

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH (17TH) CONGRESS
First Regular Session

House Bill No. **516**



Introduced by: Rep. BERNADETTE R. HERRERA-DY

AN ACT
PROMOTING POSITIVE AND NON-VIOLENT DISCIPLINE OF CHILDREN AND
APPROPRIATING FUNDS THEREFOR

EXPLANATORY NOTE

The United Nations Committee on the Rights of the Child defines “corporal” or “physical” punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light.¹ The UN Committee also considers as corporal punishment other non-physical but equally cruel and degrading forms of punishment, which includes “punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.”

Corporal punishment is very common in the Philippines. The most abusive acts were those inflicted by parents in the name of discipline. Studies and surveys show that parents in the Philippines discipline and punish their children through the use of corporal or physical punishment such as spanking with hand, pinching, hitting with an object, twisting the child’s ear, pulling the hair, slapping the face or head, confinement in a sack, or shaking.² Filipino children also experience threats of physical punishment and humiliating treatments such as being shouted at in front of others, labeling and

¹ Philippine Legislators’ Committee on Population and Development Foundation, Inc. (PLCPD), *To Spank or Not to Spank: A Primer on the Proposed Positive and Non-Violent Discipline of Children Act (2015)*, citing Committee on the Rights of the Child, CRC General Comment No. 8 (2006): The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (Arts. 19; 28, Para. 2; and 37, inter alia), 2 March 2007. CRC/C/GC/8., available at <http://www.plcpd.com/wp-content/uploads/2014/08/A-Primer-on-the-Proposed-Positive-and-Non-Violent-Discipline-of-Children-Act.pdf> (last accessed on June 29, 2016).

² PLCPD, *supra* note 1, citing World Health Organization, *World Report on Violence and Health* 63 (2002); Save the Children-Sweden, *What Children Say: Results of the Comparative Research on the Physical and Emotional Punishment of Children in Southeast Asia and the Pacific* 12-19 (2006).

denigration.³ 85% of children surveyed said that they were punished in the home, and 82% said that they were hit in different parts of the body.⁴

Corporal punishment is ineffective in disciplining children of all ages. Most often, it produces anger, resentment, and low-self-esteem among children.⁵ It also teaches the child that violence is an acceptable behavior and is a solution to problems; thus, corporal punishment perpetuates itself as children imitate the actions of adults.⁶ In fact, parents admit that they feel guilty and sorry about punishing their children but they are not aware of any other way of disciplining children except for what they have learned from their own parents and grandparents. Parents have expressed the need for alternative positive and non-violent methods for disciplining children.⁷

The proposed Positive and Non Violent Discipline of Children bill aims to prohibit corporal punishment and all other forms of humiliating or degrading punishment of children in all settings and promote positive and non-violent discipline of children. It borrows from and builds upon H.B. 4455 (15th Congress), which the House of Representatives approved on Third and final Reading, and in effect reintroduces the measure.

The bill seeks to strengthen the country's laws, policies and programs in respecting child's rights, human dignity, physical integrity and equal protection of law in compliance with the Philippine government's obligation to the UN Convention on the Rights of the Child. The bill specifically outlines all prohibited forms of physical and degrading or humiliating punishment of children at home, in schools, in institutions, in alternative care systems and in all other settings. The proposed prohibited acts are: forcing the minor to kneel on stones, salt or pebbles; squatting; public humiliation; deliberate neglect of child's physical needs; exposure to substances that can cause discomfort; and imposing tasks that the minor is incapable of doing such as forcing to skip sleep and verbal assaults.

In view of the foregoing, the urgent approval of this bill is earnestly sought.



BERNADETTE HERRERA-DY

³ *Id.*

⁴ *Id. citing* Save the Children-Sweden (Unpublished; 2005), Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City.

⁵ *Id. citing* Paintal, Sureshrani (2007), Banning Corporal Punishment of Children: A Position Paper, available at <http://www.stophitting.com/pdf/sureshrani.pdf>

⁶ *Id. citing* Harper, Kate et al.(2005), Ending Physical and Humiliating Punishment of Children, A Manual for Action, Save the Children, pp. 8-11.

⁷ *Id. citing* Save the Children-Sweden (Unpublished; 2005), Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City, Philippines; NORFIL (2005), Documentation of a consultation with the Active Youth movement and the Children and Youth Organization on physical and emotional punishment of children, NORFIL, Quezon City, p. 12.

