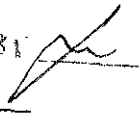


MAY 16 P4:32

SENATE
Senate Bill No. 2819

RECEIVED BY 

Introduced by **Senator Lacson**

EXPLANATORY NOTE

"....they who protected the weakness of our infancy, are entitled to our protection in the infirmity of their age; they who by sustenance and education have enabled their offspring to prosper, ought in return to be supported by that offspring, in case they stand in need of assistance."¹

The rules requiring children to support their parents have existed for thousands of years. In the third century A. D., there were statutory mutual obligations of support and maintenance between children and parents in Roman society. In medieval Europe, ethics dictated support of relatives. This ethical standard developed by custom and usage into support laws from parent to child and, ultimately, from child to parent. Later, a law imposing a duty of parental support on children was incorporated in the *Code Napoleon*. In 1601, a relative responsibility statute enacted by English Parliament in 1597, which applied only to parents and children, was extended to additional collateral relatives.²

In the United States, 30 states have filial responsibility laws: Alaska, Arkansas, California, Connecticut, Delaware, Georgia, Idaho, Iowa, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia and West Virginia.

States with filial responsibility statutes take a variety of approaches to enforcement: some allow some sort of civil court action to obtain financial support (or cost recovery), others specify a criminal penalty for filial non-support, while some states allow both civil and criminal actions.

We Filipinos are well-known for our close family ties. Because of this close family ties, we have the usual inclination to care for our elderly. However, even with this close family ties, there are elderly, sick and incapacitated parents who were abandoned by their children. The sights of abandoned elderly in our streets are now common. Children fail to provide the necessary support to their aging, sick and incapacitated parents. This happens despite our moral and natural obligation to maintain our parents who are in need of support. On the same vein, our Family Code imposes on us the legal obligation to support our elderly. Article 195 of our Family Code provides:

¹ Wm. Blackstone, *Commentaries on the Laws of England* p. 442 (1765)

² A comparative analysis of Filial Responsibility: Italy and United States by *Anna Maria De Giacomo*

Art. 195. Subject to the provisions of the succeeding articles, the following are obliged to support each other to the whole extent set forth in the preceding article:

(1) The spouses;

(2) Legitimate ascendants and descendants;

(3) **Parents and their legitimate children** and the legitimate and illegitimate children of the latter;

(4) **Parents and their illegitimate children** and the legitimate and illegitimate children of the latter; and

(5) Legitimate brothers and sisters, whether of full or half-blood.

However, despite said provision of the Family Code, many elderly who no longer have any means of supporting themselves are being neglected and abandoned by their children. While government is doing its best in providing support in the form of food and shelter as well as enacting legislations like the Senior Citizens Act, it cannot be over-emphasized that the taking care of the elderly members of the society is not only the function of government but rather it is a shared responsibility of government and the children of said elderly. The care for the aged is neither an exclusively private matter to be left to the family nor an exclusively public concern best left to the government.

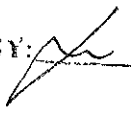
This proposed bill therefore seeks to further strengthen filial responsibility and makes it a criminal offense in case of flagrant violation thereof. Abandonment of a parent in need of support shall likewise constitute a criminal act. A parent who is in need of support may file a petition for support before the court and pray for the issuance of a support order against those children who failed or refused to provide the necessary support. The legal representation of the parent in need of support will be provided by the Public Attorney's Office and no court fees will be assessed. This bill also seeks to establish Old Age Home for the elderly, sick or otherwise incapacitated parents in every province and highly urbanized cities.

In light of the foregoing, the passage of this bill is earnestly requested.


Panfilo M. Lacson
Senator

11 MAY 16 P4:32

SENATE
Senate Bill No. 2819

RECEIVED BY: 

Introduced by **Senator Lacson**

**AN ACT
PROVIDING FOR PARENT SUPPORT, AND FOR OTHER PURPOSES.**

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 "Parents Welfare Act of 2011".

