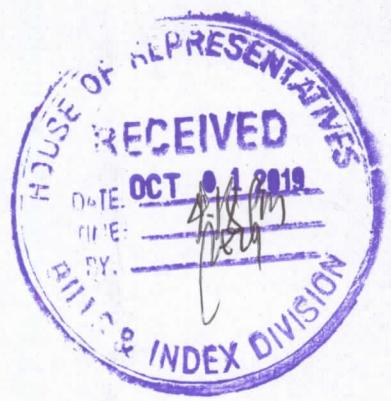


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 4980

Introduced by **HON. ROZZANO RUFINO B. BIAZON**

EXPLANATORY NOTE

This bill is geared towards the protection of the elderly as it seeks to define crimes against them and prescribe corresponding penalties.

One of the most vulnerable sectors of our society is the elderly. How often do we hear from the television or radio, or read from the newspapers, reports of elderly persons being duped of their pensions, battered, or even worse, sexually abused? These unfortunate and sickening incidents have been confronting us more regularly nowadays.

It is hard to imagine the values that the perpetrators of these crimes have considering the high regard that Philippine culture and society gives to the elderly. This Filipino value is what makes the Filipino family unique and admired around the world. Their dastardly acts must not go unpunished. It is high time that a law that would address this menace plaguing and endangering the basic foundations of our society must be enacted.

We must provide our elderly the environment to enable them to live the sunset of their lives in safety, comfort and most especially, with dignity and respect.

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


ROZZANO RUFINO B. BIAZON
Representative
Lone District, Muntinlupa City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
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EIGHTEENTH CONGRESS
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4980
House Bill No. _____

Introduced by **HON. ROZZANO RUFINO B. BIAZON**

AN ACT
DEFINING CRIMES AGAINST ELDERLY PERSONS, PROVIDING PENALTIES
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 and referred to as the “*Protection of the Elderly Act.*”

Sec. 2. Declaration of Policy. – It is hereby declared the policy of the State to promote and protect the general well-being of the elderly to ensure their productive participation in society and enable them to live in dignity and respectably. Towards this end, it shall secure the elderly from abuse, neglect and exploitation.

Sec. 3. Definition of Terms. – As used in this Act:

- a. "Business relationship" means a relationship between two or more individuals or entities where there exists an oral or written contract or agreement for goods or services;
- b. "Caregiver" means a person who has been entrusted with or has assumed responsibility for the care or the property of an elderly person or disabled adult. "Caregiver" includes, but is not limited to members of an elderly person's immediate family, relatives, court-appointed or voluntary guardians, adult household members, neighbors, health care providers, and employees and volunteers of facilities as defined in subsection;
- c. "Deception" means:
 - (1) Misrepresenting or concealing a material fact relating to:
 - (i) Services rendered, disposition of property, or use of property, when such services or property are intended to benefit an elderly person or disabled adult;

- (ii) Terms of a contract or agreement entered into with an elderly person or disabled adult; or
 - (iii) An existing or preexisting condition of any property involved in a contract or agreement entered into with an elderly person or disabled adult; or
- (2) Using any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit an elderly person or disabled adult to enter into a contract or agreement.
- d. "Elderly person" means a person 60 years of age or older;
 - e. "Endeavor" means to attempt or try;
 - f. "Facility" means any location providing day or residential care or treatment for elderly persons or disabled adults. The term "facility" may include, but is not limited to, any hospital, training center, state institution, nursing home, assisted living facility, adult family-care home, adult day care center, group home, mental health treatment center, or continuing care community;
 - g. "Intimidation" means the communication by word or act to an elderly person or disabled adult that the elderly person or disabled adult will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money, or financial support or will suffer physical violence;
 - h. "Lacks capacity to consent" means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause, that causes an elderly person or disabled adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning the elderly person's or disabled adult's person or property;
 - i. "Obtains or uses" means any manner of:
 - (1) Taking or exercising control over property; or
 - (2) Making any use, disposition, or transfer of property.
 - j. "Position of trust and confidence" with respect to an elderly person means the position of a person who:
 - (1) Is a parent, spouse, adult child, or other relative by blood or marriage of the elderly person or disabled adult;
 - (2) Is a joint tenant or tenant in common with the elderly person or disabled adult;
 - (3) Has a legal or fiduciary relationship with the elderly person or disabled adult, including, but not limited to, a court-appointed or voluntary guardian, trustee, attorney, or conservator;
 - (4) Is a caregiver of the elderly person or disabled adult; or

