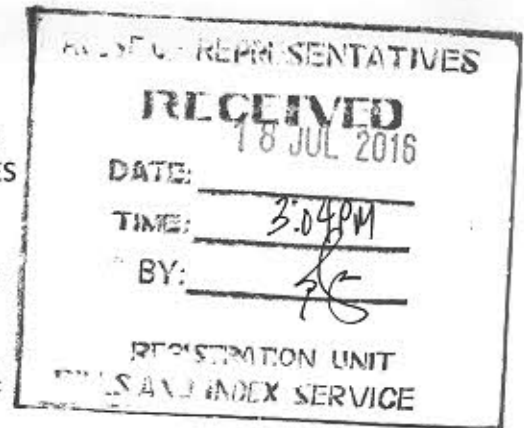


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 1644



Introduced by HON. LINABELLE RUTH R. VILLARICA
4TH DISTRICT, BULACAN

EXPLANATORY NOTE

Maternity protection is a human right. It is necessary in forwarding the women's agenda and attaining gender equality. An essential component of such right is allowing women to fully recover after childbirth and giving them ample time to care for their newborn before going back to work.

The International Covenant on Economic, Social and Cultural Rights specifically mandates that "special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period, working mothers should be accorded paid leave or leave with adequate social security benefits."¹ On the other hand, the Convention on the Elimination of All Forms of Discrimination against Women or CEDAW obliges State Parties to take appropriate measures to, among others, introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.² Moreover, the Beijing Declaration and Platform for Action acknowledges "the social significance of maternity, motherhood and the role of parents in the family and in the upbringing of children."

In 2000, the International Labor Organization adopted Convention No. 183 or the Maternity Protection Convention, 2000. The said convention suggests an ideal maternity leave of not less than 14 weeks with at least 6 weeks of compulsory leave after childbirth.³ It also recommends the provision of cash benefits, while the mother is on maternity leave, "at a level which ensures that the mother can maintain herself and her child in proper conditions of health and with a suitable standard of living."⁴ **The Philippines has not signed Convention No. 183.**

Currently, married women who are appointed in government service are entitled to a maximum of 60 days maternity leave with full pay. This, however, applies only to permanent and regular employees who have rendered two or more years of continuous

¹ Article 10 (2) of the International Covenant on Economic, Social and Cultural Rights.

² See: Article 2 of the CEDAW.

³ See: ILO Convention No. 183, Article 4.

⁴ See: ILO Convention No. 183, Article 6.

service. Others receive less.⁵ In the private sector, female members of the SSS who have paid at least 3 monthly contributions in the 12-month period immediately preceding the semester of their childbirth are paid a maternity benefit equivalent to 100% of their average daily salary credit for 60 days in case of normal delivery or 78 days in case of caesarean delivery.⁶

It is under the foregoing circumstances that the Committee on Women and Gender Equality, under the Chairmanship of the undersigned, approved a bill extending the maternity leave benefit of all working women to 100 days during the Sixteenth Congress. The same, however, was not taken up in plenary. The Senate version, on the other hand, which is almost similar to this bill, was approved on Third Reading by the Senate.

Thus, the passage of this bill is earnestly sought.



REP. LINABELLE RUTH R. VILLARICA

⁵ Section 1, Commonwealth Act No. 647.

⁶ Section 14-A of R.A. 8282.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **1644**

Introduced by Hon. Linabelle Ruth R. Villarica
4TH DISTRICT, BULACAN

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,