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SENATE

Senate Bill No. 873

RECEIVED BY: _____

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Parents in the Philippines discipline and punish their children through the use of corporal or physical punishment in the following forms: spanking with hand; pinching; hitting with an object; twisting the child's ear; pulling the hair; slapping the face or head; confinement in a sack; or shaking.¹ Filipino children also experience threats of physical punishment and humiliating treatments such as being shouted at in front of others, labeling and denigration.² In a survey conducted by Save the Children in the Philippines, 85% of children surveyed said that they were punished in the home, and 82% said that they were hit in different parts of the body.³ In the areas covered by the UNICEF country programme, 60 percent of women (3.6 million) report that they use at least one form of psychological or physical punishment to punish or discipline their children. In particular, 13 percent reported that they used some severe physical punishment on their children.⁴ A survey conducted among Filipino students generated evidence that Filipino children, especially adolescents, also experience verbal abuse, degradation and other forms of psychological punishment, and that even these non-physical forms of punishment have negative effects on children, such as low self-worth, depression, displaced anger and aggression.⁵

According to the World Report on Violence and Health (2002) by the World Health organization, in the short term, corporal punishment "...kills thousands of children each year and injures and handicaps many more. In the longer term, a large body of research has shown it to be a significant factor in the development of violent behavior, and it is associated with other problems in childhood and later life."⁶ Children who are disciplined with spanking or other physical punishments are more likely to be anxious and aggressive than children disciplined through other methods.⁷

Various researches show that corporal punishment is ineffective in disciplining children of all ages and most often, it produces anger, resentment, and low-self-

¹ WORLD HEALTH ORGANIZATION, WORLD REPORT ON VIOLENCE AND HEALTH 63 (2002); SAVE THE CHILDREN-SWEDEN, WHAT CHILDREN SAY: RESULTS OF THE COMPARATIVE RESEARCH ON THE PHYSICAL AND EMOTIONAL PUNISHMENT OF CHILDREN IN SOUTHEAST ASIA AND THE PACIFIC 2005, 12-19 (2006).

² SAVE THE CHILDREN-SWEDEN, at 12-19 (2006).

³ SAVE THE CHILDREN-SWEDEN, Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City, (Unpublished; 2005)

⁴ UNICEF, Philippines Sub-Regional Multiple Indicator Cluster Survey 2007

⁵ Esther Esteban. "Parental Verbal Abuse: Culture-Specific Coping Behavior of College Students in the Philippines." *Child Psychiatry and Human Development*, Vol. 36, No. 3. (March 2006), pp. 243-259.

⁶ WHO, at 64.

⁷ ScienceDaily, *Spanking Leads to Child Aggression and Anxiety, Regardless of Cultural Norm*, 14 November 2005, citing Lansford, et al., *Physical Discipline and Children's Adjustment: Cultural Normativeness as a Moderator*, *Child Development*, Vol. 76, Issue 6 (2005).

esteem on children.⁸ It also teaches the child that violence is an acceptable behavior and is a solution to problems; thus, corporal punishment perpetuates itself as children imitate the actions of adults.⁹

Children have expressed that they do not want to be hurt by their parents and teachers, and wished that there are other non-violent ways of disciplining them. In the Philippines, researches and interviews with children show that children believe that discipline is important and that they need guidance from adults. However, children say that they will learn better if their parents and teachers talk to them in a calm and understanding way, explain to them what they have done wrong or how they should do things the right way, and make them feel that they are still loved and accepted. Parents admit that they feel guilty and sorry about punishing their children but they are not aware of any other way of disciplining children except for what they have learned from their own parents and grandparents. Parents have expressed the need for alternative positive and non-violent methods for disciplining children.¹⁰

The Committee on the Rights of the Child has emphasized several times that corporal punishment is not compatible with the provisions of the Convention on the Rights of the Child and is inconsistent with the requirement of respect for the child's dignity.¹¹ Article 37 of the Convention on the Rights of the Child requires States Parties to ensure that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment." As a State Party to the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights, the Philippines has the obligation to prohibit all forms of physical and mental violence, including corporal punishment and deliberate humiliation within the family.¹² In accordance with Article 19 of the CRC, States Parties are required to "take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child." The Committee has made it clear that this requires the prohibition of all forms of corporal punishment, including punishment inflicted by parents in the home.¹³

In the Report of Paulo Sergio Pinheiro, the independent expert for the United Nations Global Study on Violence against Children, he recommended that States prohibit all forms of violence against children, in all settings, including corporal punishment, by 2009.¹⁴ To date, 24 States have enacted legislation prohibiting corporal punishment and 22 other States have made a public commitment to prohibition.