(5) Is any other person who has been entrusted with or has assumed responsibility for the use or management of the elderly person's or disabled adult's funds, assets, or property.

k. "Property" means anything of value and includes:

- (1) Real property, including things growing on, affixed to, and found in land; or
- (2) Tangible or intangible personal property, including rights, privileges, interests, and claims.

l. "Services" means anything of value resulting from a person's physical or mental labor or skill, or from the use, possession, or presence of property, and includes:

- (1) Repairs or improvements to property;
- (2) Professional services;
- (3) Private, public, or governmental communication, transportation, power, water, or sanitation services;
- (4) Lodging accommodations; or
- (5) Admissions to places of exhibition or entertainment.

m. "Value" means value determined according to any of the following:

- (1) The market value of the property at the time and place of the offense or, if the market value cannot be satisfactorily ascertained, the cost of replacing the property within a reasonable time after the offense;
- (2) In the case of a written instrument such as a check, draft, or promissory note, which does not have a readily ascertainable market value, the value is the amount due or collectible. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is the greatest amount of economic loss that the owner of the instrument might reasonably suffer by the loss of the instrument;
- (3) The value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner suffered by reason of losing advantage over those who do not know of or use the trade secret;
- (4) If the value of the property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than PhP100.00.
- (5) Amounts of value of separate properties involved in exploitation committed pursuant to one scheme or course of conduct, whether the exploitation involves

the same person or several persons, may be aggregated in determining the degree of the offense.

n. "Violence against the elderly" refers to any act or a series of acts committed by any person against an elderly which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:

- (1) "Physical Violence" refers to acts that include bodily or physical harm;
- (2) "Sexual violence" refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:
 - (i) Rape, sexual harassment, acts of lasciviousness, treating an elderly as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the elderly to do indecent acts and/or make films thereof;
 - (ii) b) Acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion; and
 - (iii) Prostituting the elderly.
- (3) "Psychological violence" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and marital infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets.

Sec. 4. Acts of Violence Against the Elderly. – The crime of violence against the elderly is committed through any of the following acts:

- (a) Causing physical harm to the elderly;
- (b) Threatening to cause physical harm to the elderly;
- (c) Attempting to cause physical harm to the elderly;
- (d) Placing the elderly in fear of imminent physical harm;
- (e) Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling the actions or decisions of the elderly;

- (f) Causing or attempting to cause the elderly to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the elderly or her/his immediate family;
- (g) Engaging in purposeful, knowing, or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the elderly. This shall include, but not be limited to, the following acts:
 - (1) Stalking or following the elderly in public or private places;
 - (2) Peering in the window or lingering outside the residence of the elderly;
 - (3) Entering or remaining in the dwelling or on the property of the elderly against her/his will;
 - (4) Destroying the property and personal belongings or inflicting harm to animals or pets of the elderly; and
 - (5) Engaging in any form of harassment or violence.

- (h) Causing mental or emotional anguish, public ridicule or humiliation to the elderly, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support.

Sec. 5. Neglect of an Elderly Person. – Neglect of an elderly person means:

- (a) A caregiver's failure or omission to provide an elderly person with the care, supervision, and services necessary to maintain the elderly person's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the elderly person; or
- (b) A caregiver's failure to make a reasonable effort to protect an elderly person from abuse, neglect, or exploitation by another person.

Neglect of an elderly person may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or psychological injury, or a substantial risk of death, to an elderly person.

