

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



'22 NOV 28 P 6:33

SENATE

RECEIVED BY: _____

S. No. 1556

Introduced by SENATOR RAMON BONG REVILLA, JR.

**AN ACT
STRENGTHENING THE EMPLOYMENT RIGHTS FOR MEMBERS OF THE
CITIZEN ARMED FORCES OR THE RESERVE FORCE OF THE ARMED FORCES
OF THE PHILIPPINES AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

The Marawi siege in May 2017 was one of the biggest security crises the Armed Forces of the Philippines (AFP) has experienced. The five-month-long armed conflict in Marawi claimed over a thousand lives, civilians as well as from our armed forces, and forced thousands to flee.

The Armed Forces of the Philippines mobilized around two whole battalions from its Reserve Force to work alongside our regular force of the AFP, and help fight against terrorists in a war that drew out for months. Crisis such as this is clouded in uncertainty on the duration thus, reservists called out to serve have no guarantee when it will end, putting their lives at stake, not knowing if they will end the battle dead or alive.

The risk for reservists to lose their civilian careers when they render military service for our State, despite fighting for the country, is unforgiving. The siege created a problem making it difficult for the reservists to reintegrate back to their old jobs, since there is no current law covering that.

This bill seeks to strengthen the employment rights of Citizen Armed Forces or the Reserve Force of the AFP to give recognition to its role in mission areas and in

national security. It aims to ensure the security of tenure of reservists and entitle them to their original position or substantially equivalent position, without loss of seniority rights and diminution of pay. It also intends to institute programs that will protect current and prospective reservists from discrimination in terms of job hiring, reinstatement, promotion, or any benefit of employment on the basis of rendering military service for our country.

With this measure, the government can strengthen its advocacy on reservist employment rights and ensure that the men who have heeded the call to service are given what they deserve.

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



RAMON BONG REVILLA JR.

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

- 1 Section 1. *Short Title.* – This Act shall be known as the “*Reservist Employment*
2 *Rights Act*”.
- 3 Sec. 2. *Declaration of Policy.* — It is hereby declared the policy of the State to:
- 4 a. Strengthen the Citizen Armed Forces or the Reserve Force of the Armed Forces
5 of the Philippines (AFP) and recognize its role in the mission areas of the AFP
6 and in national security;
- 7 b. Protect the rights of reservists, and prevent and prohibit discrimination on the
8 basis of rendering military service to the State;
- 9 c. Encourage service in the AFP Reserve Force by eliminating or minimizing the
10 disadvantages to civilian careers and employment, which can result from
11 rendering military service to the State; and
- 12 d. Ensure the observance of all employers of the rights of reservists called to
13 perform military service to the State, while the overall operation of their
14 organization is not severely prejudiced.
- 15

1 Sec. 3. *Coverage.* — The provisions of this Act shall apply to all employers,
2 whether private or public, including all government agencies and political subdivisions
3 as well as government-owned and/or -controlled corporations and their subsidiaries,
4 non-government organizations, and other socioeconomic entities.

5 Sec. 4. *Definition of Terms.* — As used in this Act, the following terms shall
6 mean:

- 7 a. *Active Duty Training* refers to the compulsory or voluntary trainings for reserve
8 units and/or individual reservists provided by the AFP to update their working
9 knowledge in the current military organization, doctrines, tactics, techniques
10 and procedures or TTPs, in order to maintain a desirable state of readiness,
11 enable them to satisfy the active service-in-grade required for promotion to
12 higher grades, and maintain a level of proficiency and competency for those
13 reservists designated as instructors in Reserve Officers' Training Corps (ROTC)
14 and other reservists training programs;
- 15 b. *Auxiliary Service* refers to the voluntary performance of a service by a reservist
16 for the purpose of helping maintain local peace and order, meeting local
17 insurgency and terror threats for intelligence requirements, assisting in rescue
18 and relief operations during disasters and calamities, health welfare activities
19 and participating in local socioeconomic development projects;
- 20 c. *Citizen Soldier or Reservist* refers to the members of the Reserve Force of the
21 AFP, composed of the following:
- 22 i. (1) Graduates of the ROTC basic and advance courses and who were
23 issued orders as enlisted reservists or reserve officers of the AFP; (2)
24 Graduates of authorized basic military training instructions who, as a
25 result thereof, were issued orders as enlisted reservists or reserve
26 officers;
- 27 ii. Ex-servicemen and retired officers of the AFP who have been
28 incorporated into the Reserve Force of the AFP; and
- 29 iii. Reservist officers and enlisted reservists including those procured under
30 existing laws and included in the present AFP roster.

