

Republic of the Philippines
HOUSE OF THE REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 1504



Introduced by REPRESENTATIVES ALFREDO A. GARBIN, Jr. and
ELIZALDY S. CO

**AN ACT DEFINING AND PROHIBITING ELDER ABUSE, PROVIDING PENALTIES
THEREFORE, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

For many years, Elder Abuse was a hidden, unspoken issue in society. Similar to wife-beating, incest, and child abuse, it was a private problem kept within the confines of the domestic realm. But as a form of family violence, it has remained under or misdiagnosed, under-reported, and poorly addressed by public policy even if it is not uncommon that if one type of abuse is occurring within a home, other forms of abuse may be (or will soon be) taking place. Meanwhile, elderly abuse is still often ignored by health professionals, and sadly, most perpetrators of the abuse are usually one's own family members.

As the elderly population multiplies, so will the incidence of elder abuse. One out of every 20 elderly people will be a victim of neglect or physical, psychological or financial abuse this year.

Extreme cases of elder abuse have obvious manifestations, like pressure marks on the body, broken bones, depression, unexplained withdrawal from normal activities, unattended medical needs, or strained, tense relationships. But most elder abuse is subtle. It is difficult to tell the difference between normal interpersonal stress and abuse. Thus, it seems, elder abuse and neglect are often "hidden".

But the phenomenon of elder abuse is becoming increasingly recognized by both medical facilities and social agencies. More and more studies have highlighted the seriousness and magnitude of elder abuse as an issue concerning the health and welfare of older persons. As such, Elder Abuse is now considered a major public health and human rights issue.

The World Health Organization's (WHO) Toronto Declaration on Elder Abuse defines elder abuse as "a single or repeated act, a lack of appropriate action, occurring within any relationship where there is an expectation of trust that causes harm or distress to an older person." It is not just an intentional negligent act that causes harm to a vulnerable adult, but may actually consist of neglect, abuse, and actual violence against an older person. It may take the form of physical, psychological and emotional abuse, financial or material exploitation, medical maltreatment, even sexual exploitation and abandonment.

Statistics uncover a frightening picture of elderly abuse around the world. The problem may get worse as the number of senior citizens increase. In the United States, it is estimated that people over the age of 65 will number about 52 million in the year 2020. With those aged 85 years or older as the fastest growing group, they will comprise a big part of America's population-almost 1/6 of the total. Meanwhile, the Philippines' elderly population has been steadily increasing in both size and proportion. By 2010, Filipino senior citizens are estimated to be 7M.

Initially thought to be a problem of the developed world, elder abuse is now recognized as universal, although evidence from less-developed countries is primarily anecdotal. In the Philippines, elderly abuse is still not as prevalent as in the West. But of late, elderly abuse is no longer unheard of in modern Filipino culture. Despite our strong tradition of filial piety, it is not as unknown as people perceive it to be. It may be quite disturbing, but we have to admit that it may be a sign of the changing times and it is about time that the government does something to address this problem.

The purpose of this bill is more than just clearly defining elder abuse as a specific offense with a corresponding penalty. It seeks to bring to light the special context of Elder Abuse, of the particular "vulnerability" advance age has and which is taken advantage of by offender-perpetrators. Like domestic violence or VAWC, elder abuse may be a form of family abuse that is both a sensitive and controversial issue, requiring careful intervention from the State, hence the necessity for rules on immunity and confidentiality. More importantly, the most significant intervention is the requirement for clear and concrete Affirmative Acts that will raise public awareness and prevent the incidence of elder abuse.



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

Section 1. Short Title – This Act shall be known as the “*Anti-Elder Abuse Law of 2016*”.

Section 2. Declaration of Policy – Pursuant to the 1987 Constitution’s Article II, Section 11, which declared that the State values the dignity of every human person and thereby guarantees the full respect for human rights, and Article III, Section 1, which mandates that “No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws”, it is hereby declared the policy of the State to work actively for the elimination of all forms of discrimination, violence and abuse against the elderly.

Moreover the following Constitutional provisions also mandate that:

“The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full development, a rising standard of living and an improved quality of life.”(Article II, Section 9)

“The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all people at affordable cost. There shall be priority for the needs of the underprivileged sick, elderly, disabled, women and children.”(Article XIII, Section 2 on Health Services)

“It is the duty of the family to take care of its older person members while the State may design programs of social security for them.”(Article XV, Section 4 on the Filipino Family)

In addition, Republic Act No. 9262 or the VAWC Act declares that the State shall exert efforts to address violence committed against women, and Republic Act No. 9710 or the Magna Carta of Women’s Section 33 on the Protection of Senior Citizens state that “the State shall protect women senior citizens from neglect, abandonment, domestic violence, abuse, exploitation, and discrimination.”