Sec. 6. Exploitation of An Elderly Person – Exploitation of an elderly person means:

- (a) Knowingly, by deception or intimidation, obtaining or using, or endeavoring to obtain or use, an elderly person's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person, by a person who:
 - (i) Stands in a position of trust and confidence with the elderly person; or

- (ii) Has a business relationship with the elderly person; or
- (b) Obtaining or using, endeavoring to obtain or use, or conspiring with another, to obtain or use an elderly person's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person, by a person who knows or reasonably should know that the elderly person lacks the capacity to consent.

Sec. 7. *Penalties.* – (a) The crime of violence against the elderly, under Sec. 4 hereof shall be punished according to the following rules:

- (1) Acts falling under Sec. 4(a) constituting attempted, frustrated or consummated parricide or murder or homicide shall be punished in accordance with the provisions of the Revised Penal Code;

If these acts resulted in mutilation, it shall be punishable in accordance with the Revised Penal Code; those constituting serious physical injuries shall have the penalty of *prison mayor*; those constituting less serious physical injuries shall be punished by *prision correccional*; and those constituting slight physical injuries shall be punished by *arresto mayor*;

Acts falling under Sec. 4(b) shall be punished by imprisonment of two degrees lower than the prescribed penalty for the consummated crime as specified in the preceding paragraph but shall in no case be lower than *arresto mayor*;

- (2) Acts falling under Sec. 4(c) and 4(d) shall be punished by *arresto mayor*;
- (3) Acts falling under Sec. 4(e) shall be punished by *arresto mayor*;
- (4) Acts falling under Sec. 4(f) shall be punished by *prision mayor*; and
- (5) Acts falling under Sec. 4(g) and Sec. 4(h) shall be punished by *prision mayor*.

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (300,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

(b) A caregiver who willfully or by culpable negligence neglects an elderly person and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person shall suffer the penalty of *prision mayor* in its maximum degree.

(c) A caregiver who willfully or by culpable negligence neglects an elderly person without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person shall suffer the penalty of *prision correccional*.

(d) (1) A person who commits exploitation of an elderly person shall suffer the penalty of *prision mayor* in its maximum degree, if the funds, assets, or property involved in the

exploitation of the elderly person or disabled adult is valued at Fifty thousand pesos (PhP50,000.00) or more.

(2) If the funds, assets, or property involved in the exploitation of the elderly person is valued at Ten thousand pesos (PhP10,000.00) or more, but less than Fifty thousand pesos (PhP50,000.00), the offender shall suffer the penalty of prisjon correccional.

(3) If the funds, assets, or property involved in the exploitation of an elderly person is valued at less than Ten thousand pesos (PhP10,000.00), the offender shall suffer the penalty of arresto mayor.

In subsections b, c, and d, in addition to imprisonment, the perpetrator shall pay a fine in the amount of not less than One hundred thousand pesos (PhP100,000.00) but not more than three hundred thousand pesos (PhP300,000.00).

Sec. 8. *Knowledge of Victim's Age.* – It does not constitute a defense to a prosecution for any violation of this Act that the accused did not know the age of the victim.

Sec. 9. *Good Faith Assistance.* – This Act is not intended to impose criminal liability on a person who makes a good faith effort to assist an elderly person in the management of the funds, assets, or property of the elderly person or disabled adult, which effort fails through no fault of the person.

Sec. 10. *Criminal Actions Involving Elderly Persons; Speedy Trial.* – In a criminal action in which an elderly person is a victim, the State may move the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may advance the trial on the docket. The motion may be filed and served with the information or charges or at any time thereafter.

Sec. 11. *Separability Clause.* – If any part or section of this Act is declared unconstitutional or otherwise invalid, such declaration shall not affect the other parts or sections hereof.

Sec. 12. *Repealing Clause.* – All laws, presidential decrees, executive orders, rules and regulations inconsistent with this Act shall be deemed repealed or modified accordingly.

Sec. 13. *Effectivity.* – This Act shall take effect immediately after its complete publication in two (2) newspapers of general circulation.

Approved,