



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL No. 44

Introduced by HONORABLE ERNESTO "ERNIX" M. DIONISIO, JR.

AN ACT DEFINING AND PROTECTING ELDERLY FROM ABUSE, PROVIDING PENALTIES THEREFORE, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

In a report released by the World Health Organization entitled "World Report on Violence and Health" between 4% and 6% of elderly individuals experience some form of abuse in their homes. On the other hand, incidence of abuse of elderly placed in institutions may be more extensive than generally believed, as suggested in the few population-based surveys conducted in countries like the United States, Canada, Finland and United Kingdom.

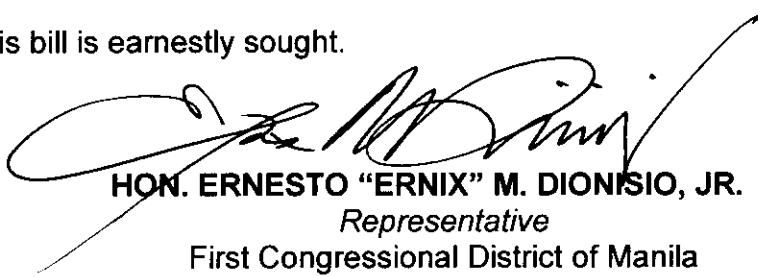
In 2004, 40% of elder respondents in a study conducted by Dr. Edna E.A. Co, professor from the University of the Philippines-National College of Public Administration and Governance (UP-NCPAG), entitled "The Case of the Philippine Older Persons: Finding a Place in the Human Rights Domain" had personal experience of violence against the elderly. It was found that the most common type of the violence that they experienced was the verbal abuse. The study also showed that the most common perpetrators of violence were their children and other family members, who were supposedly primary carers of our elderly individuals in the Filipino culture. This study of Dr. Co was cited in one of the workshops of the Commission on Human Rights of the Philippines held in 2017.

Violence against the elderly has not been fully defined but it ranges from physical, psychological, or emotional abuse, material or financial exploitation and even negligence. Many of these cases of violence are either not properly reported or not reported at all to the authorities.

Presently, there is no specific or dedicated legislation on the prevention and protection of elders from such abuse or any statutes that provide redress for victims and other services for those subjected to elder abuse.

Enshrined in our Constitution is the duty of the State to design programs of social security for its elderly members. Thus, the proposed bill seeks to provide the elderly who are victims of the violence, with protection and the necessary assistance to ensure their personal safety and security and to prevent the recurrence of violent acts committed against them.

Hence, the passage of this bill is earnestly sought.



HON. ERNESTO "ERNIX" M. DIONISIO, JR.
Representative
First Congressional District of Manila



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

SECTION 1. Short Title. - This Act shall be known as the "Protection of the Elderly from Violence."

SECTION 2. Declaration of Policy. - Enshrined in Section 4, Article XV of 1987 Philippine Constitution is the duty of the family to take care of its elderly members while the State may design programs of social security for them. Additionally, Section 11, Article XIII of the same Constitution provides that the State shall adopt an integrated and comprehensive approach to health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women and children.

SECTION 3. Definition of Terms

1. **Elderly.** - refers to any individual who is aged 60 or older; and
2. **Violence Against the Elderly-** refers to any type of violence or abuse, whether physical abuse or violence, sexual, psychological or emotional abuse, material or financial exploitation, and neglect, inflicted upon an elderly individual.

SECTION 4. The following are the acts of violence against the elderly in five general categories:

1. Physical abuse - are acts committed with intention of causing bodily or physical harm. Any act leading to physical or bodily pain such as bruises, sprains, welts, abrasions and fractures and injury is classified under this;
2. Sexual abuse - refers to any act which is sexual in nature, committed against the elderly. It includes rape, acts of lasciviousness, sodomy, coerced nudity, and sexually explicit photographing and unwanted touching;
3. Psychological or emotional abuse - involves verbal assaults, threats, humiliation, and ridicule which result to mental or emotional anguish. Such abuse is usually accompanied by physical abuse but may happen separately;
4. Material or financial abuse - unauthorized, or improper act or process of an individual that uses the resources of an elderly for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets. This includes misuse of property or money, theft, or forced signing of legal documents;
5. Neglect - refers to lack of care of the elderly. It can be either unintentional failure of those responsible to feed, provide shelter or health care, or protection to the elderly or the deliberate withholding of items needed for daily living such as food, medicine, companionship and care, especially from those who are physically dependent.

SECTION 5. Penalties. - The crime of Violence Against the Elderly under Section 4 hereof shall be punished according to the following rules:

1. Acts falling under Sec. 4(1) shall be punished in accordance with the provisions of the Revised Penal Code (RPC);
2. Acts falling under Sec. 4(2) shall be punished in accordance with the provisions of the RPC;
3. Acts falling under Sec. 4(3) shall be punished by prision correccional;
4. Acts falling under Sec. 4(4) which is covered in the RPC shall be punished in accordance to the Code. However, acts not found in the RPC such as the unauthorized, or improper use of the resources of an elderly, depriving an elderly of rightful access to, or use of, benefits, resources, belongings, or assets, misuse of property or money, or forced signing of legal documents shall be punished prision correccional; and
5. Acts falling under Sec. 4(5) shall be punished by prision correccional.