1 There shall be three (3) categories of citizen soldiers or AFP reservists: the First
2 Category Reserve, the Second Category Reserve, and the Third Category Reserve
3 based on age.

4 a. First Category Reserve — The First Category Reserve shall be composed of
5 able-bodied reservists whose ages are between eighteen (18) years and thirty-
6 five (35) years, inclusive.

7 b. Second Category Reserve — The Second Category Reserve shall be composed
8 of able-bodied reservists whose ages are between thirty-six (36) years and fifty-
9 one (51) years, inclusive.

10 c. Third Category Reserve - The Third Category Reserve shall be composed of
11 able-bodied reservists who are above fifty-one years (51) of age.

12 Based on the categorization above, the Reserve Force units shall further be
13 classified into the Ready Reserve, the Standby Reserve, and the Retired
14 Reserve based on their operational readiness for immediate deployment/
15 utilization.

16 d. *Employment* refers to the act of hiring, and continued engagement including
17 the reintegration of an employee called to military service to his or her former
18 position, or if not practicable to a substantially equivalent position, without loss
19 of seniority rights and diminution of pay:

20 e. *Military Service* refers to any service rendered by a citizen soldier or reservist
21 to the State upon orders of the AFP or call to active duty (CAD) to meet active
22 duty training (ADT) requirements, or for any purpose that the AFP leadership
23 may deem necessary in order to augment and support the Regular Force
24 operations in times of war, national emergency or such other times as the
25 national security requires;

26 f. *Mobilization* refers to the utilization of the Reserve Force of the AFP in times of
27 emergency to meet threats to national security;

28 g. *Reintegration* refers to the actual resumption of work of an employee after his
29 or her military service to his or her former position, or if not practicable, to a
30 substantially equivalent position, without loss of seniority rights and diminution
31 of pay;

1 h. *Reserve Force* refers to those composing of members of the reserve
2 components of the AFP;

3 i. *Ready Reserve* refers to citizen soldiers or reservists belonging mostly to the
4 First Category reserve, who shall be organized, trained and maintained as
5 mobilize-able ready reserve subject to being called at any time to augment the
6 regular armed force of the AFP, not only in times of war or national emergency,
7 but also to meet local emergencies arising from calamities, disasters and threats
8 to peace, order, security and stability in any locality, including the need to
9 provide assistance in relief and rescue work and other civil assistance activities:

10 Furthermore, members of the AFP Affiliated Reserve units of various
11 government and private utilities and services considered essential for the
12 preservation of economic stability of the country or particular locality, such as
13 power and electricity, water supply, transportation and communications,
14 among others, regardless of their categorization, shall be classified as Ready
15 Reserve;

16 All citizen soldiers belonging to the First Category Reserve, except those
17 exempted under Republic Act No. 7077, otherwise known as the "*Citizen Armed*
18 *Forces of the Philippines Reservist Act*", and other pertinent policies, shall be
19 required to serve with the Ready Reserve units and will have assignments and
20 promotions in accordance with existing policies of the AFP until transferred to
21 the Standby Reserve by virtue of their age;

22 j. *Standby Reserve*— citizen soldiers or reservists belonging mostly to the Second
23 Category Reserve and the Third Category Reserve. The members of the
24 Standby Reserve shall be organized and assigned to specific reserve units and
25 shall be maintained through annual assembly tests to update their records and
26 present addresses, among others. The Standby Reserve may be mobilized or
27 ordered to active duty only in times of national emergency or war. The ranks
28 of the members of the Standby Reserve may be upgraded if they voluntarily
29 participate in training or serve with the Ready Reserve units in their areas or if
30 their Standby Reserve unit undergoes retraining. They will however be
31 encouraged to upgrade their military knowledge and skills by taking up non-
32 resident or resident courses which shall be set up for the purpose; and