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

1 **SECTION 1.** *Short Title.* – This Act shall be known as the “*The Positive and Non*
2 *Violent Discipline of Children Act*”.

3 **SEC. 2.** *Declaration of Policy.* – The State recognizes the vital role of children and
4 youth in nation building and shall promote and protect their physical, moral, spiritual,
5 intellectual and social well-being. Pursuant thereto, no child shall be subjected to torture or
6 other cruel, inhuman or degrading treatment or punishment. Such treatment or punishment
7 violates the child’s rights, human dignity and physical integrity.

8 As such, the State shall:

9 (a) Promote positive and non-violent discipline of children at home, in school, in
10 institutions, in alternative care systems, in workplaces and in all other settings and
11 establish the necessary structures and mechanisms and mobilize resources to make
12 this possible;

13 (b) Defend the right of children to assistance, including proper care and nutrition, and
14 special protection from all forms of neglect, abuse, cruelty, exploitation and other
15 conditions prejudicial to their development;

16 (c) Protect the best interests of the child through measures that will ensure the
17 observance of international standards of child protection, especially those to
18 which the Philippines is a party;

- 1 (d) Respect the responsibilities, rights and duties of parents, guardians or other
2 persons legally responsible for the child, including those exercising special or
3 substitute parental authority, to provide, in a manner consistent with the evolving
4 capacities of the child, appropriate direction and guidance in the exercise of the
5 children's rights;
- 6 (e) Assist parents in the fulfillment of their parental obligations;
- 7 (f) Ensure that school discipline is administered in a manner consistent with the
8 child's human dignity; and
- 9 (g) Protect the child from all forms of physical or mental violence, injury from abuse,
10 neglect or negligent treatment, maltreatment or exploitation, including sexual
11 abuse, while in the custody of parents, guardians or any other person under whose
12 care the child is entrusted. Such protective measures shall include effective
13 procedures for the establishment of social programs to provide necessary support
14 for the child and for those who care for the child, as well as for other forms of
15 prevention and for identification, reporting, referral, investigation, treatment and
16 follow-up of instances of child maltreatment, and, as appropriate, for legal or
17 judicial action.

18 **SEC. 3. *Definition of Terms.*** – The following terms as used in this Act shall be
19 defined as follows:

- 20 (a) *Child* refers to a person who is below eighteen (18) years of age, or one over but is
21 unable to fully take care of one's self or protect one's self from abuse, neglect,
22 cruelty, exploitation or discrimination because of a physical or mental disability or
23 condition.
- 24 (b) *Corporal punishment* refers to cruel and unusual punishment or act that subjects the
25 child to indignities and other excessive chastisement that embarrasses or
26 humiliates the child carried out to discipline, train or control, inflicted by an adult or
27 by another child, who has been given or has assumed authority or responsibility for
28 punishment or discipline. It includes physical and humiliating or degrading
29 punishment such as, but not limited to:
- 30 (1) Blows such as but not limited to beating, kicking, hitting, slapping, lashing to
31 any part of a child's body, with or without the use of an instrument such as
32 but not limited to a cane, broom, stick, whip or belt;
- 33 (2) Striking of the child's face or head such being designated as the "no contact
34 zone";

- (3) Pulling hair, shaking, twisting joints, cutting or piercing skin, dragging or throwing a child;
 - (4) Forcing a child to perform physically painful or damaging acts, such as but not limited to holding a weight or weights for an extended period and kneeling on stones, salt or pebbles;
 - (5) Deliberate neglect of a child's physical needs;
 - (6) Use of or exposure to substances that can cause discomfort or threaten the child's health such as fire, ice, water, smoke, pepper, alcohol, dangerous chemicals such as bleach or insecticides, excrement or urine;
 - (7) Tying up a child;
 - (8) Imprisoning a child;
 - (9) Verbal abuse, or assaults including intimidation or threat of bodily harm, swearing or cursing, ridiculing or denigrating the child; and
 - (10) Making a child look or feel foolish which tends to belittle or humiliate the child in front of others.
- (c) *Foster parents* refer to persons duly licensed by the Department of Social Welfare and Development (DSWD) to provide planned, temporary, substitute parental care to children.
- (d) *Guardians* refer to legal guardians and other persons, including relatives, with physical custody of the child.
- (e) *Institutions* refer to residential and nonresidential child-caring agencies, including youth homes, youth rehabilitation centers, drop-in centers, temporary shelters and orphanages; and churches or religious centers, including places of worship and parish centers.
- (f) *Parents* refer to biological parents, step parents, adoptive parents and the common-law spouse or partner of the parent.
- (g) *Persons legally responsible for the child, including those exercising special or substitute parental authority* refer to those provided for under Presidential Decree No. 603, as amended (*Child and Youth Welfare Code*), Executive Order No. 209, as amended (*Family Code*), and Republic Act No. 7610, as amended (*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*).
- (h) *Positive and non violent discipline* refer to an approach seeking to immediately correct the behavior of a child, to teach a lesson, to give tools that build self discipline and emotional control, and to build a good relationship with the child by

