



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Seventeenth Congress
First Regular Session

House Bill No. 1289

Introduced by Honorable Roy M. Loyola

EXPLANATORY NOTE

*"... they who protected the weakness of our infancy, are entitled to our protection in the infirmity of their age; they who by sustenance and education have enabled their offspring to prosper, ought in return to be supported by that offspring, incase they stand in need of assistance."*¹

The rules requiring children to support their parents have existed for thousands of years. In the third A.D., there were statutory mutual obligations of support and maintenance between children and parents in Roman society. In medieval Europe, ethics dictated support of relatives. This ethical standard developed by custom and usage into support laws from parent to child and, ultimately, from child to parent. Later, a law imposing a duty of parental support on children was incorporated in the *Code Napoleon*. In 1601, a relative responsibility statute enacted by English Parliament in 1597, which applied only to parents and children, was extended to additional collateral relatives.²

In the United States, 30 states have filial responsibility laws: Alaska, Arkansas, California, Connecticut, Delaware, Georgia, Idaho, Iowa, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia and West Virginia.

¹ Wm. Balckstone, Commentaries on Laws of England p. 442 (1765)

² A Comparative Analysis of Filial Responsibility: Italy and United States by Anna Marie de Giacomo

States with filial responsibility statutes take a variety of approaches to enforcement: some allow some sort of civil court action to obtain financial support (or cost recovery), others specify a criminal penalty for filial non-support, while some states allow both civil and criminal actions.

We Filipinos are well-known for our close family ties. Because of this close family ties, we have the usual inclination to care for our elderly. However, even with this close family ties, there are elderly, sick and incapacitated parents who were abandoned by their children. The sights of abandoned elderly in our streets are now common. Children fail to provide the necessary support to their aging, sick and incapacitated parents. This happens despite our moral and natural obligation to maintain our parents who are in need of support. On the same vein, our Family Code imposes on us the legal obligation to support our elderly. Article 195 of our Family Code provides:

Art. 195. Subject to the provisions of the succeeding articles, **the following are obliged to support each other** to the whole extent set forth in the preceding article:

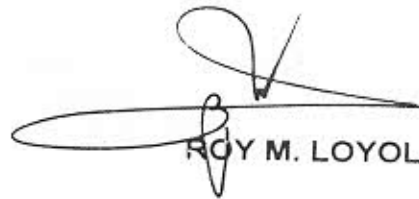
- (1) *The Spouses;*
- (2) *Legitimate ascendants and descendants;*
- (3) **Parents and their legitimate children** and the legitimate and illegitimate children of the latter;
- (4) **Parents and their illegitimate children** and the legitimate and illegitimate children of the latter; and
- (5) *Legitimate brothers and sisters, whether full or half-blood.*

However, despite said provision of the Family Code, many elderly who no longer have any means of supporting themselves are being neglected and abandoned by their children. While government is doing its best in providing support in the form of food and shelter as well as enacting legislations like the Senior Citizens Act, it cannot be over-emphasized that taking care of the elderly members of the society is not only the function of government but rather a shared responsibility of government and the children of said elderly. The care for the aged is neither an exclusively private matter to be left to the family nor an exclusively public concern best left to the government.

This proposed bill therefore seeks to further strengthen filial responsibility and make it a criminal offense in case of flagrant violation thereof. Abandonment of a parent in need of support shall likewise constitute a criminal act. A parent who is in need of support may file a petition for support before the court and pray for the issuance of a support order against those children who failed or refused to provide the same. The legal representation of the parent in need of support will be provided by the Public Attorney's Office and no court fees will be assessed. This bill also seeks to establish Old Age

Home for the elderly, sick or otherwise incapacitated parents in every province and highly urbanized cities.

In light of the foregoing, the passage of this bill is earnestly requested.



ROY M. LOYOLA

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**AN ACT PROVIDING FOR PARENT SUPPORT,
AND FOR OTHER PURPOSES**

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

1 **SECTION 1. SHORT TITLE.** – This Act shall be known as the
2 ***"Parents Welfare Act of 2016"***.

3 **SECTION 2. DECLARATION OF PRINCIPLE.** - Pursuant to
4 Article XV, Section 4 of the Constitution, it is the duty of the family to
5 take care of its elderly members while the State may design programs of
6 social security for them. Therefore, the State, together with the children
7 of parents in need of support, must promote the welfare of parents who
8 are aged, sick, incapacitated and not capable of supporting themselves.

9 **SECTION 3.** In this Act, unless the context otherwise requires,
10 the following definition of terms shall be adopted:

11 a) "children" includes son, daughter, grandson,
12 granddaughter, whether biological or adoptive, but does not

1 include a minor or those over the age of majority but are unable to
2 fully take care of themselves because of a physical or mental
3 disability or condition.