SEC. 2. *Declaration of principle* –Pursuant to Article XV, Section 4 of the Constitution, it is the duty of the family to take care of its elderly members while the State may design programs of social security for them. Therefore, the State, together with the children of parents in need of support, must promote the welfare of parents who are aged, sick, incapacitated and not capable of supporting themselves.

SEC. 3. In this Act, unless the context otherwise requires, the following definition of terms shall be adopted:

- a) "children" includes son, daughter, grandson, granddaughter, whether biological or adoptive, but does not include a minor or those over the age of majority but are unable to fully take care of themselves because of a physical or mental disability or condition;
- b) "parent in need of support" refers to the father or mother or other direct ascendants who is a senior citizen, aged, sickly, or who regardless of age is permanently incapacitated or otherwise not capable of supporting themselves;
- c) "support" includes provisions indispensable for sustenance, clothing, residence, medical attendance and treatment, recreation and other amenities necessary for the parent in need of support to lead a normal life and in keeping with the financial capacity of the family;

SEC. 4. *Support* – A parent in need of support who is unable to maintain himself/herself from his/her own earning or out of the property owned by him/her or who is incapacitated or otherwise incapable of supporting himself/herself shall be given support by his/her children.

If the parent concerned has several children, the support to be given shall be divided among them in proportion to their resources or financial capacity and in such manner as may be just and equitable.

Grandchildren shall only be liable to support their ascendants if the children of such ascendants cannot fulfill their duty to support due to death, illness or they are unable to fully take care of themselves because of a physical or mental disability or condition.

SEC. 5. Demand for Support - No demand for support is necessary before the obligation to support accrues. However, prior request for support which was denied or unacted within an unreasonable period of time is a requirement for the filing of a *Petition for Support* before a court of competent jurisdiction.

SEC. 6. Payment of Support – In instances where the parent in need of support is not being maintained by his/her children in their dwelling, or only one of the children of the parent concerned is taking care of him/her in his/her dwelling, the share for the support of such parent by children who has no custody shall be paid within the first five (5) days of every month.

The court, in its discretion, may order for the payment of a lump sum, or a monthly allowance or periodical payment for such a period as the court may determine taking into consideration the circumstances of the parties. The manner and method of payment of support shall also be under the discretion of the court.

SEC. 7. Option in the Fulfillment of the Obligation to Support – The children of the parent in need of support shall have the option to fulfill the obligation either by paying the support fixed by the *Support Order*, or by receiving and maintaining in the family dwelling the parent concerned. The latter alternative cannot be availed of in case there is a moral or legal obstacle thereto.

SEC. 8. Support Order – A support order is an order issued under this act for the purpose of compelling the children to provide the necessary support to their parent.

The order shall include the name of the children required to give support, the amount necessary for the support of their parent and the share of each of the children.

It shall be immediately executory and no temporary restraining order or injunction shall be issued by any court, except the Supreme Court, to stay the said order.

The order may be modified from time to time, upon motion of the applicant, according to the necessities of the recipient and the resources or means of the children obliged to furnish support.

In case of urgent need and by special circumstances, the court may order only one of the children to furnish the support provisionally, without prejudice to his/her right to claim from the other children the share due from them.

SEC. 9. Petition for Support – A *Petition for Support* may be filed in the regional trial court with territorial jurisdiction over the place of residence of the petitioner: Provided, however, that if a family court exists in the place of residence of the petitioner, the application shall be filed with that court.

The petition may be filed against one or more persons who have the obligation to support the parent concerned. Children against whom a petition for support has been filed may implead other children who are similarly liable to give said support.

The death of one of the children of the parent in need of support will not affect the liability of others.

The petition shall be resolved within ninety (90) days from the date of the service of summons to the respondents. The period may be extended once for a maximum period of thirty (30) days in exceptional circumstance and the reason/s to be stated in the Order or decision.

SEC. 10. Contents of the Petition – The petition must state the following:

- a) the identity of the parent in need of support, his/her residence and age;
- b) the facts showing that the parent in need of support is a senior citizen, aged, sickly, or who regardless of age is permanently incapacitated or otherwise not capable of supporting himself/herself;
- c) that the parent in need of support is unable to maintain himself/herself from his/her own earning or out of the property owned by him/her or that he/she is permanently incapacitated or otherwise incapable of supporting himself/herself;
- d) the names of the children, their degree of relationship with the parent in need of support and their current status; and,
- e) the approximate amount and care needed by the parent in need of support.

