

**Republic of the Philippines
Congress of the Philippines
Metro Manila
Eighteenth Congress
First Regular Session**

House Bill No: 6477

Introduced by:

**Juan Fidel Felipe F. Nograles
Second District
Province of Rizal**

Explanatory Note

In 2008, the Department of Health (DOH) issued Administrative Order No. 2008-0029 entitled "Implementing Health Reforms for Rapid Reduction of Maternal and Neonatal Mortality." This Administrative Order seeks to promote facility-based childbirths in view of the Millennium Development Goal (MDG) of enhancing the accessibility of health services, and of lowering maternal and neonatal mortality. In 2011, the DOH issued the "Maternal, Newborn, and Child Health and Nutrition Manual of Operations" where the DOH, in addition to reiterating its support to facility-based childbirths, imposed a prohibition on TBA-assisted deliveries. TBA stands for Traditional Birth Attendants which covers hilots and babaylans in Indigenous people communities.

While the DOH does not expressly prohibit home births, several LGUs enacted "No Home Birthing Ordinances" which prohibit mothers from giving births at their homes. These "No Home Birthing Ordinances" impose different penalties on different persons, and can be categorized into four (4) groups: (1) ordinances which absolutely prohibit home births, and which impose penalties on the pregnant woman who gave birth at home, her relatives, and the traditional or skilled birth attendant who assisted her with her child birth, (2) ordinances which impose penalties on the same group of persons but provide exceptions for emergency cases and for women living in far-flung areas, (3) ordinances which penalize the skilled or traditional birth attendant but provide exceptions for emergency cases and for women in far-flung areas, and (4) ordinances which absolutely prohibit home births, and impose penalties on traditional birth attendants. The penalties imposed by these "No Home Birthing Ordinances" can be in the form of imprisonment, fine, or denial of registration of birth.

It is submitted that these "No Home Birthing Ordinances" violate the principle of non-coercion under The Responsible Parenthood and Reproductive Health Act of 2012

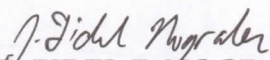


(RH Law). This principle of non-coercion provides that individuals have the right to make decisions concerning reproduction "free of discrimination, coercion, and violence," and that "The right to make free and informed decisions, which is central to the exercise of any right, shall not be subject to any form of coercion and must be fully guaranteed by the State." The "No Home Birthing Ordinances" do not merely prohibit women from giving birth at home. They also coerce them into giving birth at a health facility by penalizing the mothers, their relatives, or any birth attendant for attending a home birth.

Meanwhile, Section 5 and Section 7 of the RH Law are not specific in recognizing the right to reproductive self-determination of women with no clear guidelines providing for the choice in the means and method of childbirth for women.

In spite of the principle of non-coercion under the RH Law, it is submitted that there is a need to further strengthen, enhance, and modernize the RH Law in order to protect the rights of pregnant women. According to the Supreme Court, while the RH Law contains special provisions on maternal health, the bulk of the RH Law merely refers to family planning. The absence of a legal framework for promoting and protecting reproductive rights in the RH Law will provide LGUs with unbridled discretion in formulating and implementing maternal health measures.

In view of the above, the proposed policies will strengthen, enhance, and modernize the RH Law by setting standards in the regulation of childbirths so as to protect reproductive rights. This Act will also focus on health empowerment, informed choice, accessibility, and community-based care.


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**AN ACT STRENGTHENING AND EXPANDING THE REPRODUCTIVE RIGHTS
OF WOMEN PROVIDING FOR A NATIONAL POLICY ON HOME BIRTHS**

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

SECTION 1: Short Title - This Act shall be known as the "EXPANDED REPRODUCTIVE RIGHTS OF WOMEN ACT OF 2020."

SEC. 2. Declaration of Policy. The State recognizes and guarantees the human rights of all persons including their right to equality and nondiscrimination of these rights, the right to sustainable human development, the right to health which includes reproductive health, the right to education and information, and the right to choose and make decisions for themselves in accordance with their religious convictions, ethics, cultural beliefs, and the demands of responsible parenthood.

It is the policy of the State to recognize the right to reproductive self-determination of individuals where they have the right to make decisions concerning reproduction, free of discrimination, coercion, and violence.

Pursuant to the declaration of State policies under Section 12, Article II of the 1987 Philippine Constitution, it is the duty of the State to protect and promote the right to health of women especially mothers in particular and of the people in general and instill health consciousness among them. The State shall likewise protect and advance the right of families in particular and the people in general to a balanced and healthful environment in accord with the rhythm and harmony of nature. The State also recognizes and guarantees the promotion and equal protection of the welfare and rights of children, the youth, and the unborn.

Moreover, the State recognizes and guarantees the promotion of women empowerment and dignity as a health and human rights concern and as a social responsibility. The advancement and protection of women's human rights shall be central to the efforts of the State to address reproductive health care.

The State likewise guarantees universal access to medically-safe, effective, legal, affordable, and quality reproductive health care services, and relevant information and education thereon according to the priority needs of women, children and other underprivileged sectors, giving preferential access to the marginalized.

The State shall eradicate discriminatory practices, laws and policies that infringe on a person's exercise of reproductive health rights.

