



Laws and Jurisprudence Relevant to the Deaf Community



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INTRODUCTION

According to the 2000 National Statistics Office Report, there are around 121,000 deaf individuals in the Philippines; However, other deaf individuals in the informal sector of society may not be included in the said data by the National Statistics Office (now the Philippine Statistics Authority). These deaf individuals are all entitled to equal protection of the law. According to the 2008 United Nations (UN) Convention on the Rights of Persons with Disabilities (UNCRPD), of which the Philippines is a signatory, State Parties have the obligation “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”

The legislative and judiciary branches of the Philippines have made efforts to comply with this obligation. Even before the 2008 UNCRDP, the legislature had already enacted RA 7277 or the 1992 Philippine Magna Carta for Disabled Persons, recognizing that disabled persons also form part of our Philippine society and thus should be afforded the same rights as other people. RA 7277 also pushed for the improvement of the disabled person’s total well-being and their integration into mainstream society. In 2018, RA 11106 or The Filipino Sign Language Act was enacted pursuant to the policy of the State of ensuring the full and effective participation and inclusion in society of the Filipino Deaf. It is a landmark legislation that declares the Filipino Sign Language as the national sign language of deaf Filipinos and as the medium of official communication in all transactions involving the deaf. Aside from RA 7277 and RA 11106, the Philippines has many other laws and legal policies that promote the rights of PWDs and court-determined cases that help understand and explain the rights of deaf individuals.

This document seeks to compile all the local and foreign laws and jurisprudence related to the rights of deaf individuals.

PRELIMINARY MATTERS

1. Q: What is the Magna Carta for Disabled Persons?

A: Republic Act No. 7277, also known as the Magna Carta for Disabled Persons, recognizes the duty of the State as well as the private sector in providing full support and improvement of the total wellbeing of disabled persons (Section 2, R.A. No. 7277).

2. Q: What is a disabled person?

A: Under Section 4(a) of Republic Act No. 7277, also known as the Magna Carta for Disabled Persons, disabled persons are those suffering from restriction or different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being.

However, under Section 4 of R.A. No. 9442, Republic Act No. 7277 was amended to read as the “Magna Carta for Persons with Disability”, and all references on the said law to “Disabled persons” shall likewise be amended to read as “Persons with Disability” (PWD).

3. Q: How is deafness detected?

A: A Universal Newborn Hearing Screening Program (UNHSP) is established as a measure for the prevention and early diagnosis of congenital hearing loss among newborns and children, consistent with the policy of the state to protect and promote the right to health of the people, including the rights of children to survival, full and healthy development as individuals, and a better quality of life. (Republic Act No. 9709 - “Universal Newborn Hearing Screening and Intervention Act of 2009”)

4. Q: What is the primary medium for communicating with deaf-mute persons?

A: The Filipino Sign Language (FSL) was declared as the national sign language of the Philippines. It shall be recognized, promoted, and supported as the medium of official communication in all transactions involving the deaf. The use of FSL is also mandated in schools, broadcast media, and workplaces (Section 3, R.A. No. 11106).

5. Q: What are the special privileges granted to deaf-mute persons?

A: Deaf-mute persons, like any disabled persons, are entitled to discounts on several goods and services, education assistance, and express lanes in establishments (Republic Act No. 9442 amending R.A. No. 7277). Moreover, Persons with Disabilities (PWDs) are granted at least 20% discounts and exemption from VAT on the sale of certain goods and services identified under R.A. No. 9442.

In the case of *Drugstores Association of the Philippines, Inc. v. National Council on Disability Affairs* (G.R. No. 194561, 14 September 2016), the Supreme Court dismissed petitioners' Petition for Prohibition and upheld the constitutionality of the mandatory twenty percent (20%) discount on the purchase of medicine by persons with disability.

In the case of *Southern Luzon Drug Corp. v. Department of Social Welfare and Development* (G.R. No. 199669, 25 July 2017), the Supreme Court held the 20% discount on the purchase of medicine by PWDs, declared Section 4(a) of Republic Act No. 9257 (Expanded Senior Citizens Act of 2003) and Section 32 of Republic Act No. 9442 (Act Amending Magna Carta for Disabled Persons) as Constitutional.

PARTICIPATION IN COURT PROCEEDINGS

6. Q: Can a deaf-mute be a witness?

A: Yes. Some cases before trial courts may involve parties or require witnesses who, to be fully understood and prevent possible miscarriage of justice, may require a sign language interpreter, and in such cases, the trial judge has to request the Supreme Court, through the Office of the Court Administrator, to hire the services of a sign language interpreter (OCA CIRCULAR NO. 104-2007, 18 October 2007).

In the case of *People v. Sasota* (G.R. No. 29564, 25 October 1928), the Supreme Court held that the mere fact that a person is deaf and dumb is not sufficient to justify the finding that he is incompetent as a witness. Although it was formerly presumed that persons deaf and dumb from birth were idiots, and therefore incompetent, no such presumption now exists. When such a witness is produced, the court may ascertain whether he has the requisite intelligence; and the judge will allow the witness to adopt such mode of communicating his ideas, whether by signs or writing, as, under the circumstances may be deemed most satisfactory.

