

REPUBLIC OF THE PHILIPPINES
House of Representatives
Quezon City

SEVENTEENTH CONGRESS
1st Regular Session

HOUSE BILL NO. 1382

HOUSE OF REPRESENTATIVES

RECEIVED

DATE: 11 JUL 2016

TIME: 5:20 PM

BY: [Signature]

REGISTRATION UNIT
BILLS AND INDEX SERVICE

Introduced by Congressman Alfredo D. Vargas III

EXPLANATORY NOTE

As part of the country's Millenium Development Goals (MDGs), the Philippines aims to reduce child mortality and improve maternal health.

According to the 5th Philippine Progress Report on the MDGs, the Philippines had a high probability of achieving the target of reducing the mortality rate of children. In 2011, the Philippines recorded a child mortality rate of 30 out of 1,000 live births which is not far from the 2015 target of 26.7. Moreover, infant mortality rate also decreased from 57 per 1,000 live births in 1990 to 22 per 1,000 live births in 2011. The 2015 target is 19.

However, it is feared that the Philippines may not have met its MDG target on maternal health as the maternal mortality ratio increased from 209 deaths per 100,000 live births in 1990 to 221 deaths in 2011, a far cry from the 2015 target of 52.

Recent studies show that extending paid maternity leave for new mothers reduces infant mortality. The cause is yet to be known but it may be linked to longer periods of breast feeding and better health care. Extended paid maternity leave may also improve maternal health as it lessens the likelihood of miscarriage and complications.

Recognizing that maternity is a vital function played solely by women, this bill seeks to increase the maternity leave of working women from sixty days to 120 days.

To protect the working mothers and their infants' right to proper health care, the immediate passage of this measure is earnestly sought.


ALFREDO D. VARGAS III

REPUBLIC OF THE PHILIPPINES

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HOUSE BILL NO. **1382**

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AN ACT

INCREASING THE MATERNITY LEAVE PERIOD TO ONE HUNDRED (100) DAYS FOR FEMALE EMPLOYEES IN THE GOVERNMENT SERVICE AND IN THE PRIVATE SECTOR, AND GRANTING AN OPTION TO EXTEND FOR AN ADDITIONAL THIRTY (30) DAYS WITHOUT PAY

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 as the “One Hundred (100)-Day Maternity Leave Law”.

SEC. 2. *Declaration of Policy.* – It is the declared policy of the State under Article XIII, Sec. 14 of the 1987 Constitution to protect and promote the rights and welfare of working women, taking into account their maternal functions, and to provide an enabling environment in which their full potential can be achieved.

Towards this end, and in consonance with local and international legal instruments that protect and promote the rights of women, the State shall institutionalize a mechanism to expand the maternity leave period of working women to provide them with ample transition time to regain health and overall wellness as well as to assume maternal roles before resuming full-time work.

SEC. 3. *Maternity Leave for Female Employees in Government Service.* – Any pregnant female employee who is appointed in the government service, regardless of employment status, in any National Government Agency (NGA), Local Government Unit (LGU), or Government- Owned and -Controlled Corporations (GOCC), shall be granted a maternity leave of one hundred (100) days with full pay based on her average weekly or regular wages, regardless if the delivery was normal or through caesarian section, or for sixty (60) days if the female employee suffered a miscarriage.

An additional maternity leave of thirty (30) days, without pay, can be availed of, at the option of the employee: *Provided*, That the head of the agency shall be given due notice, in writing, at least forty five (45) days before the end of her regular maternity leave.

SEC. 4. *Maternity Leave for Female Employees in the Private Sector.* – Any pregnant female employee in the private sector shall be granted a maternity leave of one hundred (100) days, regardless if the delivery was normal or through caesarian section, or for sixty (60) days if the female employee suffered a miscarriage.