The World Report on Violence against Children, recommended the prohibition of corporal punishment in the home as well as in other settings and the promotion of

⁸ Sureshrani Paintal, *Banning Corporal Punishment of Children: A Position Paper*, available at <http://www.stophitting.com/disathome/sureshrani.php>.

⁹ KATE HARPER, ET AL. *Ending Physical and Humiliating Punishment of Children, A Manual for Action 8-11 (Save the Children 2005)*.

¹⁰ SAVE THE CHILDREN-SWEDEN, *Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City, Philippines (Unpublished; 2005)*; *Documentation of a consultation with the Active Youth movement and the Children and Youth Organization on physical and emotional punishment of children*, NORFIL, Quezon City, 12 February, 2005; *Exploring discipline in Filipino families*, (unpublished, 2008); "Time for Change," an audiovisual production, Quezon City, 2008.

¹¹ Committee on the Rights of the Child, General Comment No. 8, CRC/C/GC/8, 2 March 2006.

¹² General Guidelines Regarding The Form And Contents Of Periodic Reports To Be Submitted By States Parties Under Article 44, Paragraph 1(b), Of The Convention, paragraph 88, CRC/C/58, 20 November 1996.

¹³ Committee on the Rights of the Child, General Comment No. 8, CRC/C/GC/8, 2 March 2006.

¹⁴ Report of the independent expert for the United Nations study on violence against children, A/61/299, 29 August 2006.

The World Report on Violence against Children, recommended the prohibition of corporal punishment in the home as well as in other settings and the promotion of positive, non-violent relationships with children.¹⁵ The report also called for the prohibition of corporal punishment and other humiliating and degrading treatment in schools.¹⁶

The U.N. Committee on the Rights of the Child, in reviewing the Philippine country report in 2005, recommended:

42. In the light of its general comment No. 1 (2001) on the aims of education and the recommendations adopted by the Committee on its day of general discussion on violence against children within the family and in schools (see CRC/C/111), the Committee reiterates that corporal punishment is not compatible with the provisions of the Convention and it is inconsistent with the requirement of respect for the child's dignity, as specifically required by article 28, paragraph 2, of the Convention. Therefore, the Committee recommends that the State party prohibit by law all forms of corporal punishment in the home, in schools and in private and public institutions, in the juvenile justice system and the alternative care system.

43. The Committee recommends to the State party that it conduct a comprehensive study to assess the nature and extent of corporal punishment in different settings, including the home environment. Furthermore, the Committee recommends that the State party sensitize and educate parents, guardians and professionals working with and for children by carrying out public education campaigns about the harmful impact of violent forms of "discipline" and promote positive, non-violent forms of discipline as an alternative to corporal punishment.¹⁷

Considering the above-stated compelling reasons, there is an urgent need to prohibit corporal punishment and all other forms of humiliating or degrading punishment of children in the home, in schools, in institutions, in alternative care systems and in all other settings. Thus, immediate passage of this bill is earnestly requested.


JINGGOY EJERCITO ESTRADA
Senator

¹⁵ PAULO SERGIO PINHEIRO, WORLD REPORT ON VIOLENCE AGAINST CHILDREN, at 93-94 (2006).

¹⁶ PINHEIRO, at 153.

¹⁷ Committee on the Rights of the Child, Concluding observations: Philippines, paragraph 42, CRC/C/15/Add.259, 21 September 2005.

10 JUL -8 11:18

SENATE

Senate Bill No. 873

RECEIVED BY: [Signature]

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
PROHIBITING ALL CORPORAL PUNISHMENT AND ALL OTHER
FORMS OF HUMILIATING OR DEGRADING PUNISHMENT OF CHILDREN
AND PROMOTING POSITIVE AND NON-VIOLENT DISCIPLINE OF CHILDREN,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. – This Act shall be known as the “**Anti-Corporal Punishment Act of 2010.**”

SEC. 2. Declaration of Policy – The State recognizes the vital role of children and youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs. The State shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development. The State shall protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those to which the Philippines is a party.