SEC. 11. Who may file Petition for Support. –The Petition for Support may be filed by any of the following:

- a) the parent in need of support;
- b) children of the parent in need of support against those who do not provide or contribute for the support of the former;
- c) ascendants, descendants or collateral relatives within the fourth civil degree of consanguinity or affinity;
- d) officers or social workers of the Department of Social Welfare and Development (DSWD) or social workers of local government units (LGUs);
- e) lawyer or healthcare provider of the parent in need of support;
- f) any person or institution who has the care of the parent in need of support;
- g) At least two (2) concerned responsible citizens of the city or municipality where the parent in need of support resides.

SEC 12. Support *Pendente Lite* – The court, during the pendency of the proceeding, shall, in accordance with the provisions of the Rules of Court, order such children to provide interim support to their parent.

SEC.13. Right to Legal Representation – The parent in need of support shall be represented by the Public Attorney’s Office notwithstanding that the petition was filed by other persons or institutions for and in behalf of such parent.

SEC. 14. Payment of Court Fees – The Petition for Support filed by the parent in need of support shall be exempt from all court charges and fees whether they filed the petition for support personally or the same was filed in their behalf.

SEC. 15. Circumstances to be Considered in the Issuance of Support Order – The court, in granting the Petition for Support, shall consider, but shall not be limited to, the following circumstances:

- a) the financial needs of the parent in need of support, taking into account reasonable expenses for housing and medical costs;
- b) the income, earning capacity, property and other financial resources of the parent concerned and the manner in which such parent has spent his/her savings or dissipated his/her financial resources;
- c) the physical or mental disability of the parent concerned;
- d) the income, earning capacity, property and other financial resources of the respondent/s;
- e) the expenses incurred by the respondent in supporting his/her own requirements, his/her spouse and that of his/her children; and,
- f) the contributions and provisions, whether financial or otherwise, which the respondent has made for the maintenance of his/her parent.

SEC. 16. Ground for Non-Issuance of Support Order – If the court determines after due notice and hearing that the parent in need of support abandoned, abused or neglected the respondent, it may dismiss the petition or may reduce the quantum of support ordered by such amount as may be just.

The burden of proving abandonment, abuse or neglect shall be on the respondent alleging it.

SEC. 17. Power of the Court to Vary or Rescind Support Order – The court may vary or rescind any subsisting Support Order based on any misrepresentation or mistake of fact, or where there has been any material change in the circumstances of the parent in need of support or any of his/her children or where other children is joined as a respondent, or for other good cause shown to the satisfaction of the court.

SEC. 18. Conciliation and Mediation – In order to preserve the family unity and peace, the court, before hearing the petition, shall refer the parties to a conciliation officer for mediation.

SEC. 19. Effect of Failure to Give Support – Where a Support Order has been issued by the court and the children so ordered fail to comply, without sufficient cause or reason, the court may, for every breach of order issue a warrant for levying the amount due in the manner provided for levying of fines. Provided, That, if the respondent continues to fail in giving said support for three consecutive months without justifiable cause, the respondent shall suffer the

penalty of imprisonment of one month to six months or a fine of one hundred thousand pesos (Php100,000.00) at the discretion of the court.

SEC. 20. Abandonment of a Parent in need of support – Whoever, having the care or protection of a parent in need of support, leaves such parent in any place with the intention of wholly abandoning the latter shall be punished with imprisonment of six (6) years to ten (10) years and a fine of not less than three hundred thousand pesos (P 300, 000.00).

SEC. 21. Establishment of Old Age Home – It is hereby mandated that all provincial government and highly urbanized cities shall establish and maintain at least one (1) Old Age Home that can accommodate at least fifty (50) parents.

SEC. 22. Separability Clause. – If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions thereof.

SEC. 23. Repealing Clause. – All laws, decrees, orders and issuances or portion thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC 24. Effectivity. – This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,