EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



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SENATE

S. No. 1434

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Introduced by **SENATOR LEILA M. DE LIMA**

AN ACT PROMOTING THE WELFARE AND PROTECTION OF THE ELDERLY AND APPROPRIATING FUNDS THEREFOR

EXPLANATORY NOTE

Senior citizens and the elderly continues to be one of the vulnerable groups of our population as listed by the World Health Organization (WHO). No less than the 1987 Constitution guarantees the preference to this sector where the government and its policies shall likewise "give priority for the needs of the underprivileged sick, *elderly*, disabled, women, and children. The State shall endeavor to provide free medical care to paupers." (Article XIII Sec. 11)

The Philippines is moving towards an aging population. According to the Help Age Global Network, the number of senior citizens in the Philippines is rising faster than the total population. This is confirmed by the latest report of the Population Commission which indicates that the number of elderly Filipinos, or those over 60 years old, is projected to increase by 0.23 percent in 2017 and will most likely be over 8 million Filipino senior citizens or around 8.2% of our country's total population by the end of 2018.²

¹ HelpAge Global Network (NA) Ageing population in the Philippines. Retrieved from: Ageing population in the Philippines. Accessed last 28 October 2019.

² ABS-CBN News (03 January 2018) *Philippines moving toward aging population: POPCOM.* Retrieved from: https://news.abs-cbn.com/news/01/03/18/philippines-moving-toward-aging-population-popcom. Accessed last 28 October 2019.

As one of the vulnerable sectors comprising our population, the provision of basic needs, promotion of the social welfare of the elderly and their protection against abuse must have consistent and strong presence in our social legislation.

According to a WHO study, one in six elderly people experience abuse.³ The study further noted that its relative frequency and serious penalties against it, abuse against the elderly remains one of the least investigated types of violence and one of the least addressed in national plans to prevent violence. One of the most common types of abuse they encounter is psychological abuse and verbal abuse, and the most common perpetrators are their own children and other family members.

Despite the enactment of Republic Act No. 9994, or the Expanded Senior Citizens Act of 2010, which provides for entitlements for older Filipinos and the corresponding duties and obligations of the Government to our senior citizens, there is no specific legislation that guarantees the protection of our elderly against various abuses along with the proper social welfare support services and access to redress for possible victims. With strong laws protecting the sector of women and children from abuse, it is also imperative to have a dedicated national legislation on the prevention of elder abuse across the country. This proposed measure seeks to fortify government's response to elder abuse.

Approval of this measure is earnestly sought.

feladefa LEILA M. DE LIMA

³ World Health Organization (8 June 2018) Elder Abuse. Retrieved from: https://www.who.int/news-room/fact-sheets/detail/elder-abuse. Accessed last 28 October 2019.

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20 APR 16 A9:27

SENATE

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Introduced by **SENATOR LEILA M. DE LIMA**

AN ACT PROMOTING THE WELFARE AND PROTECTION OF THE ELDERLY AND APPROPRIATING FUNDS THEREFOR

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 "Protection of the 1 Elderly Act". 2 Sec. 2. Declaration of Policies. - It is the declared policy of the State to 3 promote the welfare and protect the elderly in society. For this purpose, priority shall 4 be given to promote the welfare of the elderly through policies that uphold their 5 6 rights and provide responsive services and activities to their benefit, their families 7 and the communities they serve. Towards this end, the State shall exert efforts to address all forms of violence, 8 abuse, neglect, exploitation and coercion, especially acts deleterious to their personal 9 safety, security, dignity or any discriminatory act committed against senior citizens 10 in keeping with the fundamental freedoms guaranteed under the Constitution and 11 12 the Universal Declaration of Human Rights.

