

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

RECEIVED BY:
SENATE
OFFICE OF THE SECRETARY

7 JUN 30 P2:44

SENATE

RECEIVED BY: 

S.B. No. 157

Introduced by Senator JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

In my very first day of office, this Representation filed Senate Bill No. 860 with the ardent purpose of protecting the rights of the poor and invisible, massive, everyday army and unsung heroes of the Philippine economy-the household helpers. It also carries with it the sincere desire of promoting the domestic worker industry's welfare which has long been overlooked and neglected not only by the government but by our society, as well.

In order to further effectively carry out our intention of alleviating the plight our destitute *kasambahay*, this Representation has made additional consultations with concerned non-government organizations, particularly, the Visayan Forum Foundation, Inc., a Philippine-based national NGO that mobilizes countrywide efforts by championing the cause of trafficked women and domestic workers, most especially children. And as a result of this, a modified legislative measure on the *Kasambahay* was conceived by this Representation.

As a signatory to various international labor-related conventions and treaties and with the incorporation of the labor welfare clause into our constitution, immediate passage of this long-deserved *Batas Kasambahay* is thus, earnestly and fervently sought.


JINGGOY EJERCITO ESTRADA

Senator

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

7 JUN 30 P 2:41

SENATE

Senate Bill No. 157

ky

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
PROVIDING FOR ADDITIONAL BENEFITS AND PROTECTION TO THE
HOUSEHELPERS THEREBY AMENDING FOR THIS PURPOSE ARTICLES
141,142,143,148 AND 151 OF CHAPTER III OF P.D. 442, AS AMENDED,
OTHERWISE KNOWN AS "THE LABOR CODE OF THE PHILIPPINES"

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

SECTION 1. Article 141 of Presidential Decree 442, as amended, otherwise known as the Labor Code of the Philippines" is hereby amended to read as follows:

"Article 141. Coverage- This Chapter shall apply to all persons rendering services in household for compensation.

"Domestic [or household service] "HELPER", "HOUSEHOLD HELPERS" OR KASAMBAHAY" [shall mean services in the employer's home which is usually necessary or desirable for the maintenance and enjoyment thereof and includes ministering to the personal comfort and convenience of the members of the employers households, including services of family drivers.] REFERS TO ANY PERSON, WHO RENDERS DOMESTIC OR HOUSEHOLD SERVICES, UNDER A FULL-TIME BASIS FOR COMPENSATION, TO A HOMEOWNER/EMPLOYER UNDERTAKING TASKS ASCRIBED AS NORMAL HOUSEHOLD CHORES WITHIN A SPECIFIC HOUSEHOLDS. THE TERM INCLUDES MAIDS, COOKS, HOUSEBOYS, FAMILY DRIVERS AND "YAYAS" WHO PROVIDE DAILY SERVICE TO A SPECIFIC HOUSEHOLD, EITHER ON A LIVE-IN OR LIVEOUT BASIS."

SEC. 2. Article 142 of P. D. 442, as amended is hereby amended and renumbered to read as follows:

"Art. 142 (A). Contract of domestic service. - [The original contract of domestic service shall not last for more than two (2) years but it may be renewed for such periods as may be agreed upon by the parties.] ALL HOUSEHOLD WORKING ARRANGEMENTS OR AGREEMENTS SHALL BE COVERED BY A WRITTEN EMPLOYMENT CONTRACT, IN A LANGUAGE OR DIALECT UNDERSTOOD BY BOTH EMPLOYER AND HOUSEHOLD HELPER, DULY SIGNED BY BOTH CONTRACTING

PARTIES. EACH CONTRACTING PARTY SHALL BE PROVIDED WITH A COMPLETE SET OF THE DULY SIGNED CONTRACT OF SERVICE, WHICH SHALL INCLUDE THE FOLLOWING:

- (A) PERIOD OF EMPLOYMENT, WHICH SHALL NOT EXCEED TWO (2) YEARS;
- (B) MONTHLY COMPENSATION AND MODE OF PAYMENT;
- (C) ANNUAL SALARY INCREASE;
- (D) DUTIES AND RESPONSIBILITIES;
- (E) WORKING HOURS AND DAY-OFF SCHEDULE; AND
- (F) LIVING QUARTERS OR SLEEPING ARRANGEMENT."