The penalty provided shall be imposed in its maximum period if:

- (a) The offender-perpetrator has been previously convicted under this Act or a

habitual delinquent;

- (b) The offender is a descendant, collateral relative, family relative up to the 2nd degree of consanguinity or affinity or guardian;
- (c) The offender is an owner-operator, manager or employee of a privately-operated elderly facility; and
- (d) The offender is a public official, staff or employee of government-operated elderly residential home. Provided that said public official, staff or employee may be subjected to suspension and/or termination according to administrative disciplinary procedures.

SECTION 6. The Regional Trial Court designated as a Family Court shall have original and exclusive jurisdiction over cases of violence against the elderly under this law. In the absence of such court in the place where the offense was committed, the case shall be filed in the Regional Trial Court where the crime or any of its elements was committed, at the option of the complainant.

SECTION 7. Protection Orders. - A protection order is an order issued under this Act for the purpose of preventing further acts of violence against the elderly and granting other necessary relief. The relief granted under a protection order serves the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over his/her life. The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Act are the Barangay Protection Order (BPO), Temporary Protection Order (TPO) and Permanent Protection Order (PPO).

SECTION 8. Public Crime. - Violence Against the Elderly shall be considered as a public offense which may be prosecuted upon the filing a complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime.

SECTION 9. Response to Violence Against the Elderly.

1. Healthcare Provider - Any healthcare provider, including, but not limited to, an attending physician, nurse, clinician, barangay health worker, therapist or counselor who suspects abuse or has been informed by the victim of violence shall:
 - (a) properly document any of the victim's physical, emotional or psychological injuries;
 - (b) properly record any of victim's suspicions, observations and circumstances of the examination or visit;

- (c) automatically provide the victim free of charge a medical certificate concerning the examination or visit;
 - (d) safeguard the records and make them available to the victim upon request at actual cost; and
 - (e) provide the victim immediate and adequate notice of rights and remedies provided under this Act, and services available to them.
2. DSWD - Shall provide the victims temporary shelters, provide counselling, psycho-social intervention and/or recovery, rehabilitation programs and livelihood assistance.
 3. Office for Senior Citizens Affairs (OSCA) - Shall include services addressing the Violence Against the Elderly. All suspected cases must be reported in accordance with the existing laws. OSCA, in coordination with the Local Social Welfare and Development Office, shall also maintain its own documentation and monitoring systems of the cases.
 4. Duties of Other Government Agencies and LGUs - Other government agencies and LGUs shall establish programs such as, but not limited to, education and information campaign and seminars or symposia on the nature, causes, incidence and consequences of such violence particularly towards educating the public on its social impacts.

SECTION 10. Rights of Victims. - In addition to their rights under existing laws, victims of violence against the elderly shall have the following rights:

1. To be treated with respect and dignity;
2. To avail of legal assistance from the PAO of the Department of Justice (DOJ) or any public legal assistance office;
3. To be entitled to support services from the DSWD and LGUs'
4. To be entitled to all legal remedies and support as provided for under the Family Code; and
5. To be informed of their rights and the services available to them including their right to apply for a protection order.

SECTION 11. Damages. - Any victim of violence under this Act shall be entitled to actual, compensatory, moral and exemplary damages.

SECTION 12. Training of Persons Involved in Responding to Violence Against the Elderly Cases. - All agencies involved in responding to violence against the elderly cases shall be required to undergo education and training to acquaint them with:

1. The nature, extent and causes of violence against the elderly;
2. The legal rights of, and remedies available to, victims of violence against the elderly;
3. The services and facilities available to victims or survivors;
4. The legal duties imposed on police officers to make arrest and to offer protection and assistance; and
5. Techniques for handling incidents of violence against the elderly that minimize the likelihood of injury to the officer and promote the safety of the victim or survivor.

The PNP, in coordination with LGUs shall establish an education and training program for police officers and barangay officials to enable them to properly handle cases of violence against the elderly.

SECTION 13. Confidentiality. - All records pertaining to cases of violence against the elderly including those in the barangay shall be confidential and all public officers and employees and public or private clinics/hospitals shall respect the right to privacy of the victim. Any person who shall make public any relevant or identifying information about the case or the victims shall be liable to the contempt power of the court and shall suffer the penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand pesos (P500, 000.00).

SECTION 14. Funding - The amount necessary to implement the provisions of this Act shall be included in the annual General Appropriations Act (GAA).

SECTION 15. Implementing Rules and Regulations. - The Department of Justice (DOJ), Department of Social Welfare and Development (DSWD), Department of Interior and Local Government (DILG) and other concerned government agencies, shall formulate, within one hundred eighty days (180) from its effectivity, the rules and regulations necessary to implement provisions of this Act.

SECTION 16. Suppletory Application - For purposes of this Act, the Revised Penal Code and other applicable laws, shall have suppletory application.

SECTION 17. Separability Clause. - If any part hereof is held invalid or unconstitutional, the remainder of the provisions not otherwise affected shall remain valid and subsisting.

SECTION 18. Repealing Clause. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 19. Effectivity Clause. - This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in at least two (2) new papers of general circulation.

Approved,