- Sec. 3. Definition of Terms. As used in this Act, the following terms are defined as follows:
 - a) *Domestic violence* refers to acts or threats of violence on a senior citizen committed by any of the following:
 - 1) Current or former spouse of the victim;

1	2) A person related to the victim within second level of affinity or
2	consanguinty;
3	3) A person who is cohabiting with or has cohabited with the victim
4	4) A person with whom the victim shares a child in common;
5	5) A person who is or has been in a social relationship of romantic
6	or intimate nature with the victim;
7	6) A person similarly situated to a spouse of the victim, or by any
8	other person; and
9	7) Household helpers, caregivers and those persons providing care
10	for older persons who are not related by affinity or consanguinity
11	b) Elder abuse refers to a single or repeated act, whether intentional or
12	unintentional, or lack of appropriate action, occurring within any
13	relationship where there is an expectation of trust, which causes harm or
14	distress to a senior citizen. It includes any act or series of acts committed
15	by any person against a senior citizen, within or outside the family abode,
16	which result or is likely to result in physical or psychological harm,
17	suffering or distress, or neglect including threats of such acts, battery,
18	physical assault, coercion or arbitrary deprivation of liberty. This includes
19	threats or acts of physical violence, psychological or emotional, economic
20	or domestic violence, and neglect or abandonment;
21	c) Emotional abuse refers to acts that include shouting, swearing, scaring or
22	humiliating a senior citizen through name-calling, ridicule, constant
23	criticism, accusing, blaming, showing disrespect, ignoring, or giving them
24	the silent treatment;
25	d) Safe place or shelter refers to any home or institution maintained or
26	managed by the Department of Social Welfare and Development (DSWD)
27	or by any other organization that is willing to accommodate the aggrieved
28	senior citizen; and
29	e) Senior citizen refers to any resident citizen of the Philippines at least sixty
30	(60) years old as defined under Republic Act. No. 9994, otherwise known
31	as the "Expanded Senior Citizen Act of 2010."

Sec. 4. Acts of Violence Against a Senior Citizen. - Acts of violence against a senior citizen are acts that cause harm or distress committed once or repeatedly through any of the following: a) Physical abuse or infliction of pain or injury with the use of physical force resulting in bodily injury, physical harm, pain or impairment, suffering or distress: b) Psychological, mental or emotional abuse causing mental or emotional suffering or distress; c) Material exploitation through illegal or improper use of funds or resources of the senior citizen; and economic or financial abuse through acts that make the senior citizen financially dependent; d) Abandonment or desertion by leaving a senior citizen unattended at a place for such a period of three months, as may be likely to endanger the health and welfare of a senior citizen, by an individual who has assumed responsibility for providing care for the senior citizen, or by a person with custody of the senior citizen; and e) Threatening to cause any physical harm to a senior citizen. For purposes of this Act, it shall not be considered as abandonment or desertion if the senior citizen concerned has committed a crime against the person who has assumed responsibility for providing care for or with custody of him/her. Sec. 5. Rights of a Senior Citizen Who is a Victim of Violence. - During the pendency of the case involving violence against a senior citizen, and in addition to those provided under existing laws, a senior citizen shall have the following rights: a) to avail of protection and legal assistance from the Public Attorney's Office (PAO) or any public legal assistance office; b) to be entitled to support services from the DSWD and the Local Government Unit (LGU) concerned; c) to be entitled to all legal remedies as provided for under the Family Code: d) to be informed through the Senior Citizen Help Desk established hereunder of the senior citizen's rights and services available including the right to apply for a protection order; and

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e) to be entitled to actual, compensatory, moral and exemplary damages.

Sec. 6. Mandatory Programs and Services for a Senior Citizen Who is a Victim of Violence. – The DSWD and the National Commission of Senior Citizens (NCSC), in coordination with the LGUs, shall provide a senior citizen who is a victim of violence and similar acts the following services:

- a) a safe place or temporary shelter, such as senior housing or nursing home or other suitable facility or service, when appropriate, as emergency short-term shelters. This safe place or temporary shelter shall provide counseling, psycho-social services, recovery or rehabilitation programs and livelihood assistance;
- b) counseling, healing, recovery and rehabilitation services; and
- c) the appropriate programs to ensure the personal safety and security of a senior citizen and prevent the recurrence of the violent acts committed against them. The Department of Health (DOH) shall provide medical assistance to senior citizens who are victims or survivors of violence and similar acts.

