGISTRY ESTABLISHED UNDER REPUBLIC ACT NO.**
- 14 **10747, OTHERWISE KNOWN AS THE "RARE DISEASES**
- 15 **ACT OF THE PHILIPPINES";**
- 16 14. **ANY OTHER SIMILAR MEDICALLY-RECOGNIZED**
- 17 **DISEASE OR CONDITION THAT RESULTS IN**
- 18 **INCAPACITY OR DISABILITY.**

19

20 **PERSONS WHO ARE DESIGNATED AS PERSONS WITH**

21 **DISABILITY UNDER REPUBLIC ACT NO. 7277, AS**

22 **AMENDED, OTHERWISE KNOWN AS THE "MAGNA CARTA**

23 **FOR PERSONS WITH DISABILITY" SHALL AUTOMATICALLY**

24 **BE INCLUDED IN THIS CATEGORY.**

25

26 As used in this Act, it includes the biological children of the victim

27 and other children under her care.

28

29 *Sec. 2. Repealing Clause.* — All laws, presidential decrees, executive orders,

30 proclamations, rules and regulations, or any part thereof, which are inconsistent with

31 the provisions of this Act are hereby repealed or modified accordingly.

1 **Sec. 3. *Separability Clause.*** – If any provision or part of this Act, or the
2 application thereof to any person or circumstance, is held unconstitutional or invalid,
3 the remainder of this Act shall not be affected thereby.

4
5 **Sec. 4. *Effectivity Clause.*** — This Act shall take effect fifteen (15) days from its
6 publication in the Official Gazette or in at least two (2) newspapers of general
7 circulation.

8
9 *Approved,*