No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Such treatment or punishment, including corporal punishment and all other forms of humiliating or degrading treatment or punishment, violates the child’s right to be respected for his/her human dignity and physical integrity and to equal protection under the law.

The State respects the responsibilities, rights and duties of parents, guardians, or other persons legally responsible for the child, including those exercising special or substitute parental authority, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of his/her rights.

The State shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity.

In this regard, the State shall promote the positive and non-violent discipline of children in the home, in the school, in institutions, in alternative care systems, in employment and in all other settings. It shall establish the necessary structures and mechanisms and mobilize resources to make this possible.

The State shall take all appropriate measures to protect the child from all forms of physical or mental violence, injury of abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the custody of parents, guardians or any other person who has the care of the child. Such protective measures shall include effective procedures for the establishment of social programs to provide necessary support for the child and for those who care for the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment, and, as appropriate, for legal or judicial action.

SEC. 3. Definition of Terms. – The following terms as used in this Act shall be defined as follows:

- (a) "Child" refers to a person who is below eighteen (18) years of age, or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition;
- (b) "Corporal punishment" refers to punishment or penalty for an offense or imagined offense, and/or acts carried out for the purpose of discipline, training or control, inflicted by an adult or by another child, who has been given or has assumed authority or responsibility for punishment or discipline. It includes physical and humiliating or degrading punishment, such as but not limited to:
 - 1. Blows to any part of a child's body, such as beating; kicking; hitting; slapping; lashing; with or without the use of an instrument such as a cane, shoes, broom, stick, whip or belt;
 - 2. Pinching; pulling ears or hair; shaking; twisting joints; cutting and shaving hair; cutting or piercing skin; carrying, dragging or throwing a child;
 - 3. Forcing a child, through the use of power, authority or threats, to perform physically painful or damaging acts, such as holding a weight or weights for an extended period; kneeling on stones, salt or pebbles; squatting; standing or sitting in a contorted position;
 - 4. Deliberate neglect of a child's physical needs, where this is intended as punishment;
 - 5. Use of external substances, such as burning or freezing materials, water, smoke, pepper, alcohol, excrement or urine;
 - 6. Use of hazardous tasks as punishment or for the purpose of discipline, including those that are beyond a child's strength or bring him or her into contact with dangerous or unhygienic substances; such tasks include sweeping or digging in the hot sun or rain; using bleach or insecticides; unprotected cleaning of toilets;
 - 7. Confinement, including being shut in a confined space or material, tied up, or forced to remain in one place for an extended period of time;
 - 8. Any threat of physical punishment;
 - 9. Any other physical act perpetrated on a child's body, for the purpose of punishment or discipline, intended to cause some degree of pain or discomfort, however light;
 - 10. Verbal assaults, threats, or intimidation;
 - 11. Verbal abuse, scolding, yelling, swearing, ridiculing or denigrating;
 - 12. Child made to look or feel foolish in front of one's peers or the public; and
 - 13. Other acts or words which belittle, humiliate, scapegoat, blame, ignore, or isolate the child.
- (c) "Foster parents" refers to persons duly licensed by the Department of Social Welfare and Development to provide planned, temporary, substitute parental care to children.

- (d) "Guardians" refers to legal guardians and other persons, including relatives, with physical custody of the child.
- (e) "Parents" refers to biological parents, step parents, adoptive parents and the common-law spouse or partner of the parent.
- (f) "Persons legally responsible for the child, including those exercising special or substitute parental authority" refers to those provided for under Presidential Decree No 603, as amended (the Child and Youth Welfare Code), Executive Order No. 209, as amended (the Family Code), and Republic Act No. 7610, as amended (the Special Protection of Children against Abuse, Exploitation and Discrimination Act).
- (g) "Positive discipline" refers to an approach to parenting that teaches children and guides their behaviour, while respecting their rights to healthy development, protection from violence and participation in their learning;
- (h) "Service provider" refers to any person who, in a residential or non-residential setting, provides services to children. It includes social workers, center administrators and personnel, house parents, health service providers, day care workers, volunteers, security guards in schools and centers, guards in a youth detention home, law enforcement officers, barangay officials and tanods, and jail officers.
- (i) "Teachers and school officials and administrators" refers to persons exercising authority over students, including guidance counselors, prefects of discipline, physical education instructors, school personnel, scout masters and CAT and CMT or ROTC commandants, tactical officers and student officers.
- (j) "Yayas, housemaids and caregivers" refers to domestic workers with direct contact to the child.
- (k) "Institutions" refers to residential and non-residential child-caring agencies, including youth homes, youth rehabilitation centers, drop-in centers, temporary shelters and orphanages; and churches or religious centers, including places of worship and parish centers.

