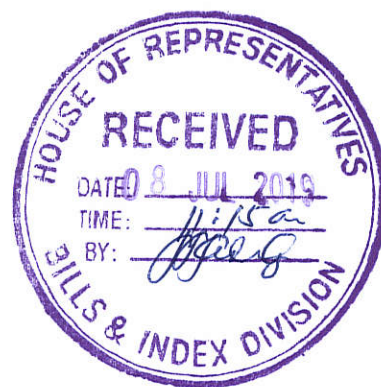


Republic of the Philippines  
House of Representatives  
Quezon City, Metro Manila

**Eighteenth Congress**

First Regular Session

**HOUSE BILL NO. 1541**



**Introduced by:**

**ACT-CIS Party Representative: Jocelyn P. Tulfo**

### **EXPLANATORY NOTE**

The Philippines has slowly become one of the leading exporters of labor across all continents. Every year, the volume of people exiting our country in order to work for extended periods of time over vast distances increases as the abilities and aptitude of the Filipino men and women become recognized.

There are, however, some drawbacks and repercussions that come with this increased volume of overseas workers. It is now backed up by data that more and more men and women who choose to work overseas become victims of crimes which cause physical, emotional, and psychological harm to their person without any speedy method to obtain remedy or redress. This cannot be the case. Our Congress must not stand still and blind against the multitude of abuses which our countrymen suffer in a daily basis.

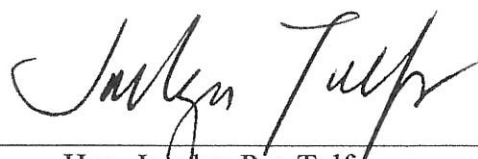
The existing laws which our country provides would seem *prima facie* adequate in providing our workers with the proper rights but leaves much to be desired when it comes to the aspect of enforcement and effectivity. As it stands, the only way Overseas Filipino Workers (OFWs) can have a chance of vindicating their wrongs is through private programs, public service segments of radio and TV shows or through a process which necessarily involves a Philippine Embassy or Consulate which are limited and far from practicable; logistically speaking.

A more effective procedure which allows our Filipino citizens to prosecute crimes against their employers abroad or their agencies at home must be introduced into our legal system in order that we may properly preserve and pursue their claims. It cannot be the case that our country be so easily deprived of power to vindicate its victimized citizens in instances where there is a breach of rights so clear and obvious. The lack of a dedicated body to protect the rights and pursue the proper action shall be supplied by the procedure laid out in this bill.

In the same way that our countrymen are competitive in the international scene, so must our justice system be recognized as staunch protectors of citizen's rights regardless of the country they are breached. In furtherance of such public policy, this bill seeks to establish the Philippine Overseas Legal Action Center (POLAC). It shall constitute a devoted branch under the DOLE that is assigned to go where our OFWs reside and bring the opportunity to facilitate their claims without them having to spend a large sum of money and time.

The POLAC shall be distinct from DOLE-POLO's current legal assistance division as they shall not be limited to offering their services to those who approach their office or those who send in online inquiries. Rather, they would advocate for the cases which they pledge to pursue in representation of OFWs who approach them in their government sanctioned investigations or office visits abroad. During these visits and investigations, they would be authorized to create and gather complaints against the agencies of the OFWs or their related employers as the case may be.

The complaints sworn to by the aggrieved OFWs and then given under the responsibility of the POLAC workers shall be prosecuted until the avails of the case shall be delivered with the offending party being charged the expenses of the suit. As such, there shall be minimal costs shouldered by the aggrieved party and by the government as a whole in the course of protecting of its citizens. As this bill passes into law, it is envisioned that OFWs will have a more secure environment to work regardless of their destination country and the protection of their agencies which was promised to them shall be maintained with the help of a pro-active state approach



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Hon. Jocelyn Pua Tulfo  
ACT-CIS 2<sup>nd</sup> Representative

Republic of the Philippines

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**AN ACT CREATING THE PHILIPPINE OVERSEAS LEGAL  
ACTION CENTER, IDENTIFYING THEIR DUTIES, PROVIDING FUNDS  
THEREFORE AND UPDATING THE POEA MINIMUM EMPLOYMENT  
CONTRACT FOR OFWS**

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

**Chapter I – Introductory Provisions**

**Section 1. SHORT TITLE –**

This act shall be known and cited as the “Philippine Overseas Legal Action Center (POLAC) Act”.

**Section 2. DECLARATION OF POLICIES –**

- a. In order to protect our Overseas Filipino Workers in accordance with the constitutional mandate of full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunity for all. Towards this end, the State shall provide adequate and timely social economic and legal services to Filipino Migrant Workers.
- b. In the acceptance and prosecution of cases initiated by OFWs, the POLAC shall seek to deliver just rulings in a speedy manner considering the complexities and logistical challenges of each case.
- c. Pursuant to the legal maxims of the Philippines, the POLAC shall accept cases which have sound legal basis and are not meant for harassment, delay, or marked with fraud.