Sec. 7. Reporting System and Prevention Program for Elder Abuse Cases. – The DSWD, in coordination with the NCSC, shall establish a Reporting System and Prevention Program for Elder Abuse Cases across local government units. This includes possible reports that may be submitted by any public officer, attending physician or nurse, clinician, barangay health worker, therapist or counselor who examined or rendered treatment to a senior citizen victim.

Sec. 8. Philippine National Police (PNP) Protocol in Responding to Violence Committed Against a Senior Citizen. — The Philippine National Police (PNP) is hereby directed to establish a protocol providing for guidelines and procedures to be observed by police officers in responding to request for assistance and calls related to violence against senior citizens. In all cases, a report shall be made to any law enforcement agency within forty-eight (48) hours from knowledge of the same. Whereupon, investigation shall immediately follow. The DSWD shall assign a social worker to verify incidents of violence and file a petition for PO, if warranted.

Sec. 9. Special Prosecution Units. – The Department of Justice (DOJ) is hereby directed to establish special units that shall handle complaints of violence against senior citizens as defined in this Act, and the prosecution thereof.

Sec. 10. Education and Training Programs for Law Enforcement Officers and Persons Involved in Responding to Cases of Violence Against a Senior Citizen.

- All persons involved in responding to cases on all forms of abuse, violence, threats to personal safety and security or any discriminatory act committed against a senior citizen, shall be required to undergo education and training. The PNP, in coordination with the LGU concerned and the DSWD, shall establish education and training programs to assist law enforcement officers and barangay officials to enable them to properly handle cases of violence against senior citizens and acquaint them with:

a) the nature, extent and causes of violence;

- b) the legal rights of, and remedies available to, victims of violence;
- c) the services and facilities available to victims or survivors;
- d) the duties imposed on police officers in making lawful arrest and by offering protection and assistance; and
- e) the necessary techniques to be employed in handling incidents of violence to minimize the likelihood of injury to the officer and promote the safety of the victim or survivor.

Sec. 11. Venue. – The Regional Trial Court (RTC) designated as a Family Court shall have original and exclusive jurisdiction over cases of violence against senior citizens as provided in this Act. In the absence of such court in the place where the offense was committed, the case shall be filed in the nearest RTC where the crime or any of its elements was committed at the option of the complainant.

Sec. 12. Protection Order. – A Protection Order (PO) is an injunction under this Act that maybe requested or issued for the purpose of preventing further acts of abuse or violence against senior citizens as specified in Section 4 of this Act and granting other necessary relief. The provisions of the PO shall be enforced by law enforcement agencies.

The types of PO that may be issued under this Act are, as follows:

1	a)	Barangay Protection Order (BPO);
2	b)	Temporary Protection Order (TPO); and
3	c)	Permanent Protection Order (PPO).
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4		O that may be issued under this Act shall include any or all of the
5	following reli	eis:
6	a)	Prohibition of the respondent or offender from threatening to commit
7		or committing, personally or through another, any of the acts of
8		violence as defined in Section 4;
9	b)	Whenever applicable, issuance of an order to the respondent or
10		offender to immediately leave the domicile or residence of the
11		petitioner, either temporarily for the purpose of protecting the
12		petitioner or permanently, where no property rights are violated. If
13		personal effects must be removed from the residence, the Court shall
14		direct a law enforcement officer to accompany the respondent to the
15		residence until such time that respondent has gathered all belongings,
16		and to escort the respondent from the residence: Provided, that the
17		victim or the aggrieved party shall likewise be accorded the same
18		protection contemplated herein;
19	c)	Issuance of an Order to the respondent to stay away from the petitioner $% \left\{ 1,2,,n\right\}$
20		within a distance to be determined by the Court: Provided, That the
21		order shall ensure the physical safety of the petitioner in the residence,
22		place of work, school and such other places frequented by the offended
23		party;
24	d)	Prohibition of the respondent from directly or indirectly
25		communicating or contacting the petitioner;
26	e)	Issuance of an Order to proper law enforcement offices to enforce the
27		provisions of this Section;
28	f)	Issuance of an Order to the DSWD, the NCSC, and the Social Welfare
29		Development Office (SWDO) of the LGU concerned to provide therapy,
30		counseling and other support services to the aggrieved party or parties;
31	g)	Issuance of an Order for the restitution for actual damages caused by
32		the violence inflicted, including but not limited to property damage,