4 b) "parent in need of support" refers to the father or mother
5 other direct ascendants who is a senior citizen, aged, sickly, or
6 who regardless of age is permanently incapacitated or otherwise
7 not capable of supporting themselves;

8 c) "support" includes provisions indispensable for sustenance
9 clothing, residence, medical attendance and treatment, recreation
10 and other amenities necessary for the parent in need of support
11 to lead a normal life and in keeping with the financial capacity of
12 the family.

13 **SECTION 4. SUPPORT. -** A parent in need of support who is
14 unable to maintain himself/herself from his/her own earning or out of the
15 property owned by him/her or who is incapacitated or otherwise
16 incapable of supporting himself/herself shall be given support by his/her
17 children.

18 If the parent concerned has several children, the support to be
19 given shall be divided among them in proportion to their resources or
20 financial capacity and in such manner as may be just and equitable.

21 Grandchildren shall only be liable to support their ascendants if
22 the children of such ascendants cannot fulfill their duty to support due to
23 death, illness or they are unable to fully take care of themselves
24 because of a physical or mental disability or condition.

25 **SECTION 5. DEMAND FOR SUPPORT. -** No demand for
26 support is necessary before the obligation to support accrues. However,

1 prior request for support which was denied or unacted within an
2 unreasonable period of time is a requirement for the filing of a Petition
3 for Support before a court of competent jurisdiction.

4 **SECTION 6. PAYMENT OF SUPPORT.** - In instances
5 where the parent in need of support is not being maintained by his/her
6 children in their dwelling, or only one of the children of the parent
7 concerned is taking care of him/her in his/her dwelling, the share for the
8 support of such parent by children who has no custody shall be
9 paid within the first five (5) days of every month.

10 The court, in its discretion, may order for the payment of a lump
11 sum, or a monthly allowance or periodical payment for such a period as
12 the court may determine taking into consideration the circumstances of
13 the parties. The manner and method of payment of support shall also
14 be under the discretion of the court.

15 **SECTION 7. OPTION IN THE FULFILLMENT OF THE**
16 **OBLIGATION TO SUPPORT.** - The children of the parent in need of
17 support shall have the option to fulfill the obligation either by paying the
18 support fixed by the Support Order, or by receiving and maintaining in
19 the family dwelling the parent concerned. The latter alternative cannot
20 availed of in case there is moral or legal obstacle thereto.

21 **SECTION 8. SUPPORT ORDER.** - A support order is an order
22 issued under this Act for the purpose of compelling the children to
23 provide the necessary support to their parent,

24 The order shall include the name of the children required to give

1 support, the amount necessary for the support of their parent and the
2 share of each children.

3 It shall be immediately executor and no temporary restraining
4 order or injunction shall be issued by any court, except the Court of
5 Appeals to stay the said order.

6 The order may be modified from time to time, upon motion of the
7 applicant, according to the necessities of the recipient and the resources
8 or mans of the children obliged to furnish support.

9 In case of urgent need and by special circumstances, the court
10 may order only one of the children to furnish the support provisionally,
11 without prejudice to his/her right to claim from the other children the
12 share due from them.

13 **SECTION 9. PETITION FOR SUPPORT.** - A Petition for
14 Support may be filed in the Regional Trial Court with territorial
15 jurisdiction over the place of residence of the petitioner: Provided,
16 however, that if a family court exists in the place of residence of the
17 petitioner, the application shall be filed with that court.

18 The petition may be filed against one or more persons who have
19 the obligation to support the parent concerned. Children against whom
20 a petition for support has been filed may implead other children who are
21 similarly liable to give said support.

22 The death of one of the children of the parent in need of support
23 will not affect the liability of others.

24 The petition shall be resolved within ninety (90) days from the
25 date of the service of summons to the respondents. The period may be
26 extended once for a maximum period of thirty (30) days in exceptional

1 circumstance and the reason/s to be stated in the Order or decision.

2 **SECTION 10. CONTENTS OF THE PETITION. -** The petition
3 must state the following:

4 (a) the identity of the parent in need of support, his/her
5 residence and age;

6 (b) the facts showing that the parent in need of support is a
7 senior citizen, aged, sickly, or who regardless of age is
8 permanently incapacitated or otherwise not capable of
9 supporting himself/herself;

10 (c) that the parent in need of support is unable to maintain
11 himself/herself from his/her own earning or out of the
12 property owned by him/her or that he/she is permanently
13 incapacitated or otherwise incapable of supporting himself/
14 herself;

14 (d) the names of the children, their degree of relationship with
15 the parent in need of support and their current status; and

16 (e) the approximate amount and care needed by the parent in
17 need of support.