- d. In recognition of the constitutional right to due process, the POLAC shall ensure the respondent agency or employer adequate time and means to participate in any administrative or judicial hearing.
- e. As empty judgments are not favoured by the state, the POLAC shall, at all times, make the avails of the suit easily available for the complainant to claim once a final and executory judgment has been met. In furtherance of this, immediate execution of the said judgment shall be pursued by the POLAC lawyer or representative handling the case.

### Section 3. DEFINITIONS – For the purposes of this Act:

- a. ***“Overseas Filipino Workers”*** refers to a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State or country of which the worker is not a citizen. A “person to be engaged in a remunerated activity” refers to an applicant worker who has been promised or assured employment overseas.
- b. ***“Abuse”*** shall mean any single serious act which is detrimental to the physical, mental, or psychological health of an Overseas Filipino Worker or a series of acts with the same effect.
- c. ***“Domestic Legal Action Center”*** shall refer to the Single domestic office established by the POLAC wherein complaints forwarded by Foreign Legal Action Centers are processed and assisted for further trial in the Philippines.
- d. ***“Foreign Legal Action Centers”*** shall mean any office established by the POLAC abroad wherein complaints by OFWs are received, sworn to, and assigned to a POLAC lawyer for all legal purposes it may serve.
- e. ***“Inspection Clause”*** shall mean the mandatory provision in every overseas employment contract wherein the employer shall allow authorized members of the POLAC to visit the work premises in order to check the welfare of the OFWs under their employ.

## Chapter II –THE PHILIPPINE OVERSEAS LEGAL ACTION CENTER

### Section 4. THE PHILIPPINE OVERSEAS LEGAL ACTION CENTER –

In order to better implement the national policy of protecting labor and to afford better protection to Overseas Filipino Workers, a new office is hereby created which shall be known as the Philippine Overseas Legal Action Center under the Department of Labor and Employment’s Philippine Overseas Legal Office which shall be organized within ninety (90) days after the effectivity of this Act.



## Section 5. POWERS OF THE PHILIPPINE OVERSEAS LEGAL ACTION CENTER

The Philippine Overseas Legal Action Center shall have quasi-legislative powers to create implementing rules and regulations and internal rules of procedure in order to perform its duties and responsibilities as set forth in this act.

It shall also exercise quasi-judicial powers in resolving the position papers of the OFW and his or her employer as regards claims of abuse and acts constituting illegal recruitment.

## Section 6. SOURCE OF FUNDING FOR THE PHILIPPINE OVERSEAS LEGAL ACTION CENTER –

Funding for the POLAC shall be primarily sourced from the mandatory contributions of the OFWs to the POEA as required in their mandatory minimum contracts.

Funding for the POLAC shall also be supplemented by itemized allotments from the General Appropriations Act of the applicable year of operation.

## Section 7. COMPOSITION OF A PHILIPPINE LEGAL ACTION CENTER –

The Philippine Overseas Legal Action Center shall be led in the Philippines by a Domestic Chief Legal Officer recommended by the DOLE (Department of Labor and Employment) Secretary and shall be appointed by the President. The term of such Chief Legal Officer shall last for 5 years and shall only be suspended or terminated for cause.

There shall be a Foreign Chief Legal Officer chosen by the Domestic Chief Legal Officer for each POLAC office established abroad who shall exercise the same powers of the Domestic Chief Legal Officer in their respective office but shall be under the Domestic Chief Legal Officer's direct supervision.

Each POLAC office shall consist of no less than two (2) senior overseas lawyers. There shall also be, in every POLAC office, at least two (2) overseas service lawyers who shall have previous experience working in the field of labor law.

Aside from the above minimum of lawyers, there shall be within each Legal Action Center, accompanying non-legal staff the number of which shall be based on the necessity of each office but shall not exceed the ratio of 4 non-legal staff for each lawyer.

Lastly, the foreign based Legal Action Center shall employ at least one notary public of the country where it is established and shall cause said notary public's continuous accreditation by the Philippine Embassy or Consul General in order to notarize documents for the initiation of complaints.

#### Section 8. CREATION OF A LEGAL ACTION CENTER –

A Single POLAC domestic legal action center shall be established in the Philippines under the direction of the Department of Labor and Employment Secretary. The position of Domestic Chief Legal Officer shall be immediately appointed by the president as soon as the law becomes effective and such appointee shall cooperate with the DOLE secretary in the creation of the office and their determination of the proper staff to perform the duties of the office and lastly, in the creation of rules and regulations to fulfill their duties as set forth in this law.

A POLAC foreign legal action center shall be established remotely from, but under the supervision of, an embassy or consulate wherever there is an appreciable concentration of OFWs outside a convenient or practicable distance from an already established embassy or consulate as determined by the Domestic Chief Legal Officer or as requested through a petition by a group of OFWs supported by signatures showing the existence of a large number of isolated OFWs.

#### Section 9. QUALIFICATIONS FOR THE MEMBERSHIP OF THE PHILIPPINE LEGAL ACTION CENTER –

The Domestic Chief Legal Officer must be a member of the Philippine Bar for a period of at least 5 years and should be recognized to have served in the area of labor law or a publicly known and accepted expert in labor legislation.

