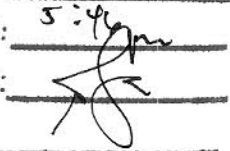


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1046

HOUSE OF REPRESENTATIVES	
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Introduced by:

Gabriela Women's Party Reps. EMMI A. DE JESUS and ARLENE D. BROSAS

EXPLANATORY NOTE

Maternity is one vital social function played by women. Recognizing such role and institutionalizing support mechanisms to ensure maternity protection is not only a way of repaying women, this also promotes gender equality.

At present, Philippine laws give pregnant women workers only sixty (60) calendar days of paid maternal leave for normal delivery and seventy-eight (78) calendar days in case of Caesarian section delivery. This is very far behind the International Labor Organization (ILO) recommendation, issued on the occasion of its Maternity Protection Convention on 2000, of at least fourteen (14) weeks with provision for a six (6)-week compulsory postnatal leave. It is not even at par with the 90-days standard of South East Asian countries where the Philippines, unsurprisingly, ranks the lowest. Following the ILO recommendation, European countries have now the highest maternity leave benefit, with an average of 18 to 20 weeks. Some European countries even propose for a 40-week maternity leave.

Taking into account local conditions, this bill does not intend to follow the standards in Europe, but to enhance the existing law for the safety and health of pregnant women workers, at the very least, close to the international standards.

Studies have shown that a longer maternity leave period has beneficial effects on the mother and the child. Among these are:

1. It allows complete recovery for the mother.
2. It spares the mother from the stress of work that affects her nursing capabilities.
3. It allows the mother a longer period to breastfeed her child. Breastfeeding has been proven to have beneficial on the health and development of the child.
4. It allows a longer bonding time between the mother and the child which has beneficial effects on the child's psychological development.

Studies have also shown that a longer maternity leave produces healthier children and happier mothers. Happy mothers, in turn, are productive workers. But the biggest benefit of all is that countries that provide longer maternity leave to their pregnant workers have low infant mortality. Furthermore, longer maternity leave period can save the parents from additional cost for baby sitters.

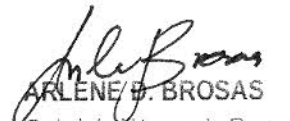
In sum, this bill has the following main features:

1. From the existing 60 days for normal delivery and 78 days for caesarian delivery, it increases the paid maternity leave period for female employees in both public and private sectors to 120 days, regardless of delivery situations, and provides for an option to extend for thirty days. If the female employee suffers from a miscarriage, her maternity leave period is 60 days;
2. It further protects the security of tenure of female employees who avail of the benefits under this law by insulating them from diminution of benefits, demotion, or termination; and
3. In the case of female employees in the private sector, the full payment of benefits shall be advanced by the employer within thirty (30) days from the filing of the maternity leave application.

If passed, this bill will fulfill a constitutional mandate to protect and promote the rights and welfare of working women and will benefit some 5 million female employees in the public and private sectors.

In view of the foregoing, the immediate passage of this bill is earnestly sought.


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HOUSE BILL NO. 1046

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AN ACT
INCREASING THE MATERNITY LEAVE PERIOD TO ONE HUNDRED (120) DAYS FOR FEMALE EMPLOYEES IN THE GOVERNMENT SERVICE AND IN THE PRIVATE SECTOR, AND FOR OTHER PURPOSES

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 Twenty (120) Days Maternity Leave Law”.

Section 2 . Declaration of Policy. – It is the declared policy of the State 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 (Article XIII, Section 14 of the 1987 Philippine Constitution).

Toward 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 duties 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, Local Government Unit (LGU), or Government-Owned and Controlled Corporations (GOCC), shall be granted a maternity leave of one hundred twenty (120) days with full pay based on her average weekly or regular wages, regardless of whether the delivery was normal or by caesarian section.

If the female employee suffered a miscarriage, her maternity leave period shall be sixty (60) days with full pay. The female employee shall have the option to extend her maternity leave for another thirty (30) days: *Provided*, That the head of the agency shall be given due notice in writing at least 15 days before the end of her regular maternity leave. The thirty (30) days extension shall be without pay.

Section 4. Maternity Leave for Female Employees in the Private Sector. –

- A. Any pregnant female employee in the private sector shall be granted a maternity leave of one hundred twenty (120) days, regardless of whether the delivery was normal or by caesarian section, or of sixty (60) days if the female employee suffered a miscarriage.

The female employee shall have the option to extend her maternity leave for another thirty (30) days: *Provided*, That the head of the agency shall be given due notice in writing at least 15 days before the end of her regular maternity leave. The thirty (30) days extension shall be without pay.

An employee availing of maternity leave must receive not less than two-thirds (2/3) of their regular monthly wages. Employers from the private sector shall be responsible for 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, except for those who are already providing similar or more than the benefits provided under this Act.

- B. 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 to be computed based on the average monthly salary credit, for one hundred twenty (120) days, regardless of whether the delivery was normal or by caesarian section, or for sixty (60) days if the female employee suffered a miscarriage; *Provided* 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 Services (SSS) in accordance with the rules and regulations it may provide.

The female employee shall likewise have the option to extend her maternity leave to thirty (30) days: *Provided*, That the head of the agency shall be given due notice in writing at least 15 days before the end of her regular maternity leave. The thirty (30) days extension shall be without pay.

The full payment shall be advanced by the employer within thirty (30) days from the filing of the maternity leave application.

The payment of daily maternity benefits provided under this paragraph shall be a bar to the recovery of sickness benefits provided under Republic Act No. 1161, as amended, for the same period for which the employee has received daily maternity benefits.

The maternity leave benefits provided under this paragraph shall be paid only for the first four (4) deliveries or miscarriages.

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.

Finally, 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 the SSS damages equivalent to the benefits which said employee would otherwise would have been entitled to.

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, 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 additional 30-day maternity leave, whether in the government or private sector, shall continue to enjoy the protection of their security of their tenure. Availment of the benefits under this Act shall not be used as grounds for demotion or termination. Any female employee who returns to work after availing of the leave periods provided under this Act shall not be transferred or reassigned within three months after her return to work. At the end of three months after her return to work, she may be transferred to a parallel position or reassigned from one organizational unit to another in the same agency/company; *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 three (3) years for the GSIS and four (4) years for the SSS, or more frequently as maybe necessary, with the end 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 the 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 647 is hereby repealed. Section 11, Book V of Executive Order 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 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,