Towards this end, the following discriminatory and abusive practices committed against senior citizens s defined herein shall be proscribed and penalized. Moreover,

the State shall ensure that special protective mechanisms and support services against violence, sexual abuse, exploitation, and discrimination of older people.

Section 3. Definition of Terms – As used in this Act, the following terms shall mean:

- a) **Discrimination** - any distinction, exclusion, restriction, or preference which is based on any ground such as sex, sexual orientation, gender identity, whether actual or perceived, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise by all persons of an equal footing of all rights and freedoms.
- b) **Marginalization** – any condition where people are systematically excluded from meaningful participation in economic, social, political, cultural and other forms of human activity in their communities and thus are denied the opportunity to fulfil themselves as human beings.
- c) **Senior Citizen** – is a person 60 years old or above; it may be used interchangeably with the words “elderly” or “older person” which are more general or encompassing to refer to older people.
- d) **Elder Abuse** - any act of commission or of omission (“neglect”) to an elderly (60 years old and above) that may be either intentional or unintentional resulting in unnecessary suffering, injury or pain, the loss or violation of human rights, and a decreased quality of life for the older person. It may take the form of physical, psychological and emotional abuse, financial or material exploitation, medical maltreatment, even sexual exploitation and abandonment. It is not just an intentional negligent act that causes harm to a vulnerable adult, but may actually consist of neglect, abuse, and actual violence against an older person. Some cases involve more than one type of abusive behavior, such as the abuser victimizing the elderly person both physically and emotionally.
- e) **Physical abuse** - the “infliction of pain or injury, physical coercion, or physical or drug-induced restraint”. Includes intentional acts of violence that inflict bodily or physical harm.
- f) **Battery** – act of inflicting physical harm resulting to physical and psychological or emotional distress
- g) **Sexual abuse** - a “non-consensual sexual contact of any kind with an older person”. Applies to acts which are sexual nature such as sexual harassment, acts of lasciviousness, rape and/or sexual assault.
- h) **Psychological or Emotional abuse** - the “infliction of mental anguish”. Applies to acts and/or omissions causing or likely to cause mental or emotional suffering such as but not limited to intimidation, public ridicule and humiliation, mockery and villification, repeated verbal abuse, harassment, and threats.
- i) **Financial or Material abuse** - “the illegal or improper exploitation or use of funds or resources of older people”. Applies to Acts that make or attempt to make an older person financially dependent, and/or actual deprivation or threat of

deprivation of financial resources such as withdrawal of financial support, including controlling the victim-survivor's own money or properties.

- j) Neglect - consists of "refusal or failure to fulfill a care-giving obligation. It can involve a conscious and intentional attempt to inflict physical or emotional distress on the older person."

Section 4. Meaning and Context of Elder Abuse – Under this Act, advanced age or seniority shall no longer be considered as a mere Aggravating Circumstance in an offense. As in the case of Child Abuse, age shall be appreciated with the added dimension of vulnerability which the offender or perpetrator took advantage of or failed to respect or give special consideration to.

Elder abuse may be defined as "a single or repeated act, a lack of appropriate action, occurring within any relationship where there is an expectation of trust and support, that causes harm or distress to an older person."

Section 5. Prohibited Acts Constituting Elder Abuse –

- a) Physical abuse is defined as the use of physical force that may result in bodily injury, physical pain, or impairment. Physical abuse may include but is not limited to such acts of violence as striking (with or without an object), hitting, beating, pushing, shoving, shaking, slapping, kicking, pinching, and burning. In addition, inappropriate use of drugs and physical restraints, force-feeding, and physical punishment of any kind also are examples of physical abuse.
- b) Sexual abuse is defined as non-consensual sexual contact of any kind with an elderly person. Sexual contact with any person incapable of giving consent is also considered sexual abuse. It includes, but is not limited to, unwanted touching, all types of sexual assault or battery, such as rape, sodomy, coerced nudity, and sexually explicit photographing.
- c) Emotional or psychological abuse is defined as the infliction of anguish, pain, or distress through verbal or nonverbal acts. Emotional/psychological abuse includes but is not limited to verbal assaults, insults, threats, intimidation, humiliation, and harassment. In addition, treating an older person like an infant; isolating an elderly person from his/her family, friends, or regular activities; giving an older person the "silent treatment;" and enforced social isolation are examples of emotional/psychological abuse.
- d) Financial or material exploitation is defined as the illegal or improper use of an elder's funds, property, or assets. Examples include, but are not limited to, cashing an elderly person's checks without authorization or permission; forging an older person's signature; misusing or stealing an older person's money or possessions; coercing or deceiving an older person into signing any document (e.g., contracts or will); and the improper use of conservatorship, guardianship, or power of attorney.
- e) Neglect is defined as the refusal or failure to fulfill any part of a person's obligations or duties to an elder. Neglect may also include failure of a person who has fiduciary responsibilities to provide care for an elder (e.g., pay for necessary