"ART. 142 (B). MEDICAL CERTIFICATE, POLICE CLEARANCE, NBI CLEARANCE, BARANGAY CLEARANCE AND BIRTH CERTIFICATE AS PRE-REQUISITES FOR EMPLOYMENT. – AS PREREQUISITES FOR EMPLOYMENT IN DOMESTIC WORK, ALL PROSPECTIVE APPLICANTS SHOULD SECURE THE FOLLOWING DOCUMENTS:

- (A) MEDICAL CERTIFICATE ATTESTING TO THE PHYSICAL AND MENTAL FITNESS OF THE DOMESTIC WORKER TO BE SECURED FROM A LICENSED PHYSICIAN;
- (B) NATIONAL BUREAU OF INVESTIGATION (NBI) CLEARANCE;
- (C) BARANGAY CLEARANCE;AND
- (D) DULY AUTHENTICATED BIRTH CERTIFICATE FROM THE NATIONAL STATISTICS OFFICE (NSO). "

SEC. 3. Subparagraphs (1). (2)and (3), Article 143 of Presidential Decree No. 42, an amended, are hereby amended and renumbered to read as follows:

"Art. 143 (A). Minimum wage. - (a) House helpers OR DOMESTIC HELPERS, AS DEFINED UNDER THIS ACT, shall be paid the following minimum wage rates: (1) [Eight Hundred Pesos (P800.00)] TWO THOUSAND PESOS (P2,000.00) a month for househelpers [in Manila, Quezon, Pasay and Caloocan cities and the municipalities of Makati, San Juan, Mandaluyong, Muntinlupa, Navotas, Malabon, Paranaque, Las Pinas, Pasig, Marikina, Valenzuela, Taguig and Pateros in Metro Manila and in highly urbanized cities] EMPLOYED IN THE NATIONAL CAPITAL REGION;

(2) [Six Hundred Fifty pesos (P650.00)] ONE THOUSAND FIVE HUNDRED PESOS (P1,500.00) a month for those EMPLOYED in other chartered cities and first class municipalities; and

(3) [Five Hundred fifty pesos (P550.00)] ONE THOUSAND PESOS (P1,000.00) a month for those in other municipalities.

[Provided, That the employers shall review the employment contracts of their househelpers every three (3) years with the end in view of improving the terms and conditions thereof.]

Provided, [further,] That those househelpers who are receiving at least One thousand pesos (P1,000.00) shall be covered by the Social Security System (SSS) and be entitled to all the benefits provided thereunder.

THE REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARDS (RTWPBS) MAY DETERMINE AND ADJUST, FROM TIME TO TIME, APPROPRIATE MINIMUM WAGE RATES OF HOUSEHOLD OR DOMESTIC HELPERS.”

“ART. 143 (B). PAYMENT OF WAGES. - PAYMENT OF WAGES SHALL BE MADE DIRECTLY TO THE DOMESTIC WORKER TO WHOM THEY ARE DUE IN CASH, AT LEAST TWICE A MONTH. THE EMPLOYER, UNLESS ALLOWED BY THE DOMESTIC WORKER THROUGH A WRITTEN CONSENT, SHALL MAKE NO DEDUCTIONS FROM HIS/HER WAGES OTHER THAN THAT WHICH IS MANDATED BY LAW. NO EMPLOYER SHALL PAY THE WAGES OF A DOMESTIC WORKER BY MEANS OF PROMISORY NOTES, VOUCHERS, COUPONS, TOKENS, TICKETS, CHITS OR ANY OBJECT OTHER THBN THE CASH WAGE AS PROVIDED FOR UNDER THIS ACT.”

“ART. 143 (C). PAY SLIP. - ALL EMPLOYERS ARE MANDATED AT ALL TIMES TO PROVIDE THEIR DOMESTIC WORKER WITH A COPY OF THEIR PAY SLIP WHICH SHALL CONTAIN THE AMOUNT PAID IN CASH BY THE EMPLOYER TO THE DOMESTIC WORKER EVERY PAY DAY, AS PRESCRIBED UNDER THIS ACT. THE COPIES OF THE PAY SLIP MUST BE KEPT BY THE EMPLOYER FOR A PERIOD OF THREE (3) YEARS.”

“ART. 143 (D). PLACE OF PAYMENT. - PAYMENT OF WAGES SHALL BE MADE AT OR NEAR THE PLACE OF UNDERTAKING, EXCEPT AS OTHERWISE PROVIDED BY SUCH REGULATIONS AS THE SECRETARY OF LABOR MAY PRESCRIBE UNDER CONDITIONS TO ENSURE PROTECTION OF WAGES.”

“ART. 143 (E) PROHIBITION OR INTERFERENCE IN DISPOSAL OF WAGES- NO EMPLOYER SHALL LIMIT OR OTHERWISE INTERFERE WITH THE FREEDOM OF ANY DOMESTIC WORKER TO DISPOSE OF HIS/HER WAGES. THE EMPLOYER SHALL NOT IN ANY MANNER FORCE, COMPEL, OR OBLIGE THE DOMESTIC WORKER TO PURCHASE MERCHANDISE, COMMODITIES OR OTHER PROPERTIES FROM THE EMPLOYERS OR FROM ANY OTHER PERSON, OR OTHERWISE MAKE USE OF ANY STORE OR SERVICES OF SUCH EMPLOYER OR ANY OTHER PERSON.”