medical expenses, and loss of income; and

h) Such other reliefs deemed necessary by the Court for the protection of the petitioner and such other persons who may be in need of the same.

Any of the reliefs provided under this Section shall be granted even in the absence of a decree of legal separation or annulment, or declaration of absolute nullity of marriage in the case of married individuals.

Further, the Implementing Rules and Regulations, as provided under Section 27 of this Act, shall set forth the standard application process, information required and persons that may file the petition for PO.

Sec. 13. Legal Representation of Applicant for a PO. – If a petitioner for a PO is requesting for the appointment of a counsel because of lack of economic means to hire a counsel de parte, the Court shall immediately direct the Office of the Public Prosecutor who has jurisdiction over the case to represent the petitioner in the hearing on the application sought. The applicant who cannot afford to hire the services of a private counsel or lacks access to family or conjugal resources such as when the same are controlled by the abuse, shall qualify for legal representation by the DOJ, the Public Prosecutors' Office or the PAO.

Sec. 14. Barangay Protection Order. – A Barangay Protection Order (BPO) is issued by the Lupong Tagapamayapa and the Punong Barangay or Barangay Chairperson. A pending application for, or the issuance of, a BPO shall neither bar nor suspend the issuance of TPO or PPO. Application for a BPO shall follow the Rules on venue under the Local Government Code of 1991 and its implementing rules and regulations. The application process for the issuance of the BPO shall be determined in the Implementing Rules and Regulations of this Act.

Sec. 15. Temporary Protection Oder. – A Temporary Protection Order (TPO) may be issued by a Court prior to the issuance of a Permanent Protection Order (PPO). Any application for TPO or PPO must be made with the RTC, Metropolitan Trial Court, Municipal Trial Court or Municipal Circuit Trial Court with territorial jurisdiction over the place of residence of the offended family or the senior citizen victim who suffered violence described under Section 4 of this Act: Provided, however, that it a Family Court exists in the place of residence of the person for whom the application is made, the application shall be filed with that Court.

A Court that receives an application for a PO shall issue a TPO on the date of filing of the application for *ex-parte* determination that such order shall be issued. The TPO shall be effective for thirty (30) days. The Court shall schedule a hearing on the issuance of a PPO prior to the date of expiration of the TPO. The Court shall order the immediate service of the TPO on respondent by the Court Sheriff who may obtain the assistance of law enforcement agents for the purpose. The TPO shall include a notice of the hearing on the merits of the issuance of PPO.

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Sec. 16. Permanent Protection Order. – A Permanent Protection Order (PPO) may be issued only by the Court after notice and hearing. Any application for TPO or PPO must be made with the RTC, Metropolitan Trial Court, Municipal Trial Court or Municipal Circuit Trial Court with territorial jurisdiction over their place of residence of the offended family or the abused senior citizen who suffered violence described under Section 4 of this Act: Provided, however, That if a Family Court exists in the place of residence of the person for whom the application is made, the application shall be filed with that Court.