1 k. *Retired Reserve* - citizen soldiers who have qualified for retirement through
2 length of service, old age or disability. For this purpose, sixty-five (65) years
3 shall be considered as the retirement age. However, if qualified and fit for duty,
4 a member of the Retired Reserve may be ordered to active duty in times of
5 local or national emergencies if the Retired Reserve volunteers for active duty,
6 and when the Secretary of National Defense determines that there are not
7 enough qualified citizen soldiers with the same special skills and qualifications
8 in the Ready Reserve or Standby Reserve in the particular area of residence.

9 *Sec. 5. Anti-Reservists Discrimination.* —

10 a. It shall be unlawful for an employer, or those acting in the interest of
11 the employer, whether private or public, including all government
12 agencies and political subdivisions, as well as government-owned and/or
13 –controlled corporations and their subsidiaries, non-government
14 organizations, and other socioeconomic entities to:

- 15 1. Discriminate against an individual in terms of compensation,
16 terms and conditions, or privileges of employment on account of
17 such individual's membership, application for membership,
18 performance of military service, application for military service or
19 obligation with the Reserve Force of the AFP;
- 20 2. Print or publish, or cause to be printed or published, in any form
21 of media, including the internet, any notice of advertisement
22 relating to employment suggesting preferences, limitations,
23 specifications, and discrimination based on membership,
24 application for membership, performance of military service,
25 application for military service or obligation with the Reserve
26 Force of the AFP;
- 27 3. Require the declaration of application for membership, or status
28 of membership in the Reserve Force of the AFP;
- 29 4. Decline employment on the basis of membership in the Reserve
30 Force of the AFP;
- 31 5. Deny any employee's or worker's promotion or opportunity for
32 training on the basis of membership, application for membership,

1 performance of military service, application for military service or
2 obligation with the Reserve Force of the AFP;

3 6. Lay off an employee or worker because of membership,
4 application for membership, performance of military service,
5 application for military service or obligation with the Reserve
6 Force of the AFP; or

7 7. Impose early retirement on the basis of such employee's or
8 worker's membership, application for membership, performance
9 of military service, application for military service or obligation
10 with the Reserve Force of the AFP.

11 b. It shall be unlawful for a labor contractor or subcontractor, if any, to
12 refuse to refer for employment or otherwise discriminate against any
13 individual because of such person's membership, application for
14 membership, performance of military service, application for military
15 service or obligation with the Reserve Force of the AFP;

16 c. It shall be unlawful for any organization to:

17 1. Deny membership to any individual because of such person's
18 membership, application for membership, performance of military
19 service, application for military service or obligation with the
20 Reserve Force of the AFP;

21 2. Exclude from its membership any individual because of such a
22 person's membership, application for membership, performance
23 of military service, application for military service or obligation
24 with the Reserve Force of the AFP; or

25 i. Cause or attempt to cause an employer to discriminate
26 against an individual in violation of this Act;

27 d. It shall be unlawful for a publisher to print or publish any notice of
28 advertisement relating to employment suggesting preferences,
29 limitations, specifications, and discrimination based on a person's
30 membership, application for membership, performance of military
31 service, application for military service or obligation with the Reserve
32 Force of the AFP.

1 *Sec. 6. Employment Rights of Citizen Soldiers/Reservists.* — The following are
2 the rights of reservists who perform military service in the Reserve Force of the AFP:

- 3 a. Reservists who perform military service are entitled to their original position, or
4 when not practicable to a substantially equivalent position, without loss of
5 seniority rights and diminution of their pay;
- 6 b. Military service shall not be considered a break in the employment for
7 retirement purposes or for granting benefits provided for under the Labor Code
8 and other special laws;
- 9 c. Reservists cannot be required to use earned or entitled vacation or service
10 incentive leaves for leave of absence in connection with the performance of
11 military service in the Reserve Force; and
- 12 d. Reservists who suffer any temporary or permanent disability due to military
13 service shall not be denied reintegration if such employees can still perform the
14 essential functions of their original employment, whether with or without
15 reasonable accommodations.