SEC. 4. Prohibition. – All corporal punishment and all other forms of humiliating or degrading punishment of children is hereby prohibited in the home, in the school, in institutions, in alternative care systems, in employment and in all other settings. Parents, yayas, housemaids and caregivers, foster parents, guardians, relatives who have custody of the child, or other persons legally responsible for the child, including those exercising special or substitute parental authority, teachers, instructors and school officials and administrators of both public and private academic and vocational institutions, employers and supervisors, service providers, priests, nuns, pastors and other members of religious congregations or churches, or any other person who has the care of the child who inflicts corporal punishment or humiliating or degrading punishment on the child shall be liable in accordance with existing penal laws, provided that the penalty shall be imposed in the maximum period, except where a higher penalty is provided under Act No. 3815, as amended, otherwise known as the "Revised Penal Code," Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act," or Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and their Children Act"; provided, that if the act is not penalized under the above-mentioned laws, the penalty shall be *arresto mayor* in its maximum period.

If the penalty imposable for the act is only *arresto menor* or *arresto mayor* the prosecutor may instead of filing the case refer the accused to the local social welfare and development office for assessment and intervention; provided, that the offender has not been previously charged under this Act. The interventions shall include seminars on children's rights and positive and non-violent discipline of children, counseling, anger management and referrals to other rehabilitative services.

If the offender is the parent or a person exercising parental authority, the court may suspend parental authority in accordance with Executive Order No. 209, as amended, otherwise known as the "Family Code of the Philippines".

SEC. 5. *Other Remedies.* – The remedies available to the victim under Republic No. 7610 and Republic Act No. 9262 shall be available to the child where applicable.

SEC. 6. *Who May File a Complaint.* – Complaints on cases of corporal punishment or humiliating or degrading treatment of children may be filed by the following:

- (a) Offended party;
- (b) Parents or guardians;
- (c) Ascendant or collateral relative within the third degree of consanguinity or affinity;
- (d) Officer, social worker or representative of a licensed child-caring institution;
- (e) Officer or social worker of the Department of Social Welfare and Development or the local social welfare and development office;
- (f) Police officers, preferably those in charge of the Women and Children's Desk
- (g) Barangay chairman or kagawad;
- (h) Teacher, NGO worker, health provider, day care worker; or
- (i) At least two (2) concerned persons from the place where the act occurred who have personal knowledge of the act.

SEC. 7. *Persons Intervening Exempt from Liability.* – In every case of corporal punishment or humiliating or degrading punishment, any person who, acting in good faith, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall not be criminally, civilly or administratively liable.

SEC. 8. *Venue.* – The Regional Trial Court designated as a Family Court shall have original and exclusive jurisdiction over cases of corporal punishment or humiliating or degrading treatment of children. In the absence of such court in the place where the offense was committed, the case shall be filed in the Regional Trial Court in the place where the crime or any of its elements were committed at the option of the complainant.

SEC. 9. *Reporting.* – All cases of corporal punishment or humiliating or degrading punishment of children brought to the barangay or the police, or a healthcare provider, shall be reported to the local social welfare and development office within eight (8) hours from the time of the complaint, without prejudice to the continuation of the investigation or the filing of the appropriate criminal case. Failure to report within the prescribed period shall be a ground for administrative action against the barangay official or police officer, or healthcare provider.

SEC. 10. *Confidentiality.* – All records pertaining to cases of corporal punishment and other humiliating or degrading punishment of children, including those in the barangay, the police or public or private healthcare facility, shall be confidential and the right to privacy of the victim shall be respected.

Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, or any identifying information of a victim or immediate family member of the victim, without their consent, shall be penalized with a fine of not more than Two Hundred Thousand Pesos (P200,000.00).