Respondent's non-appearance despite proper notice, or lack of a lawyer, or the non-availability of respondent's lawyer shall not be a ground for rescheduling or postponing the hearing on the merits of the issuance of a PPO. If the respondent appears without counsel on the date of the hearing on the PPO, the Court shall appoint a lawyer for the respondent and immediately proceed with the hearing. In case the respondent fails to appear despite proper notice, the Court shall allow exparte presentation of the evidence by the applicant and render judgment on the basis of the evidence presented. The Court shall allow the introduction of any history of abusive conduct of a respondent even if the same was not directed against the applicant or the person for whom the application is made.

The court shall, to the extent possible, conduct the hearing on the merits of the issuance of a PPO in one (1) day. Where the court is unable to conduct the hearing within one (1) day and the TPO issued is due to expire, the court shall continuously extend or renew the TPO for the duration of the case until final resolution on the case is issued. Provided, however, that the PPO may be modified by the Court accordingly to address the needs of the applicant. The Court may grant any, some, or all of the reliefs provided in Section 12 hereof through a PPO. A PPO shall be effective until

revoked by a Court upon application of the person in whose favor the order was issued. The Court shall ensure immediate service of the PPO on respondent.

The Court shall not deny the issuance of a PO on the basis of the lapse of time between the act of violence or abuse as defined in Section 4 herein, and the filing of the application. Regardless of the conviction or acquittal of the respondent, the Court must determine whether or not the PPO shall become final. Even in a dismissal of a criminal case for elder abuse under this Act, a PPO shall be granted as long as here is no clear showing that the act from which the order might arise did not exist.

Failure to act on an application for a PO within the period specified in the Implementing Rules and Regulations of this Act without justifiable cause shall render the *Lupong Tagapamayapa*, the *Punong Barangay*, the *Barangay Kagawad*, or the Judge, shall be administratively liable.

Sec. 17. Priority Action on Application for a Protection Order. — Hearings on applications for a PO under this Act shall have priority over all other proceedings. Barangay officials, Lupong Tagapamayapa and the Courts shall schedule and conduct hearings on applications for a PO under this Act above all other businesses and, if necessary, suspend other proceedings in order to hear applications for a PO. Respondents shall be notified of the issuances of a PO.

Sec. 18. Prohibition Against Undue Influence Over a Protection Order Applicant. – A Lupong Tagapamayapa, a Barangay Chairperson or Barangay Chairman, or the Court hearing an application for a PO shall not order, direct, force or in any way unduly influence the application for a PO to compromise or abandon any of the reliefs sought in the application for a PO provided under this Act. Section 7 of the Family Courts Act of 1997 and Sections 410, 411, 412 and 413 of the Local Government Code of 1991 shall not apply in the proceedings where relief is sought under this Act. Failure to comply with this section shall render the concerned individual, official or Judge administratively liable.

Sec. 19. Mutual Protection Order Prohibited. - No order for protection of the offender or respondent may be granted by a Lupong Tagapamayapa or Punong Barangay and the Courts.

Sec. 20. Complaint Against a Violation of Protection Order. – A complaint for violation of a BPO issued under this Act shall be filed directly with any Municipal Trial Court, Metropolitan Trial Court, or Municipal Circuit Trial Court that has territorial jurisdiction over the barangay that issued the BPO. Violation of a BPO shall be punishable by imprisonment of thirty (30) days, without prejudice to any other criminal or civil action that the offended party may file for any of the acts committed under Section 4 hereof.

A judgment on a violation of a BPO may be appealed pursuant to the Rules of Court. During trial and upon judgment, the trial court may *motu proprio* issue a PO as it deems necessary without need of an application. A violation of any provision of a TPO or a PPO issued under this Act shall constitute contempt of Court punishable under the Rules of Court, without prejudice to any other criminal or civil action that the offended party may file for any of the acts committed in accordance with Section hereof. Any violation of a PO issued under this Act shall constitute an offense punishable by imprisonment of thirty (30) days, without prejudice to any criminal or civil action that the offended party may file against a person who has committed any acts described in Section 4 hereof.