home care services) or the failure on the part of an in-home service provider to provide necessary care.

Neglect typically means the refusal or failure to provide an elderly person with such life necessities as food, water, clothing, shelter, personal hygiene, medicine, comfort, personal safety, and other essentials included in an implied or agreed-upon responsibility to an elder.

- f) Abandonment is defined as the desertion of an elderly person by an individual who has assumed responsibility for providing care for an elder, or by a person with physical custody of an elder.

Section 6. Penalties – The crime of Elder Abuse shall be punished according to the following Rules:

- a) An offender-perpetrator shall be punished with imprisonment according to present criminal laws under The Revised Penal Code and Republic Act No. 9262, or the Anti-Violence against Women and Children Act;
 - 1) Acts constituting attempted, frustrated, or consummated Parricide, murder or homicide shall be penalized according to the RPC, especially if it results to mutilation,
 - 2) Acts constituting Serious Physical Injuries shall be punished by *Prision Mayor*, acts constituting Less Serious Injuries shall be punished by *Prision Correccional*, and anything constituting Slight Physical Injuries shall be punished by *Arresto Mayor*;
 - 3) Any act constituting sexual abuse or similar sexual-related offenses shall be punished by *Prision Mayor*;
 - 4) Any act constituting psychological and/or emotional abuse shall be punished by *Prision Mayor*;
 - 5) Any act constituting Financial, economic or material abuse shall be punished by *Prision Correccional*;
 - 6) Any act constituting neglect or abandonment of an older person shall be punished by *Arresto Mayor*;
- b) The penalty provided shall be imposed in its maximum period:
 - 1) If the offender-perpetrator has been previously convicted under this Act;
 - 2) If the offender is a descendant, collateral relative or family member of up to the 2nd degree of consanguinity or affinity;
 - 3) If the offender is a owner-operator, manager, or employee of a privately-operated, for profit or non-profit, elderly facility;
 - 4) If the offender is a public official, staff or employee of a government-operated elderly residential/group home; Provided that said public servant or employee can be subjected to suspension and/or termination according to administrative discipline procedures.

The above-mentioned penalties shall not preclude the consequent civil case for damages or administrative charges that may also result in the suspension or revocation of accreditation or license to operate from the DSWD.

Section 7. Enforcement and Protocols –

- a) Public Crime - Elder abuse shall be considered a Public Offense which may be prosecuted upon the filing of a complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime;
- b) The following persons may file a complaint for Elder Abuse –
 - 1) The Offended Older Person
 - 2) A caregiver, family member or collateral relative within the 4th degree of consanguinity or affinity;
 - 3) A healthcare provider, therapist, or counselor;
 - 4) A fellow senior citizen from an elderly organization, or a churchmate from the parish;
 - 5) Barangay officials, including Brgy. Chairperson, *Kagawads*, or *Tanods*;
 - 6) Social Welfare Officers from the DSWD or Local Government Unit;
 - 7) Police Officers or Law Enforcers.
- c) Immunity - Any person or private individual acting in accordance with law, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall NOT be liable for any criminal, civil, or administrative case resulting therefrom.
- d) Prohibited Defense - Being under the influence of alcohol, any illicit drugs, or any other mind-altering substance shall not be a defense under this Act.
- e) Prohibited Acts by Government Officials - Any barangay officials or court hearing an application for a Protection Order for an abused elderly woman according to RA 9262 or VAWC Act, shall not order, direct, force, or in any way influence the applicant to compromise or abandon any of the reliefs sought under RA 9262. Failure to comply shall render the official or judge administratively liable.
- f) The DSWD and DOH shall require physicians, caregivers, or social workers who suspect ill treatment of senior citizens to discuss the concern with the family or the head of the nursing home or elderly facility. In case the ill-treatment is confirmed, or in the event of suspicious death, the same shall be reported to the appropriate authorities.
- g) Confidentiality - All cases pertaining to elder abuse cases including those at the barangay level shall be confidential and all public officers and employees of public or private hospitals/clinics shall respect the right to privacy of the victim-survivor. Any person who shall make public any relevant or identifying information about the case or the victim shall be made liable for contempt of court and shall suffer the penalty of one year imprisonment and a fine of P500,000.00.