(a) A female employee in the private sector who has paid at least three (3) monthly contributions in the twelve-month period immediately preceding the semester of her childbirth or miscarriage shall be paid her daily maternity benefit, which shall be computed based on the average monthly salary credit, for one hundred (100) days, regardless if the delivery was normal or through caesarian section, or for sixty (60) days if the female employee suffered a miscarriage, subject to the following conditions:

- 1) That the employee shall have notified her employer of her pregnancy and the probable date of her childbirth, which notice shall be transmitted to the Social Security System (SSS) in accordance with the rules and regulations it may provide;
- 2) That the full payment shall be advanced by the employer within thirty (30) days from the filing of the maternity leave application;
- 3) That payment of daily maternity benefits shall be a bar to the recovery of sickness benefits provided under Republic Act No. 1161, as amended, for the same period for which daily maternity benefits have been received;
- 4) That the maternity benefits provided under this Act shall be paid only for the first four (4) deliveries or miscarriages;
- 5) That the SSS shall immediately reimburse the employer of one hundred percent (100%) of the amount of maternity benefits advanced to the employee by the employer upon receipt of satisfactory proof of such payment and legality thereof; and
- 6) That if an employee member should give birth or suffer miscarriage without the required contributions having been remitted for her by her employer to the SSS, or without the latter having been previously notified by the employer of the time of the pregnancy, the employer shall pay to the SSS damages equivalent to the benefits which said employee member would otherwise have been entitled to.

(b) An additional maternity leave of thirty (30) days, without pay, can be availed of, at the option of the employee: *Provided*, That the employer shall be given due notice, in writing, at least forty five (45) days before the end of her regular maternity leave.

(c) An employee availing of the maternity leave period and benefits must receive not less than two-thirds (2/3) of their regular monthly wages. Employers from the private sector shall be responsible to pay the salary differential between the actual cash benefits received from the SSS by covered employees and their

average weekly or regular wages, for the entire duration of the regular maternity leave, with the following exceptions, subject to the guidelines to be issued by the Department of Labor and Employment (DOLE):

- 1) financially-distressed establishments, which are exempted from payment of minimum wage as defined by the existing guidelines of the DOLE;
- 2) those retail/service establishments employing not more than ten (10) workers;
- 3) those who pay their workers on a purely commission, boundary, or task basis, and those who are paid a fixed amount for performing a specific work;
- 4) those considered as micro business enterprises and engaged in the production, processing, or manufacturing of products or commodities including agro-processing, trading, and services whose total assets are not more than Three Million Pesos (P 3,000,000.00); and
- 5) those who are already providing similar or more than the benefits provided under this Act.

SEC. 5. *Non-diminution of Benefits.* – Nothing in this Act shall be construed as to diminish existing maternity benefits currently granted by employer with or without collective bargaining agreements (CBA), or under present laws, if more beneficial to the female employee. Any other working arrangement which the female employee shall agree to, during the additional maternity leave period, shall be allowed: *Provided*, That this shall be consented to in writing by the employee and shall primarily consider her maternal functions and post-natal care.

SEC. 6. *Security of Tenure.* – Those who shall avail of the regular maternity leave and the additional 30-day maternity leave, whether in the government service or private sector, shall be assured of security of tenure. As such, the exercise of this option by them shall not be used as basis for demotion in employment or termination. The transfer to a parallel position or reassignment from one organizational unit to another in the same agency shall be allowed: *Provided*, That it shall not involve a reduction in rank, status or salary.

SEC. 7. *Periodic Review.* – The Government Service Insurance System (GSIS) and the SSS shall immediately conduct a review of the maternity leave benefits of women employees in the government service and the private sector, respectively. Thereafter, they shall include maternity leave benefits in their valuation report conducted every four (4) years for the SSS and every three (3) years for the GSIS, or more frequently as may be necessary, with the end in view of meeting the needs of pregnant women and improving their welfare by increasing existing maternal benefits.

SEC. 8. *Implementing Rules and Regulations.* – The Civil Service Commission (CSC), the DOLE, together with the GSIS and the SSS shall issue the necessary rules and

regulations for the grant of this expanded maternity leave for all female employees within six (6) months from the effectivity of this Act.

SEC. 9. *Separability Clause.* – If, for any reason, a provision or part hereof is declared invalid, other provisions not affected thereby shall remain in full force and effect.

SEC. 10. *Repealing Clause.* – Commonwealth Act No. 647 is hereby repealed. Section 11, Book V of Executive Order No. 292 (Omnibus Rules on Leaves) and Rule XVI of the Omnibus Rules Implementing it, Article 133 of Presidential Decree No. 442 or the Labor Code of the Philippines, and Section 14-A of Republic Act No. 1161, as amended, are hereby further amended. Any other law, decree, executive order, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 11. *Effectivity.* – This Act shall take effect fifteen (15) day after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,