- Sec. 21. Hold Departure Order. A Hold Departure Order (HDO) shall be issued immediately by the Court against the respondent of a complaint of abuse against a senior citizen as described under this Act.
- Sec. 22. *Penalties.* Commission of the acts described under Section 3 hereof shall suffer the following penalties:
 - a) Acts falling under Section 4 (a) constituting attempted, frustrated or consummated parricide or murder or homicide shall be punishable in accordance with the provisions of the Revised Penal Code.
 - b) Acts falling under Section 4 (a) resulting in mutilation shall be punishable in accordance with the Revised Penal Code: Provided, that those resulting in serious physical injuries shall be punishable with the penalty of *prision mayor*; those resulting in less serious physical injuries shall be punishable by prison correctional and those resulting in slight physical injuries shall be punishable by arresto mayor.

c) All other acts enumerated in Section 4 hereof shall be punishable by *prision correccional* and a fine in an amount not less than One hundred thousand pesos (\$\mathbb{P}\$100,000.00)but not more than Three hundred thousand pesos (\$\mathbb{P}\$300,000.00).

In addition to these penalties, a person found guilty of any of the acts enumerated in Section 4 hereof shall be required to undergo mandatory psychological counseling or psychiatric treatment and shall report compliance therewith to the court.

A Barangay Official or law enforcer who fails to respond to any request for assistance or protection from or on behalf of a victim shall suffer imprisonment of six (6) moths to one (1) year, at the discretion of the Court and pay fine of not less than Five thousand pesos (\$\mathbf{P}\$5,000.00), but not more than Ten thousand pesos (\$\mathbf{P}\$10,000.00).

d) Any person who fails to report any act of violence described in Section 3 hereof as required herein shall be liable for a fine of not less than Ten thousand pesos (\$\mathbb{P}\$10,000.00). Whenever applicable, criminal or administrative charges may also be filed.

Sec. 23. Counseling and Treatment of Offenders. – The DSWD shall provide rehabilitative counseling and treatment to perpetrators towards learning constructive ways of coping with anger and emotional outbursts and reforming their ways. When necessary, the offender shall be ordered by the Court to submit to psychiatric treatment or confinement.

Sec. 24. Continuing Education and Training of Respective Service Providers on Elder Abuse. – The necessary staff and professionals from government agencies providing welfare and other professional services are mandated to undergo a mandatory continuing education and training program to deepen the understanding and empower them to become effective front-liners in the delivery of appropriate service to the victims of elderly abuse.

Sec. 25. World Anti-Elder Abuse Awareness Day. – As signatory to this international declaration and to promote awareness and knowledge about the signs of elder abuse and the steps of reporting such incidence, the NCSC is mandated to celebrate "World Elder Abuse Awareness Day" every 15th of June of each year.

Sec. 26. Appropriations. – The amount needed for the implementation of this Act shall be charged against the appropriations of concerned government agencies in the current and subsequent General Appropriations Act. Thereafter, the amount needed for the continued implementation of this Act shall be included in the budget of the concerned departments in the annual General Appropriations Act.

For LGUs, the implementation of the programs shall be charged against the internal revenue allotment and other internally generated funds of the LGU concerned. In addition, the departments concerned and the LGUs may accept donations, contributions and grants from various sources for purpose of implementing this Act.

Sec. 27. Implementing Rules and Regulations. – Within six (6) months from the approval of this Act, the Secretary of the DSWD, in coordination with the Secretaries of the DOJ, the Department of Interior and Local Government (DILG) and the DOH shall formulate rules and guidelines as may be necessary for the proper implementation and enforcement of this Act. This shall include developing protocols and training programs for all agencies and public officers concerned and a public information and education program on violence against senior citizens. The implementing rules and regulations (IRR) provided for under this Act shall be reviewed periodically, and revised, if necessary.

Sec. 28. Separability Clause. – If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected and thereby remain in full force and effect.

Sec. 29. Repealing Clause. – All laws, decrees, letters of instruction, resolutions, orders or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

Sec. 30. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,