All Foreign Chief Legal Officers must be members of the Philippine Bar for a period of at least 5 years with practice experience in the field of labor law or was a member of the Public Attorney's Office.

All Senior Overseas Lawyers must be a member of the Philippine Bar for a period of 3 years with practice experience in labor law or was a member of the Public Attorney's Office.

All Overseas Service Lawyers must be a member of the Philippine Bar for a period of 2 years with relevant training in labor law practice.

Foreign Based Non-Legal Staff must have had at least three (3) years working abroad as an OFW in the field of secretarial work or was a staff member of a Philippine based law firm for the same period.

The foreign notary public shall possess all the necessary qualifications of a notary public in their country and shall, as a prerequisite to their position, be accredited by the Philippine Embassy or Consulate having Jurisdiction over their area.

#### Section 10. DUTIES OF THE PHILIPPINE OVERSEAS LEGAL ACTION CENTER –

The POLAC shall receive a copy of all employment contracts of OFWs within their jurisdiction set by the Domestic Chief Legal Officer from the POEA as given to them by licensed recruiting agencies.

The Foreign Chief Legal Officer shall then schedule each OFW within his or her area of responsibility to report to the POLAC once every month for the duration of their employment contract.

If, at the set date of an OFW's POLAC mandated visit, the OFW fails to appear, the POLAC, through its Special Overseas Lawyers, shall issue a notice and order to the employer of the OFW to facilitate their appearance at the POLAC office. After 10 days have lapsed from the sending of the notice and order, the POLAC office shall conduct an employer or worksite visit for purposes of monitoring the presence of any physical, psychological, or emotional abuse the OFW might have suffered or is suffering and to ascertain any existence of acts constituting illegal recruitment.

If during the POLAC mandated visit or during the POLAC worksite visit, the OFW shall report any physical, mental, or psychological abuse he or she might have been subjected to, or any act the employer or agency has committed which may amount to illegal recruitment, the legal officers of the POLAC office shall conduct an independent investigation and shall report their findings to the Foreign Chief Legal Officer within 5 days. The Foreign Chief Legal Officer shall then recommend either that a proper remote suit be filed by the POLAC in representation of the OFW, or that the claim is unsubstantiated by facts.

In the course of the independent investigation, the OFW and the employer shall be allowed to submit position papers regarding the claims set forth. Such position papers shall not be the sole basis of the investigator's recommendation to the Foreign Chief Legal Officer.

The Foreign Chief Legal Officer shall determine the proper jurisdiction of the suit. If it is found that the suit can be heard and decided in the Philippines, the Foreign Chief Legal Officer shall forward the related documents and evidentiary matters to the domestic POLAC office in order that they may represent the case before the proper courts. If it is found that the suit can only be heard and decided in foreign

courts, the legal staff of the overseas POLAC office shall acquire the assistance of a competent court officer in their country and shall cooperate with such court officer to represent the OFW in the case.

#### Section 11. WAIVER OF THE MANDATORY MONTHLY POLAC VISIT –

The OFW may, at his or her option, file a waiver of his or her right to the monthly POLAC visit under their employment contract with the POLAC office waiving the visit requirement for a maximum of three (3) months.

After the waiver period, the OFW must again visit the POLAC office once a month or issue another waiver after visiting the POLAC office.

No waiver shall waive a period for more than three (3) months.

#### Section 12. EFFECTS OF WAIVER OF APPEARANCE IN POLAC OFFICE –

An OFW who waives his or her right to appear in the POLAC office for whatever period shall not be considered to have abandoned their right of action against their employer or agency for any actionable wrong which may have occurred within said period of waiver.

#### Section 13. VOLUNTARY APPEARANCE WITH THE POLAC –

An OFW may voluntarily appear ahead or after their scheduled monthly visit to the POLAC in order to state any claim against their employer or agency. Such voluntary appearance shall serve the same purpose as the POLAC mandatory monthly visit.

### **CHAPTER III – AMMENDMENT TO THE POEA MIMINUM OVERSEAS EMPLOYMENT CONTRACT**

#### Section 14. INSPECTION CLAUSE –

Every overseas employment contract shall include the following provision or a provision substantially similar in order for the same to be considered valid by the POEA:

“The EMPLOYER shall allow a period of one day every month for the duration of this employment contract for the EMPLOYEE to visit his assigned POLAC office.



Such day shall not be counted against the EMPLOYEE's attendance record and shall be considered a "day-off" for the week it is to be done.

The EMPLOYER shall allow the POLAC and its authorized legal staff to visit the work premises of the OFW to inspect for presence of any physical, mental, or psychological abuse or any acts which may constitute illegal recruitment."

## **CHAPTER IV – Miscellaneous Provisions**

### **Section 15. SEPARABILITY CLAUSE –**

Should any provision of this Act or any part thereof be declared invalid, the other provisions insofar as they are separable from the invalid ones, shall remain in full force and effect.

### **Section 16. REPEALING CLAUSE –**

All laws, orders, issuances, rules, and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

### **Section 17. EFFECTIVITY –**

This Act shall take effect fifteen (15) days after its complete publication in at least two newspapers of general circulation.

Approved.