16 *Sec. 7. Hiring of Substitute Employee.* — An employer whose reservist employee
17 is called to military service may hire another employee as substitute during the period
18 of the military service of the reservist employee.

19 The employment of the substitute employee shall be deemed terminated upon
20 the reintegration of the reservist employee. The employer, or those acting in the
21 interest of the employer may, however, consider the substitute employee for another
22 position, if practicable.

23 *Sec. 8. Reintegration Duty of an Employer.* — It shall be the duty of the
24 employer, or those acting in the interest of the employer, to reintegrate reservists
25 returning from military service to their former position, or when not practicable to a
26 substantially equivalent position, without loss of seniority rights and diminution of their
27 pay.

28 *Sec. 9. Conditions for Reintegration of Reservists.* — Reservists shall be entitled
29 to reintegration, as provided in Section 8 of this Act, subject to the following
30 conditions:

- 31 a. The reservist has rendered or performed military service as a member of the
32 Reserve Force of the AFP;

- 1 b. The employer, or those acting in the interest of the employer, has been given
2 a written notice by the AFP or the reservist, which if practicable shall indicate
3 the duration of military service, at least thirty (30) days prior to departing for
4 military service unless precluded by military necessity, or under all of the
5 relevant circumstances, the timely provision of notice is otherwise impossible
6 or unreasonable;
- 7 c. The employer, or those acting in the interest of the employer, shall immediately
8 reintegrate the reservist after he or she is officially discharged from military
9 service in accordance with the notice issued by the AFP; and
- 10 d. The employer, or those acting in the interest of the employer, shall provide its
11 reservist employee the prevailing salary or wage at the time of reintegration of
12 the reservist.

13 The AFP shall issue and provide the pertinent notices and documents to
14 reservists and their employers, and those acting in the interest of the employers, in a
15 timely manner to facilitate the reintegration of the reservists to their employment.

16 *Sec. 10. Period to Notify of Intent to Return.* — Reservists are hereby required
17 to notify their employers, or those acting in the interest of the employer, of their intent
18 to return to work subject to the following circumstances and conditions:

- 19 a. In the case of reservists called to military service for a definite period when
20 indicated in the call for active duty training or such other notice issued by the
21 AFP, the employer, or those acting in the interest of the employer, shall be
22 deemed notified of the intent to return when furnished a copy of the pertinent
23 notice from the AFP prior to the absence of the reservist for military service;
- 24 b. In the case of reservists called to military service for an indefinite period when
25 not indicated in the call for active duty training or such other notices issued by
26 the AFP, the employer, or those acting in the interest of the employer, shall be
27 deemed notified of the intent to return when furnished a copy of the pertinent
28 notice from the AFP indicating the impending discharge of reservists at least
29 fifteen (15) days prior to the end of the military service: *Provided,* That the
30 reservists shall not be deemed ineligible when circumstances do not permit the
31 timely prior notification of absence due to military service and/or intent to
32 return of a reservist in compliance with this provision in accordance with

1 Sections 9(b) and 9(d) of this Act: *Provided, further,* That reservists who suffer
2 from illness or injury incurred in, or aggravated during, the performance of
3 military service shall be allowed to indicate their desire to return to their former
4 position within a reasonable time as prescribed by a military doctor: *Provided,*
5 *finally,* That the AFP shall ensure that its policies and administrative processes,
6 whenever practicable, allow for at least fifteen (15) days prior notification of
7 employers, or those acting in their interest, of the absence of reservists for
8 military service and their capacity and intent to return to their employment.

9 Sec. 11. *Compensation for Non-Reintegration of Reservists.* — In cases of
10 authorized causes or circumstances, subject to the determination and approval of
11 Department of Labor and Employment (DOLE), where reintegration is impossible or
12 unreasonable, the reservist shall be entitled to at least three (3) months' worth of his
13 or her basic salary or to a separation pay equivalent to his or her one-month basic
14 salary per year of service, whichever is higher.