In the case of *People v. Adel Tuangcio* (G.R. No. 130331, 22 November 2000), the Supreme Court held that a deaf-mute is not incompetent as a witness. All persons who can perceive, and perceiving, can make known their perception to others, may be witnesses. Deaf-mutes are competent witnesses because they (1) can understand and appreciate the sanctity of an oath; (2) can comprehend facts they are going to testify on; and (3) can communicate their ideas through a qualified interpreter.

In the case of *People v. Aleman* (G.R. No. 181539, 24 July 2013), the Supreme Court held that a deaf-mute is competent to be a witness so long as he/she has the faculty to make observations and he/she can make those observations known to others.

In the case of *People v. Bustos* (G.R. No. 27200, 20 January 1928), the Supreme Court held that a testimony given at the trial by a deaf-mute and interpreted by a teacher of deaf-mutes is inadmissible as evidence when said interpreter has not had frequent contact with the deaf-mute witness so as to enable her to understand the latter's signs.

In the case of *People v. Henry Lugarto* (G.R. No. 118828 & 119371, 29 February 2000), the Supreme Court held that because of Barlam's "deafness and associated mental retardation," the defense harped that she should be disqualified from testifying. The disquisition above,

notwithstanding, we have ruled that even a mental retardate or a feeble-minded person could qualify as a competent witness.

In the case of *People v. Loriega* (G.R. No. 116009-10, 29 February 2000), the Supreme Court held that private complainant, a deaf-mute, notwithstanding her mental deficiency, is not disqualified from taking the witness stand. She can read and write although in a limited fashion. In her limited capacity to talk during her testimony, she tried to syllabicate the words to be understood. She can lip-read. Thus, she looked intently at the lips of her interpreter to enable her to understand the question, and when she could not express what she wanted to say, she would write or sketch them on a piece of paper.

7. Q: Who hires the interpreter?

A: The Court Administrator is authorized to act on and grant requests of trial court judges to hire the services of a sign language interpreter in actions or proceedings where such services would be rendered (OCA Circular No. 104-2007).

8. Q: Why is having an interpreter important?

A: In the case of *People v. Crisologo* (G.R. No. 74145, 17 June 1987), the Supreme Court held that throughout the trial, there was no sign language expert who assisted the accused. Indeed, the accused could not have enjoyed the right to be heard by himself and counsel and to be informed of the nature and cause of the accusation against him. The absence of a sign language interpreter who could have conveyed to the accused the offense charged against him and could have conveyed to the court the accused's version of events led to his acquittal.

In the case of *People v. Hayag* (G.R. No. L-38635, 17 November 1980), the Supreme Court held that the victim, Esperanza, who is a deaf mute, was assisted by her sister, Virginia, in communicating throughout the trial. As Esperanza did not study in the school for deaf-mutes and as there was no instructor in that school available as an interpreter, the trial court had no choice but to use Virginia as the medium for communicating with Esperanza. It was held that as to the trustworthiness of the interpreter's verbalization of deaf-mute's sign language, the case for the prosecution was irreparably impaired by the inconsistencies committed by the complainant's mother, Mrs. Ranga. She first swore that according to her interpretation of Esperanza's sign language five rapes were admitted on different dates. There was also doubt about the credibility of the interpretations of Virginia. Thus, the Court acquitted the accused.

In the cases of *People v. Parazo* and *People v. Parazo* (G.R. No. 121176, 14 May 1997 and G.R. No. 121176, 08 July 1999), the Supreme Court held that trial without the benefit of a sign language expert, appellant was tried below without the benefit of a sign language expert. The fact that he was "helped and assisted by a person who has been known to him since 1983", as noted by the trial court of origin and appearing on page 6 of the transcript of stenographic notes for February 8, 1995, is of no moment, absent any clear showing that appellant was aided by a competent sign language expert able to fully understand and interpret the actions and mutterings of the appellant. Thus, the Court decided that the movant deserves a re-arraignment and re-trial.

9. Q: Who shoulders the fee?

A: The Court Administrator shall fix the fees, and such expenditures shall be chargeable against the savings of the Lower Courts (OCA Circular No. 203-2024).

The sign language interpreter shall be entitled to the payment of an Interpreter's Fee in the amount of P2,500.00 per hour of appearance, and is further entitled to a fixed transportation allowance of P1,500.00 per day of appearance. Should the claim of actual transportation expenses of the sign language interpreter be more than P1,500.00 per day, he/she shall be entitled to the reimbursement of the actual fare at the prevailing rates of ordinary means of transportation subject to the submission of the used transportation ticket/s and/or original copy of the official receipt under the name of the claimant Sign Language Interpreter. (OCA Circular No. 203-2024).