18 **SECTION 11. WHO MAY FILE PETITION FOR SUPPORT. -**
19 The Petition for Support may be filed by any of the following:

20 (a) the parent in need of support;

21 (b) children of the parent in need of support against those who

- 1 do not provide or contribute for the support of the former;
- 2 (c) ascendants, descendants or collateral relatives within
3 the fourth civil degree of consanguinity or affinity;
- 4 (d) officers or social workers of the Department of Social
5 Welfare and Development (DSWD) or social workers of
6 local government units (LGUs);
- 7 (e) lawyer or healthcare provider of the parent in need of
8 support;
- 9 (f) any person or institution who has the care of the parent in
10 need of support;
- 11 (g) At least two (2) concerned responsible citizens of the city
12 or municipality where the parent in need of support resides

13 **SECTION 12. SUPPORT PENDENTE LITE.** - The court,
14 during the pendency of the proceeding, shall, in accordance with the
15 provisions of the Rules of Court, order such children to provide interim
16 support to their parent.

17 **SECTION 13. RIGHT TO LEGAL REPRESENTATION.** - The
18 parent in need of support shall be represented by the Public Attorney's
19 Office notwithstanding that the petition was filed by other persons or
20 institutions for and in behalf of such parent.

21 **SECTION 14. PAYMENT OF COURT FEES.** - The
22 Petition for Support filed by the parent need of support shall be exempt
23 from all court charges and fees whether they filed the petition for

1 support personally or the same was filed in their behalf.

2 **SECTION 15. CIRCUMSTANCES TO BE CONSIDERED IN**
3 **THE ISSUANCE OF SUPPORT ORDER.** - The court, in granting the
4 Petition for Support, shall consider, but shall not be limited to, the
5 following circumstances:

6 (a) the financial needs of the parent in need of support, taking
7 into account reasonable expenses for housing and
8 medical costs;

9 (b) the income, earning capacity, property and other financial
10 resources of the parent concerned and the manner in
11 which such parent has spent his/her savings or dissipated
12 his/her financial resources;

13 (c) the physical or mental disability of the parent concerned;

14 (d) the income, earning capacity, property and other financial
15 resources of the respondent/s;

16 (e) the expenses incurred by the respondent in supporting his/
17 her own requirements, his/her spouse and that of his/her
18 children; and

19 (f) the contributions and provisions, whether financial or
20 otherwise, which the respondent has made for the
21 maintenance of his/her parent.

22 **SECTION 16. GROUND FOR NON-ISSUANCE OF SUPPORT**
23 **ORDER.** - If the court determines after due notice and hearing that the

1 parent in need of support abandoned, abused or neglected, the
2 respondent, it may dismiss the petition or may reduce the quantum
3 of support ordered by such amount as may be just.

4 The burden of proving abandonment, abuse or neglect shall be
5 on the respondent alleging it.

6 **SECTION 17. POWER OF THE COURT TO VARY OR**
7 **RESCIND SUPPORT ORDER.** - The court may vary or rescind
8 any subsisting Support Order based on any misrepresentation or
9 mistake of fact, or where there has been any material change in the
10 circumstances of the parent in need of support or any of his/her children
11 or where other children are joined as respondent, or for other good
12 cause shown to the satisfaction of the court.

13 **SECTION 18. CONCILIATION AND MEDIATION.** - In order to
14 preserve the family unity and peace, the court, before hearing the
15 petition, shall refer the parties to a conciliation officer for mediation.

16 **SECTION 19. EFFECT OF FAILURE TO GIVE SUPPORT.** -
17 Where a Support Order has been issued by the court and the children so
18 ordered fail to comply, without sufficient cause or reason, the court may,
19 for every breach of order issue a warrant for levying the amount due in
20 the manner provided for levying of fines. Provided, That, if the
21 respondent continues to fail in giving said support for three (3)
22 consecutive months without justifiable cause, the respondent shall
23 suffer the penalty of imprisonment of one month to six months or a fine
24 of One Hundred Thousand Pesos (P 100,000.00) at the discretion of the
25 court.

1 **SECTION 20. ABANDONMENT OF A PARENT IN NEED OF**
2 **SUPPORT.** - Whoever, having the care or protection of a parent in
3 need of support, leaves such parent in any place with the intention of
4 wholly abandoning the latter shall be punished with imprisonment of
5 six (6) years to ten (10) years and a fine of not less than Three Hundred
6 Thousand Pesos (P300,000.00)

7 **SECTION 21. ESTABLISHMENT OF OLD AGE HOME.** - It is
8 hereby mandated that all provincial government and highly urbanized
9 cities shall establish and maintain at least one (1) Old Age Home that
10 can accommodate at least fifty (50) parents.

11 **SECTION 22. SEPARABILITY CLAUSE.** - If any provision of
12 this Act is declared unconstitutional, the same shall not affect the validity
13 and effectivity of the other provisions thereof.

14 **SECTION 23. REPEALING CLAUSE.** - All laws, decrees,
15 orders and issuances or portion thereof which are inconsistent with the
16 provisions of this Act are hereby repealed or modified accordingly.

17 **SECTION 24. EFFECTIVITY.** - This Act shall take effect
18 fifteen days after its publication in at least two (2) national newspapers
19 of general circulation.

Approved,