The State shall the promote childbirth policies with emphasis on a women's autonomy on matters concerning her own childbirth with focus on the accessibility and quality of health care.

It is the duty of the State to protect and promote the right to health of mothers, the centrality of women's human rights in the reproductive health efforts of the State, and universal access to reproductive health services.

SEC. 3 Guiding Principles. This Act declares the following as guiding principles:

- a) The right to make free and informed decisions, which is central to the exercise of any right, shall not be subjected to any form of coercion and must be fully guaranteed by the State;
- b) The right to choose modes of neonatal care and modes of birthing free from State penalty and coercion;
- c) Respect for protection and fulfillment of reproductive health and rights which seek to promote the rights and welfare of every person particularly women;
- d) Informed choice and voluntarism shall be promoted by all public and private health care providers rendering reproductive health care.

SEC. 4. Home Birth Policies of LGUs. There shall be an immediate ban on Local Government Units on No Home Birth Policies. Under the right to reproductive self-determination, women shall have the right to make decisions concerning reproduction free of discrimination, coercion and violence and the right to make free and informed decisions without coercion from the Local Government Units (LGUs) as to the form and means of childbirth which shall be the choice of the woman.

No ordinance shall be passed by LGUs that violate the right to life of women by penalizing home birth assistance even in life-threatening and emergency cases. There shall be no ordinance to be passed that violate the right to culturally-sensitive health care and the right to religious freedom of Indigenous Peoples women, in relation to the Indigenous Peoples Rights Act (IPRA) or Republic Act No. 8371 recognizing the right of indigenous persons.

LGUs shall refrain from coercive healthcare measures, except on an exceptional basis for the treatment of mental illness or the prevention and control of communicable diseases.

SEC 5. Development and Review of Guidelines on Home Birth. The Department of Health (DOH) shall to develop safety guidelines addressing home birth issues and review current policies that are contrary to this Act. These guidelines shall include eligibility for home births, training; skills and competency building, and qualifications of health care professionals; sectoral strategic plan for population at risk; and risk management strategies, including measures to ensure that all childbirths whether home or health facility-based meet safety standards.

The DOH and the LGUs shall promote programs for the improvement of home birth conditions by providing skilled birth assistance and maternity care services at home.

The DOH shall also develop guidelines to LGUs that prohibit public officers from depriving women for their freedom to choose their mode and manner of childbirth.

SEC. 6. Information, Education and Communication Campaign. The DOH and the LGUs shall promote and empower women as to their choice of childbirth and shall promote and implement projects and policies that promote the right of women to choose their means and method of childbirth. They shall initiate, sustain, and heighten a nationwide multimedia-campaign to raise the level of public awareness on the protection and promotion of women's reproductive health and rights, including, but not limited to, maternal health and nutrition, among other primary consideration of maternal and neonatal care.

They shall develop education, information and communication materials in all mediums which shall be reviewed regularly to ensure their effectiveness and relevance, consistent with the Reproductive Health Law and Universal Health Care Law and their implementing rules and regulation.

Specifically, the DOH and the LGUs shall enact policies for mandatory childbirth education to inform pregnant women of the benefits and risks of various childbirth options, such as home births versus facility-based births based on scientific and objective evidence.

SEC. 7. Funding for Basic Emergency Obstetric Care (BEMONC) Facility, Barangay Health Stations and Other Health Facilities in Rural and Geographically Isolated and Highly Disadvantaged Areas (GIDA). The Department of Health and Department of Public Works and Highways shall prioritize the building of BEMONC and maternal and neonatal care health facilities especially in rural and GIDA areas. The DOH and DPWH shall be tasked to provide a comprehensive mapping of areas in the Philippines where there BEMONC, Barangay Health Stations, and other health facilities are lacking and the corresponding strategic plan to fill the gap in supply and demand in maternal and neonatal care services.

SEC 8. Program for Community Midwife and Traditional Birthing Attendants (TBAs). The DOH and the LGUs shall review and provide a comprehensive plan to increase the number of community midwives and TBAs through capacity building and training and keep them abreast of acceptable quality standards in health care, taking in consideration cultural sensitivities of the trainees. They shall endeavor to provide strategies and guidelines for the establishment of community midwifery programs where health workers can be licensed as community-based midwives and traditional birthing attendants are respected. The training for indigenous people's birthing assistants shall be voluntary.

SEC 9. Culturally-Sensitive Childbirth Policies. The DOH and the LGUs shall issue policies that respect the rights of indigenous peoples in their cultural expression even in childbirth and in relation to the IPRA Law.

SEC. 10. Implementing Rules and Regulations (IRR). – Within thirty (30) days from the effectivity of this Act, the DOH Secretary or his/her designated representative as Chairperson, the authorized representative/s of Department of Social Welfare and Development (DSWD), Philippine Commission on Women, and Department of the Interior and Local Government, together with at least two representative from NGOs, faith-based organizations, people's, women's and young people's organizations to be selected by the DOH Secretary, shall jointly promulgate the rules and regulations for the effective implementation of this Act.

SEC. 11. Separability Clause. In any clause, sentence, paragraph, or any part of this Act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall confined in its operations to the clause, sentence, paragraph or part thereof directly involved in the controversy.

SEC. 12. Repealing Clause. All laws, orders, issuances, decrees, rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 13. Effectivity. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.