

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3088

HOUSE OF REPRESENTATIVES

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Introduced by Rep. Winston "Winnie" Castelo

EXPLANATORY NOTE

Thirty-two (32) years had already lapsed and yet, PD 1638, also known as the "AFP Military Personnel Retirement and Separation Decree of 1979" still stands today as governing with regards to retirement and separation of military personnel, officer or enlisted personnel, from the armed service.

Military service is unique and not few die in line of duty. But it has its own rewards in terms of retirement or separation benefits and other entitlements that in fact, extend to the immediate beneficiaries or survivors of every officer or enlisted personnel. Such survivors receive monthly annuity based on certain criteria.

This bill precisely seeks to zero in on adjustment or liberal reform to that portion of PD 1638 which delves into what "survivors shall mean" or as provided for in Section 25 of said presidential decree. More specifically, it intends to relax in a proposed exemption or specific case the provision that "entitlement to benefits shall terminate when such children attain twenty-one (21) years of age or get married" whereby such entitlement may go beyond the 21-age bar.

Under the proposed measure, there is one overriding concern it aims to address and it is called as the derivative pension system which flows from the AFP Retirement Law. It derives its inspiration from the fact that there are, although not too many, children of deceased military personnel who are special, incompetent, mentally retarded, handicapped, or disabled.

As such, "their situation prevented them from attaining full capacity for all aspects of civil life" (JAGO Opinion of 16 January 2008). Thus, if they happen to be the survivors of deceased military personnel who retired from the service, perforce should they receive monthly annuity that shall not be terminated even upon reaching twenty-one years of age that PD 1638 has set as limit.

In a JAGO opinion, an important assumption had been raised on the 21 year of age requirement for derivative pension under the PD. It says – "when a child attains that age, it is assumed that he has already physically, mentally, psychologically, and emotionally matured which enables him to have full capacity for all acts of civil life. However, full capacity for all acts of civil life depends upon the favorable development of an individual. This applies to mentally retarded persons or to those whose mental faculties do not normally develop."

In fact, this is the rallying cry of this measure. It simply means that if at one point, derivative pension for survivors who are otherwise mentally or physically retarded or handicapped and for that matter cannot ever attain that 'full capacity for all acts of civil life' have been entitled to them even beyond age of 21 years, then it behooves this important bill to lay the legislative framework for its continued implementation.

This amendatory bill is of high urgency, hence its immediate passage is prayed for.



WINNIE CASTELO
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AN ACT

AMENDING PRESIDENTIAL DECREE NO. 1638, OTHERWISE KNOWN AS "THE AFP MILITARY PERSONNEL RETIREMENT AND SEPARATION DECREE OF 1979, BY ADDING A NEW SECTION 25-A GRANTING CHILDREN/SURVIVORS WHO ARE MENTALLY RETARDED EXEMPTION FROM TERMINATION OF BENEFITS UPON REACHING AGE OF 21 YEARS OF AGE, APPROPRIATING FUNDS THEREFOR

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

SECTION 1: This Act shall be known as the "AFP Derivative Retirement Pension For Children/Survivors Act of 2016."

SEC. 2. The AFP Military Personnel Retirement and Separation Decree of 1979 is hereby amended by adding a new Section 25-A to read as follows:

"Section 25-A. Grant of Exemption. – Children/survivors who are certified by competent medical officer to be mentally retarded and therefore cannot normally develop toward full capacity for all acts of civil life are hereby granted exemption from termination of derivative pension benefits upon reaching the age of twenty-one (21) years of age."

SEC. 3. The Secretary of the Department of National Defense and the Chief of Staff, Armed Forces of the Philippines shall promulgate the necessary rules and regulations for the effective implementation of this Act within thirty (30) days from its effectivity.

SEC. 4. The provisions of this Act are hereby deemed separable. If any provision hereof is declared invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions which shall remain in effect.

SEC. 5. All laws, decrees, issuances, executive orders, rules and regulations inconsistent with the provision of this Act are hereby repealed or modified accordingly.

SEC. 6. This Act shall take effect upon its publication in the Official Gazette and in at least three newspapers of general circulation thirty (30) days upon its approval.

Approved,