1 understanding the child's needs and capabilities at various ages and the behavior that
2 is usual for a child at each stage of development.

3 (i) *Service providers* refer to persons who, in a residential or nonresidential setting,
4 provide services to children. These include social workers, center administrators and
5 personnel, house parents, health service providers, day care workers, volunteers,
6 security guards in schools and centers, guards in a youth detention home, law
7 enforcement officers, *barangay* officials and *tanods*, and jail officers.

8 (j) *School teacher, personnel, and officers* refer to persons exercising authority over
9 students, including administrators, student teachers, guidance counselors, prefects of
10 discipline, instructors, school personnel, scout masters and Citizen's Advancement
11 Training (CAT) and Citizen's Military Training (CMT) or Reserved Officers Training
12 Corps (ROTC) commandants, tactical officers and student officers.

13 (k) *Yayas, house helpers and caregivers* refer to domestic workers with direct contact to
14 the child.

15 **SEC. 4.** *Promotion of Techniques on Positive and Non-Violent Discipline* – A
16 comprehensive program shall be formulated and implemented to promote positive and non-
17 violent discipline in lieu of corporal punishment of children. A continuing information
18 dissemination campaign shall be conducted nationwide regarding its benefits and techniques.

19 Among the positive and non-violent techniques for disciplining a child which can be
20 promoted include:

21 (a) Beat-the Clock – a motivational technique that uses the child's competitive nature to
22 encourage completion of tasks on parent's timetable.

23 (b) Grandma's Rule – a contractual agreement that allows a child to do what the child
24 pleases as soon as what the parent wants has been accomplished.

25 (c) Neutral time – taking advantage of time that is free from conflict, such as the time
26 after a tantrum has passed and the child is calm and receptive, to teach new behavior
27 to the child.

28 (d) Praise – a verbal recognition of a behavior that a parent wants to reinforce

29 (e) Reprimand - a statement that includes a command to stop the behavior, a reason
30 why the behavior should stop, and an alternative to the behavior;

31 (f) Rule – a pre determined behavioral expectation that includes a stated outcome and
32 consequence;

1 (g) Time out – to take the child out of a situation because of inappropriate behavior,
2 making the child face a blank wall for several minutes or until the child calms
3 down;

4 (h) Responsibility Building – making a child perform age-appropriate simple household
5 chores.

6 **SEC. 5. *Prohibition of Corporal Punishment.*** – Corporal punishment of children as
7 defined in Sec. 3 (b) are hereby prohibited.

8 Parents, *yayas*, house helpers and caregivers, foster parents, guardians, relatives who
9 have custody of the child, or other persons legally responsible for the child, including those
10 exercising special or substitute parental authority, school teachers, personnel, and officers
11 of both public and private academic and vocational institutions, employers and supervisors,
12 service providers, priests, nuns, pastors and other members of religious congregations or
13 churches, or any other person under whose care the child has been entrusted to and who
14 inflicts corporal punishment on the child shall be liable in accordance with existing penal
15 laws.

16 **SEC. 6. *Penalties.*** The penalties under existing penal laws shall be imposed in the
17 maximum period, except where a higher penalty is provided for under Act No. 3815, as
18 amended, otherwise known as the *Revised Penal Code*, under Republic Act No. 7610,
19 otherwise known as the *Special Protection of Children Against Child Abuse, Exploitation and*
20 *Discrimination Act*, or under Republic Act No. 9262, otherwise known as the *Anti-Violence*
21 *Against Women and their Children Act*. If the act is not penalized under the abovementioned
22 laws, the penalty shall be *arresto mayor* in its maximum period.