“ART. 143 (F) PROHIBITION AGAINST WITHHOLDING OF WAGES-IT SHALL BE UNLAWFUL FOR AN EMPLOYER, DIRECTLY OR INDIRECTLY, TO WITHHOLD ANY AMOUNT FROM THE WAGES OF THE DOMESTIC WORKER OR INDUCE HIM/HER TO GIVE UP ANY PART OF HIS/HER WAGES BY FORCE, STEALTH, INTIMIDATION, THREAT OR BY ANY OTHER MEANS WHATSOEVER.”

“ART. 143(G). PROHIBITION ON DEPOSITS FOR LOSS OR DAMAGE. - NO EMPLOYER SHALL REQUIRE HIS/HER DOMESTIC WORKER TO MAKE DEPOSITS FROM WHICH DEDUCTIONS SHALL BE MADE FOR THE

REIMBURSEMENT OF LOSS OR DAMAGE TO TOOLS, MATERIALS, FURNITURE AND EQUIPMENT IN THE HOUSEHOLD.”

SEC. 4. Article 148 of Presidential Decree No. 442, as amended, is hereby amended to read as follows:

“Art. 148. Board, lodging and medical attendance- The Employer shall furnish the househelper free of charge suitable and sanitary living quarters as well as adequate food and medical attendance.

EVERY EMPLOYER SHALL KEEP IN HIS/HER HOUSEHOLD SUCH FIRST-AID MEDICINES AND EQUIPMENT AS THE NATURE AND CONDITIONS OF DOMESTIC WORK MAY REQUIRE, IN ACCORDANCE WITH THE RULES AND REGULATIONS THAT WILL BE PRESCRIBED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE), IN ACCORDANCE WITH THE PROVISION OF THIS ACT.”

SEC. 5. A new provision, Article 148-A is hereby inserted to read as follows:

“ART. 148-A MEMBERSHIP IN THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH)- ALL HOUSEHELPERS SHALL BE COVERED BY THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH) IN ACCORDANCE WITH THE GUIDELINE AND BE ENTITLED TO ALL THE BENEFITS PROVIDED BY LAW.”

SEC. 6. Article 151 of Presidential Decree No. 442, as amended, is hereby amended to read as follows:

“Art. 151 (A). Employment Certification- Upon the severance of the household service relation, the employer shall give the househelper/DOMESTIC WORKER a written EMPLOYMENT CERTIFICATION INDICATING [statement of] the nature, [and] duration of the service, WORK PERFORMANCE, [and his or her] efficiency and conduct as househelper/DOMESTIC WORKER.”

“ART. 151 (A). EMPLOYER'S REPORTORIAL DUTIES. – EVERY EMPLOYER OF DOMESTIC WORKER IS MANDATED TO KEEP THE FOLLOWING RECORD TO REFLECT THE ACTUAL TERMS AND CONDITIONS OF EMPLOYMENT HIS/HER DOMESTIC WORKER FOR A PERIOD OF THREE (3) YEARS AFTER THE DOMESTIC WORKER HAS LEFT THE SERVICES OF THE EMPLOYER FOR PURPOSES OF DOCUMENTATION:

- (A) A REGISTER OF ALL DOMESTIC WORKER EMPLOYED BY HIM/HER, INDICATING THE DATES OF THEIR BIRTH;
- (B) A SEPARATE FILE FOR THEIR EMPLOYMENT CONTRACT AND EMPLOYMENT CERTIFICATE;
- (C) A SEPARATE FILE FOR THEIR POLICE CLEARANCE, NBI CLEARANCE AND BARANGAY CLEARANCE; AND

(D) A SEPARATE FILE FOR THEIR MEDICAL CERTIFICATES.

IT SHALL BE UNLAWFUL FOR ANY EMPLOYER TO MAKE ANY REPORT, OR RECORD FILED OR KEPT PURSUANT TO THE PROVISIONS OF THIS ACT KNOWING SUCH STATEMENT, REPORT OR RECORD TO BE FALSE IN ANY MATERIAL RESPECT.”

SEC. 7. *Implementing Rules and Regulations.* - The Department of Interior and Local Government and the Department of Labor and Employment, in collaboration with other government agencies charged with the implementation of the provisions of this Act shall, within a period of one (1) year from the date of its effectivity, promulgate the necessary implementing rules and regulations.

SEC. 8. *Repealing Clause.* - All laws, decrees, presidential issuances, executive orders, rules and regulations or parts thereof not consistent with the provisions of this Act are hereby amended, repealed or modified accordingly.

SEC. 9. *Separability Clause.* - If any provision or part of this Act, or the application thereof to any person or circumstance be held unconstitutional or be declared invalid, the remainder of this Act shall not be affected thereby.

SEC. 10. *Effectivity Clause.* - This Act shall take effect fifteen (15) days following the completion of its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved