

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 152



Introduced by DIWA Party-list Representative Emmeline Y. Aglipay – Villar

EXPLANATORY NOTE

Our nation values families. Families are the building blocks of our nation, and the State is mandated to protect them, as well as the primary duty and right of parents to raise their children. This is particularly important when a child first enters the world, as studies have shown the immense benefits to the presence of the mother during those first few weeks of life.

A 2013 study by Dr. Bernardo Horta and Dr. Cesar Victoria of the Federal University of Pelotas in Brazil, published in *The Lancet Global Health*¹ confirmed that breastfeeding during infancy has long term beneficial effects on the intelligence levels and economic status of a person, evident during adulthood. A baby which has been breastfed for at least a year gained four full extra points of IQ compared to babies who were not. Breastfed babies are proven to cry less, are less likely to have respiratory infections, diarrhea, vitamin A deficiency, allergies, chronic diseases, and risk of obesity.²

Unfortunately, in many cases, the economic pressure for both parents to earn a living can result in parents returning to work before they or their newborns are ready to do so. Current laws allow a maternity leave of for 60 days for government employees and 60 to 78 days for those in the private sector, depending on the mode of delivery. Mothers have to go back to work after two months of giving birth and this makes it difficult for them to continue to breastfeed their babies. This forces them to feed their babies using infant formula, which is not best for their babies' health.

To alleviate this issue, parental leave -- particularly paid parental leave -- is on the rise worldwide, as governments and private entities around the world become aware not only of the moral imperative to allow parents, particularly mothers, to focus on their newborns, but also the long-term benefits of such leaves to employers in the form of employee retention and satisfaction.

¹ Bernardo Horta and Cesar Victoria, 2013. "Long Term Effects of Breastfeeding: A Systemic Review" (World Health Organization Publication)

² Ibid.

While not yet ideal, this bill, a consolidation of various bills by Reps. Emmanuel Pacquiao, Emmi de Jesus, Luzviminda Ilagan, and Diosdado Macapagal-Arroyo based on the House Committee on Women and Gender Equality Report No. 985 during the 16th Congress, seeks to grant a longer maternity leave benefit to allow mothers to focus on their newborns during the vital first few months of life and to regain their health and wellness before returning to work.

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AN ACT
INCREASING THE MATERNITY LEAVE PERIOD TO ONE HUNDRED (100) DAYS FOR FEMALE EMPLOYEES IN THE GOVERNMENT SERVICE AND IN THE PRIVATE SECTOR, AND GRANTING AN OPTION TO EXTEND SUCH LEAVE FOR AN ADDITIONAL THIRTY (30) DAYS WITHOUT PAY

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

SECTION 1. Short Title. - This Act shall be known as the "One Hundred (100)-Day Maternity Leave Law".

SECTION 2. Declaration of Policy. - It is the declared policy of the State under Article XIII, Sec. 14 of the 1987 Constitution to protect and promote the rights and welfare of working women, taking into account their maternal functions, and to provide an enabling environment in which their full potential can be achieved.

Towards this end, and in consonance with local and international legal instruments that protect and promote the rights of women, the State shall institutionalize a mechanism to expand the maternity leave period of working women to provide them with ample transition time to regain health and overall wellness as well as to assume maternal roles before resuming full-time work.

SECTION 3. Maternity Leave for Female Employees in Government Service. - Any pregnant female employee who is appointed in the government service, regardless of employment status, in any National Government Agency (NGA), Local Government Unit (LGU), or Government-Owned and -Controlled Corporations (GOCC), shall be granted a maternity leave of one hundred (100) days with full pay based on her average weekly or regular wages, regardless if the delivery was normal or through caesarian section, or for sixty (60) days if the female employee suffered a miscarriage.

An additional maternity leave of thirty (30) days, without pay, can be availed of, at the option of the employee: Provided, That the head of the agency shall be given due notice, in writing, at least forty five (45) days before the end of her regular maternity leave.

SECTION 4. Maternity Leave for Female Employees in the Private Sector. - Any pregnant female employee in the private sector shall be granted a maternity leave of one

if the female employee suffered a miscarriage.

- a) A female employee in the private sector who has paid at least three (3) monthly contributions in the twelve-month period immediately preceding the semester of her childbirth or miscarriage shall be paid her daily maternity benefit, which shall be computed based on the average monthly salary credit, for one hundred (100) days, regardless if the delivery was normal or through caesarian section, or for sixty (60) days if the female employee suffered a miscarriage, subject to the following conditions:
 - 1) That the employee shall have notified her employer of her pregnancy and the probable date of her childbirth, which notice shall be transmitted to the Social Security System (SSS) in accordance with the rules and regulations it may provide;
 - 2) That the full payment shall be advanced by the employer within thirty (30) days from the filing of the maternity leave application;
 - 3) That payment of daily maternity benefits shall be a bar to the recovery of sickness benefits provided under Republic Act No. 1161, as amended, for the same period for which daily maternity benefits have been received;
 - 4) That the maternity benefits provided under this Act shall be paid only for the first four (4) deliveries or miscarriages;
 - 5) That the SSS shall immediately reimburse the employer of one hundred percent (100%) of the amount of maternity benefits advanced to the employee by the employer upon receipt of satisfactory proof of such payment and legality thereof; and
 - 6) That if an employee member should give birth or suffer miscarriage without the required contributions having been remitted for her by her employer to the SSS, or without the latter having been previously notified by the employer of the time of the pregnancy, the employer shall pay to the SSS damages equivalent to the benefits which said employee member would otherwise have been entitled to.
- b) An additional maternity leave of thirty (30) days, without pay, can be availed of, at the option of the employee: Provided, That the employer shall be given due notice, in writing, at least forty five (45) days before the end of her regular maternity leave.
- c) An employee availing of the maternity leave period and benefits must receive not less than two-thirds (2/3) of their regular monthly wages. Employers from the private sector shall be responsible to pay the salary differential between the actual cash benefits received from the SSS by covered employees and their average weekly or regular wages, for the entire duration of the regular maternity leave, with the following exceptions, subject to the guidelines to be issued by the Department of Labor and Employment (DOLE):
 - 1) financially-distressed establishments, which are exempted from payment of minimum wage as defined by the existing guidelines of the DOLE;
 - 2) those retail/service establishments employing not more than ten (10) workers;
 - 3) those who pay their workers on a purely commission, boundary, or task basis, and those who are paid a fixed amount for performing a specific work;
 - 4) those considered as micro business enterprises and engaged in the production, processing, or manufacturing of products or commodities including agro-processing, trading, and services whose total assets are not more than Three Million Pesos (P 3,000,000.00); and
 - 5) those who are already providing similar or more than the benefits provided under

this Act.

SECTION 5. Non-diminution of Benefits. - Nothing in this Act shall be construed as to diminish existing maternity benefits currently granted by employer with or without collective bargaining agreements (CBA), or under present laws, if more beneficial to the female employee. Any other working arrangement which the female employee shall agree to, during the additional maternity leave period, shall be allowed: Provided, that this shall be consented to in writing by the employee and shall primarily consider her maternal functions and post-natal care.

SECTION 6. Security of Tenure. - Those who shall avail of the regular maternity leave and the additional 30-day maternity leave, whether in the government service or private sector, shall be assured of security of tenure. As such, the exercise of this option by them shall not be used as basis for demotion in employment or termination. The transfer to a parallel position or reassignment from one organizational unit to another in the same agency shall be allowed: Provided, that it shall not involve a reduction in rank, status or salary.

SECTION 7. Periodic Review. - The Government Service Insurance System (GSIS) and the SSS shall immediately conduct a review of the maternity leave benefits of women employees in the government service and the private sector, respectively. Thereafter, they shall include maternity leave benefits in their valuation report conducted every four (4) years for the SSS and every three (3) years for the GSIS, or more frequently as may be necessary, with the end in view of meeting the needs of pregnant women and improving their welfare by increasing existing maternal benefits.

SECTION 8. Implementing Rules and Regulations. - The Civil Service Commission (CSC), the DOLE, together with the GSIS and the SSS shall issue the necessary rules and regulations for the grant of this expanded maternity leave for all female employees within six (6) months from the effectivity of this Act.

SECTION 9. Separability Clause. - If, for any reason, a provision or part hereof is declared invalid, other provisions not affected thereby shall remain in full force and effect.

SECTION 10. Repealing Clause. - Commonwealth Act No. 647 is hereby repealed section 11, Book V of Executive Order No. 292 (Omnibus Rules on Leaves) and Rule XVI of the Omnibus Rules Implementing it, Article 133 of Presidential Decree No. 442 or the Labor Code of the Philippines, and Section 14-A of Republic Act No. 1161, as amended, are hereby further amended. Any other law, decree, executive order, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 11. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,