23 **SEC. 7. *Option for Interventions.*** If the penalty imposable for the act is only *arresto*
24 *menor* or *arresto mayor*, the prosecutor may, instead of filing the case, refer the accused to
25 the local social welfare and development office (SWDO) for assessment and intervention
26 such as seminars and/or counseling on children's rights and positive and non-violent
27 discipline of children, anger management, and referrals to other rehabilitative services:
28 *Provided, That the offender has not been previously charged under this Act.*

29 **SEC. 8. *Suspension of Parental Authority.*** If the offender is a person exercising
30 parental authority but is not a parent, and has been previously charged under this Act, the
31 court may suspend parental authority in accordance with Executive Order No. 209, as
32 amended, otherwise known as the *Family Code of the Philippines*.

33 **SEC. 9. *Interventions for a Parent who is an Offender.*** If the offender is a parent of
34 the child, in addition to the penalty imposed under Section 6, the prosecutor shall refer the

parent to the local social welfare and development office (SWDO) for assessment and intervention such as seminars and/or counseling on children's rights and positive and non-violent discipline of children, anger management, and referrals to other rehabilitative services.

SEC. 10. *Other Remedies.* – The remedies available to the victim under Republic Act No. 7610 and Republic Act No. 9262 shall be available to the child where applicable.

SEC. 11. *Reporting.* – All instances of corporal punishment of children brought to the *barangay* or the police, or a healthcare provider, shall be reported to the local SWDO within eight (8) hours from the time of the complaint, without prejudice to the continuation of the investigation or the filing of the appropriate criminal case. Failure to report within the prescribed period shall be a ground for administrative action against the *barangay* official or police officer, or healthcare provider.

SEC. 12. *Persons Intervening Exempt from Liability.* – In every case of corporal punishment, any person who, acting in good faith, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall not be criminally, civilly or administratively liable.

SEC. 13. *Who May File a Complaint.* – Complaints on acts of corporal punishment against a child may be filed by the following:

- (a) Offended party assisted by an adult;
- (b) Parents or guardians;
- (c) Ascendant or collateral relative within the third degree of consanguinity or affinity;
- (d) Officer, social worker or representative of a licensed child-caring institution;
- (e) Officer or social worker of the DSWD or the local SWDO;
- (f) Police officers, preferably those in charge of the Women and Children's Desk;
- (g) *Barangay* official;
- (h) Teacher, non-governmental organization (NGO) worker, health provider, day care worker; or
- (i) At least two (2) concerned persons from the place where the act occurred who have personal knowledge of the act.

SEC. 14. *Venue.* – The Regional Trial Court (RTC) designated as a Family Court shall have original and exclusive jurisdiction over cases of corporal punishment of children. In the absence of such court in the place where the offense was committed, the case shall be filed in the RTC in the place where the crime or any of its elements were committed at the option of the complainant.

1 **SEC. 15. Confidentiality.** – All records pertaining to cases of corporal punishment of
2 children, including those in the barangay, the police or public or private healthcare facility
3 shall be confidential and the right to privacy of the victim shall be respected.

4 Whoever publishes or causes to be published, in any format, the name, address,
5 telephone number, school or any identifying information of a victim or immediate family
6 member of the victim, without consent, shall be penalized with a fine of not more than Two
7 Hundred Thousand Pesos (P200,000.00).

8 **SEC. 16. Duties and Responsibilities of Government Agencies.**

- 9 (a) The DSWD shall formulate a comprehensive program to promote the positive and
10 non-violent discipline of children and the prevention of the use of corporal
11 punishment on children. The program shall be developed in coordination with other
12 government agencies and the private sector, including academic institutions, NGOs
13 and parents-teachers-community associations. The program shall include capacity
14 building of service providers, parenting education on positive and non-violent
15 discipline of children, child-friendly reporting mechanisms, child protection services
16 and support, and documentation, data management and monitoring systems.
- 17 (b) The DSWD shall integrate positive and non-violent discipline of children in the
18 training of officials and staff of child-caring institutions. It shall ensure that officials
19 and staff of institutions do not use corporal punishment on any child under their
20 custody. It shall also ensure that appropriate action is taken against erring officials and
21 staff of the institutions.
- 22 (c) The DSWD shall institutionalize an intervention program which will ensure that only
23 trained and competent professionals and staff of the local SWDO will provide
24 counseling and seminars for both offended child and offender.
- 25 (d) All local SWDOs shall adopt and implement programs and services to promote the
26 positive discipline of children and the prevention of the use of corporal punishment on
27 children. They shall also provide assistance to victims of corporal punishment and
28 their families. It shall, together with the DSWD and the LGUs, ensure the delivery of
29 intervention programs such as seminars and counseling for offending parents.
- 30 (e) The local SWDO shall immediately conduct an assessment of every reported instance
31 of corporal punishment on a child, and determine the appropriate interventions,
32 considering the best interest of the child at all times. The assessment shall be
33 completed within three (3) calendar days, without prejudice to the conduct of a more
34 comprehensive case study report. The interventions may include psychosocial