SEC. 11. *Assessment and Intervention.* – The local social welfare and development office, through its social workers, shall conduct an assessment in all cases of corporal punishment and other humiliating or degrading forms of punishment of children to determine the appropriate interventions, considering the best interest of the child at all times. The assessment shall be completed within three (3) calendar days, without prejudice to the conduct of a more comprehensive case study report. The interventions may include psychosocial interventions for the child and the family, protective custody by the social worker, temporary placement for the child, medical and legal services, and seminars on children's rights and positive and non-violent discipline of children, counseling, anger management and referrals to other rehabilitative services for the perpetrator.

The assessment shall be conducted and interventions shall be provided by the local social welfare and development office whether or not a criminal case is filed.

SEC. 12. *Roles and Responsibilities.* –

- a. The Department of Social Welfare and Development (DSWD) shall formulate a comprehensive program to promote the positive and non-violent discipline of children and the prevention of the use of corporal punishment and humiliating or degrading forms of punishment of children. The program shall be developed in coordination with other government agencies and the private sector, including academic institutions, non-governmental organizations and parent-teachers-community associations. The program shall include capacity building of service providers, parenting education and positive and non-violent discipline of children, child-friendly reporting mechanisms, child protection services and support, and documentation, data management and monitoring systems.

The Department Social Welfare and Development shall integrate positive and non-violent discipline of children in the training of officials and staff of child-caring institutions. It shall ensure that officials and staff of institutions do not use corporal punishment and humiliating or degrading punishment on any child under their custody. It shall also ensure that appropriate action is taken against erring officials and staff of institutions.

- b. The Department of Education (DepEd) and the Commission on Higher Education (CHED) shall integrate positive and non-violent discipline of children in the training of school officials, teachers and personnel. The two agencies shall ensure that school officials, teachers and personnel do not use corporal punishment and humiliating or degrading punishment on any pupil or student. They shall also ensure that appropriate criminal and administrative action is taken against erring school officials, teachers and personnel.

The CHED shall integrate positive and non-violent discipline of children in the Education, Psychology and Social Work curricula, and in the curriculum of other disciplines related to child work.

- c. All local social welfare and development offices (SWDOs) shall adopt and implement programs and services to promote the positive discipline of children and the prevention of the use of corporal punishment and humiliating or degrading forms of punishment of children. They shall also

provide assistance to victims, and families of victims, of corporal punishment and humiliating or degrading punishment.

- d. Local Councils for the Protection of Children (LCPCs) shall support programs that promote the positive and non-violent discipline of children, prevent the use of corporal punishment and humiliating or degrading forms of punishment of children, and respond to such cases.
- e. The Council for the Welfare of Children (CWC) under the DSWD shall disseminate all relevant information on this Act among relevant government agencies and entities. It shall monitor the enforcement of this Act and the implementation of all programs and services provided for under this Act. It shall also mobilize the different inter-agency mechanisms within its national and local structures to support the implementation of programs and services.
- f. Local government units shall mobilize, strengthen and support local structures, such as the local councils for the protection of children, local special bodies, lupong tagapamayapa and children's associations in facilitating the reporting of, prevention of and response to cases of corporal punishment, and promotion of positive discipline in their respective localities.
- g. The Sangguniang Kabataan (SK) shall include the prevention of corporal punishment and humiliating or degrading punishment of children in its programs.

SEC. 13. *Implementing Rules and Regulations.* – The Department of Social Welfare and Development, in consultation with the Department of Education, the Commission on Higher Education, the Department of Interior and Local Government, the Department of Health and other relevant government agencies, leagues of local government officials, non-governmental organizations, and children's organizations, shall promulgate the Implementing Rules and Regulations of this Act within six (6) months from its approval.

SEC. 14. *Suppletory Application.* – For purposes of this Act, the Revised Penal Code, as amended, Child and Youth Welfare Code, as amended, and other applicable laws shall have suppletory application.

SEC. 15. *Appropriation.* – The amount of One Hundred Fifty Million Pesos (P150,000,000.00) is hereby appropriated for the initial implementation of this Act. Thereafter, the Department of Social Welfare and Development, the Department of Education and the Commission on Higher Education shall include the amounts necessary for the implementation of this Act in their annual budgets.

SEC. 16. *Separability Clause.* – If any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions shall not be affected.

SEC. 17. *Repealing Clause.* – All laws, presidential decrees, executive orders and rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 18. *Effectivity.* – This Act shall take effect fifteen (15) days from the date of its complete publication in at least two (2) newspapers of general circulation.

Approved,