15 Sec. 12. *Compensation of Reservists for Military Service.* — In order to enhance
16 the general welfare, commitment to service and professionalism of the members of
17 the Reserve Force of the AFP, the reservist rendering military service shall be entitled
18 to the base pay commensurate to their rank consistent with their counterpart in the
19 regular force.

20 The mother agency of the reservist shall promptly pay and remit the reservist
21 employees' premium contributions, based on the reservist's salary, during their
22 absence due to military service, whether to the Government Service Insurance System
23 (GSIS), PAG- IBIG, Philippine Health Insurance Corporation (PhilHealth), and all
24 pertinent contributions related to his or her employment, and shall not reflect any gap
25 in contributions in the records.

26 Reservists shall have the option to pay their Social Security System (SSS)
27 contributions as a voluntary paying SSS member to avoid any gap in their contribution
28 records and afford their full entitlement to SSS benefits in accordance with existing
29 guidelines.

30 The AFP shall establish the necessary administrative process to assist reservists
31 in the timely remittance of pertinent contributions, whether mandatory or voluntary.

1 Sec. 13. *Multi-stakeholder Engagements and Advocacies.* - The Department of
2 National Defense (DND) and AFP shall strengthen coordination and cooperation
3 among stakeholders through a sustained and comprehensive advocacy campaign for
4 the purpose of ensuring that the employment rights of reservists are understood and
5 protected by all concerned.

6 For this purpose, the Department of Budget and Management (DBM), in
7 consultation with the DND and the AFP, shall create the necessary *plantilla* or non-
8 tenured positions. The necessary funds for the implementation of this provision shall
9 be included in the budget of the DND and AFP in the annual General Appropriations
10 Act.

11 Sec. 14. *Tax Benefits and Incentives.* - The Department of Finance (DOF), in
12 coordination with the DND, AFP, and other appropriate government agencies, shall
13 develop the appropriate rules and regulations on the provision of tax benefits and
14 incentives based on justified costs and expenses by employers associated with
15 organizational adjustments borne out of the absence of reservists in an organization
16 in compliance with this Act, Republic Act No. 7077, and other appropriate laws, rules,
17 and regulations.

18 Sec. 15. *Administrative Fines and Penalties.* — Violation of any of the provision
19 of this Act shall be punished with a fine of not less than Fifty thousand pesos
20 (P50,000.00) but not more than One million pesos (P1,000,000.00), or imprisonment
21 of not less than three (3) months but not more than two (2) years, or both, at the
22 discretion of the court. If the offense is committed by a corporation, trust, firm,
23 partnership or association or other entity, the penalty shall be imposed upon the
24 responsible officer or officers of such corporation, trust, firm, partnership or
25 association or entity.

26 Sec. 16. *Military Duty Leave.* — Every reservist shall be entitled to a leave of
27 seven (7) days with pay per year for the purposes of military training or military
28 activities. This shall be on top of applicable leaves entitled to a reservist from the
29 latter's employer.

30 Sec. 17. *Appropriations.* - The amount necessary for the immediate and
31 effective implementation of this Act shall be charged against any available funds of

1 the DND and the AFP. Thereafter, such sums as may be necessary for the
2 implementation of this Act shall be included in the annual appropriations of the AFP.

3 Sec. 18. *Implementing Rules and Regulations (IRR)*. — Within sixty (60) days
4 from the effectivity of this Act, the DOLE in coordination with the DND, the AFP, the
5 Civil Service Commission (CSC) and appropriate government agencies shall
6 promulgate the IRR for the effective implementation of this Act.

7 Sec. 19. *Separability Clause*. — Should any provision herein be declared invalid
8 or unconstitutional, the same shall not affect the validity of the other provisions of this
9 Act.

10 Sec. 20. *Repealing Clause*. - All laws, decrees, orders, rules, and regulations
11 or other issuances or parts contrary to, or inconsistent with, the provisions of this Act
12 are hereby repealed, amended, or modified accordingly.

13 Sec. 21. *Effectivity Clause*. - This Act shall take effect in fifteen (15) days after
14 its complete publication either in the *Official Gazette* or in at least two (2) newspapers
15 of general circulation in the Philippines.

Approved,