1 interventions for the child and the family; protective custody by the social worker;
2 temporary placement for the child; medical and legal services; counseling and
3 seminars on children's rights, positive and non-violent discipline of children and
4 anger management; and referrals to other rehabilitative services for the perpetrator.
5 The assessment shall be conducted and interventions shall be provided by the local
6 SWDO whether or not a criminal case is filed.

7 (f) The Council for the Welfare of Children (CWC) shall disseminate all relevant
8 information on this Act among concerned government agencies and entities. It shall
9 monitor the enforcement of this Act and the implementation of all programs and
10 services provided for under this Act. It shall also mobilize the different inter-agency
11 mechanisms within its national and local structures to support the implementation of
12 programs and services.

13 (g) The Department of Education (DepED), the Commission on Higher Education
14 (CHED) and the Technical Education and Skills Development Authority (TESDA)
15 shall integrate positive and non-violent discipline of children in the training of school
16 officials, teachers and personnel. The three (3) agencies shall ensure that school
17 officials, teachers and personnel do not use corporal punishment on any pupil or
18 student. They shall also ensure that appropriate administrative action is taken against
19 erring school officials, teachers and personnel.

20 (h) The CHED shall integrate positive and non-violent discipline of children in the
21 curricula of education, psychology, social work and other disciplines related to child
22 work.

23 (i) Local Government Units (LGUs) shall mobilize, strengthen and support local
24 structures, such as the local councils for the protection of children, local special
25 bodies, *Iupong Tagapamayapa* and children's welfare and protection organizations in
26 facilitating the reporting of, prevention of and response to instances of corporal
27 punishment, and promotion of positive discipline in their respective localities. It shall,
28 together with the DSWD and the local SWDO, ensure the delivery of intervention
29 programs such as seminars and counseling for offending parents.

30 (j) Local Councils for the Protection of Children (LCPC) shall support programs that
31 promote the positive and non-violent discipline of children, prevent the use of
32 corporal punishment on children, and coordinate with the local SWDO in responding
33 to such cases.

1 (k) The *Sangguniang Kabataan* (SK) shall include in its programs the prevention of
2 corporal punishment on children.

3 **SEC. 17. *Implementing Rules and Regulations.*** – The DSWD, in consultation with the
4 CWC, DepED, the CHED, the TESDA, the Department of the Interior and Local
5 Government (DILG), the Department of Health (DOH) and other relevant government
6 agencies, LGUs, NGOs and children’s organizations, shall promulgate the implementing
7 rules and regulations of this Act within six (6) months from its approval.

8 **SEC. 18. *Suppletory Application.*** – For purposes of this Act, the *Revised Penal Code*,
9 as amended, the *Child and Youth Welfare Code*, as amended, and other applicable laws shall
10 have suppletory application.

11 **SEC. 19. *Appropriations.*** – The amount necessary for the initial implementation of
12 this Act shall be charged against the current appropriations of the DSWD, the DepED, the
13 TESDA and the CHED, and thereafter in the annual *General Appropriations Act*. For LGUs,
14 the implementation of the programs shall be charged against the internal revenue allotment
15 and other internally generated funds of the LGU concerned. The priority development
16 assistance fund can be utilized to fund the implementation of this act.

17 **SEC. 20. *Separability Clause.*** – If any section or provision of this Act is held
18 unconstitutional or invalid, the other sections or provisions shall not be affected.

19 **SEC. 21. *Repealing Clause.*** – All laws, presidential decrees, executive orders and
20 rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby
21 repealed or modified accordingly.

22 **SEC. 22. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its
23 publication in any newspaper of general circulation.

24 Approved,