Section 8. Establishment of a Senior Citizens Help Desk – Every barangay shall establish a senior citizens Help Desk which shall provide immediate assistance to victim-survivors of elder abuse. Besides barangay officials, it may be manned by representatives of the senior citizens sector or from the membership of a local elderly organization designated and authorized by the Barangay Council or Chairperson.

Barangay Officials or Law enforcers shall respond immediately to a call for help or request for assistance by entering the dwelling, checking on the well-being of the victim, and ensuring the safety of the victim-survivor; As immediate responders, they must also transport or escort the victim to a safe place of their choice or to a clinic or hospital, if and when necessary;

Section 9. Mandatory Programs and Services for Victims of Elder Abuse – The DSWD and LGUs shall provide the victims temporary shelter, counseling, psycho-social services and/or recovery, rehabilitation programs and financial assistance.

The Office of Senior Citizens Affairs (OSCA) shall include services addressing gender-based violence as well as elder abuse. All suspected cases of abuse and/or neglect of senior citizens must be reported in accordance with existing laws. The OSCA, in coordination with the LSWDO, shall maintain an Elder Abuse documentation and case monitoring system, and set up a databank to keep an accurate and reliable record of instances of abuse and violence committed against the elderly.

Section 10. Counseling and Rehabilitation of Offenders-Perpetrators – The DSWD shall provide rehabilitative counseling and treatment of perpetrators towards learning constructive ways of coping with their anger, emotional outbursts, or stress, and reforming their ways. Psychiatric treatment or confinement may also be recommended by the responsible authorities if necessary.

Section 11. Trainings and Capacity-Building for Intervenors – All government agencies involved in responding to elder abuse cases shall be required to undergo education and training to acquaint them with:

- a) The nature, extent, causes, and risk factors of elder abuse;
- b) The legal rights and remedies of victim-survivors of elder abuse;
- c) Legal duties of barangay officials, OSCA Heads, LSWDOs, police officers and court authorities in offering assistance and protection;
- d) The available services and facilities for victim-survivors of elder abuse;
- e) Specific techniques in handling elder abuse cases to minimize injury and promote the safety and ensure the well-being of the victim-survivor.

The DOH and other concerned institutions shall provide capacity-building on the prevention, detection, and management of psycho-social problems and other geriatric concerns of senior citizens such as dementia and *Alzheimer's Disease*, among healthcare providers, home caregivers, and staff and employees of nursing homes and/or elderly residential facilities, specifically on handling older person abuse.

Section 12. Affirmative Acts – To ensure that the rights and welfare of older persons are protected, the following programs and interventions shall be developed and implemented:

- a) Establish clear advocacy/information programs and increase public awareness to minimize risks of neglect, abuse and violence to older persons;
- b) Include training on the prevention, detection and management of social problems of senior citizens among healthcare professionals and law enforcement officers, specifically on the handling of elder abuse cases;

- c) Encourage the development and utilization of supportive community resources that provide in-home services, respite care, and stress reduction with high-risk families; In addition, explore the possibilities of subsidies and outreach support for family and caregivers to promote quality homecare for senior citizens; and
- d) Ensure high priority to the enactment of measures that would provide social protection to the elderly and reduce their socio-economic and political disparities.
- e) Continue to develop and initiate programs and services for senior citizens that are gender-responsive, rights-based, and culture-sensitive so as to ensure specific needs and concerns of senior citizens are identified and addressed.
- f) Review school curricula and teaching modules through the DepEd and CHED to highlight with renewed focus the importance of family values, filial piety, and respect for the elderly

Section 13. Separability Clause. If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

Section 14. Repealing Clause. All laws, decrees, ordinances, rules, and regulations, executive or administrative orders, and such other presidential issuances which are inconsistent with any of the provisions of this Act are hereby repealed, amended or otherwise modified accordingly.

Section 15. Separability Clause. If any portion or provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions not affected thereby.

Section 16. Effectivity. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,