10. Q: What special adjustments have been made for deaf-mute during the pandemic?

A: With the masks on, the deaf witness is likely to experience great difficulty understanding the interpreter and conversely being understood by the interpreter. There will be a decrease in the effectiveness, accuracy, and speed of communication between the deaf signer and the interpreter.

As such, Chairman Arthur P. Casanova of the Komisyon sa Wikang Filipino, in consultation with the Philippine Federation of the Deaf and the Philippine National Association of Sign Language Interpreters, requested that deaf parties and their sign language interpreters be exempted from in-court hearings and be allowed to appear during hearings via online video conferencing.

Therefore, the OCA, through this circular, held that deaf litigants and witnesses, and Item I (3) (b) (ix) of A.M. No. 20-12-01-SC (Re: Proposed Guidelines on the Conduct of Videoconferencing) which sanctions the conduct of videoconferencing hearings "when, based on the sound judgment of the court, there are compelling reasons that justify the resort to videoconferencing," all concerned Judges are ENCOURAGED to allow the conduct of videoconferencing hearings in cases involving deaf litigants and witnesses (OCA Circular No. 106-2022, 11 May 2022).

EMPLOYMENT

11. Q: Can deaf-mutism be a ground for refusal of employment?

A: Disabled persons shall not be denied access to opportunities for suitable employment. A qualified disabled employee shall be treated equally to a qualified able-bodied person when it comes to privileges and benefits. The state shall provide sheltered employment if such a disabled person cannot find open employment (Republic Act No. 7277).

In the case of *Bernardo v. National Labor Relations Commission* (G.R. No. 122917, 12 July 1999), the Supreme Court held that the Magna Carta for Disabled Persons (Republic Act No. 7277) mandates that a qualified disabled employee should be given the same terms and conditions of employment as a qualified able-bodied person. The fact that the employees were qualified disabled persons necessarily removes the employment contracts from the ambit of Article 80. Since the Magna Carta accords them the rights of qualified able-bodied persons, they are thus covered by Article 280 of the Labor Code, which provides for regular and casual employment. The disability of petitioners did not render them unqualified or unfit for the tasks assigned to them.

12. Q: What are the special considerations implemented to ensure deaf-mute can find employment, if any?

A: Private corporations with more than one hundred (100) employees are encouraged to reserve at least one percent (1%) of all positions for persons with disability (Republic Act No. 10524, amending R.A. No. 7277).

EDUCATION

13. Q: Can a deaf-mute learner be denied admission due to disability?

A: For the education of Learners with disabilities, no learner shall be denied admission based on their disability. All schools, whether public or private, shall ensure equitable access to quality education for every learner with disabilities (Republic Act No. 11650).

14. Q: How is equal and quality access to education of deaf-mute individuals ensured?

A: All public schools nationwide are required to identify learners with special needs and provide these learners with free, basic, and quality education. It also mandates that all cities and municipalities must have at least one Inclusive Learning Resource Center (Republic Act No. 11650).

Moreover, under the administration and supervision of the Bureau of Public Schools, in cooperation with the University of the Philippines, the Philippine Normal College, and the School for the Deaf and the Blind, a ten-year program for the training of teachers of special and exceptional children. The term special and exceptional children shall include the mentally retarded, the crippled, the deaf and hard of hearing, the speech handicapped, the socially and emotionally disturbed and the gifted (Republic Act No. 5250).

ACCESSIBILITY

15. Q: *Is there an accessibility feature for television in favor of deaf-mutes?*

A: Franchise holders or operators of television stations and producers of television programs are required to provide a closed captions option, which shall mean a method of subtitling television programs, in the broadcast of their programs (Republic Act No. 10905) .

16. Q: *How is the accessibility in establishments addressed for deaf-mutes?*

A: Barrier-free environments shall be attained so that disabled persons shall have access to buildings and establishments. They shall also develop a system for disabled persons to access public transportation as well (Republic Act No. 7277).

Moreover, Batas Pambansa Blg. 344 requires minimum requirements and standards in making certain buildings, institutions, establishments, and other utilities for public use accessible to disabled persons.

Additionally, under Republic Act No. 10070 amending R.A. No. 7277, local governments shall promote and organize offices and establishments to address issues of the disabled.

Finally, under Republic Act No. 7277, the discrimination on Employment, on Employment Entrance Examination, Transportation, the use of Public Accommodations and services, and the use of Government Recreational or sports centers, shall be punished thru fine or imprisonment.

**FOREIGN OR INTERNATIONAL LAWS RECOGNIZING THE RIGHT OF PWDs
(including deaf-mutes)**

17. Q: *What international laws recognize the right to equality of deaf-mutes?*

A: The UN Convention on the Rights of Persons with Disabilities (CRPD) sets out the fundamental human rights of people with disability, and its purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity (UN Convention on the Rights of Persons with Disabilities (CRPD) December 13, 2006).

Moreover, the Universal Declaration of Human Rights (UDHR) sets out fundamental human rights to be universally protected. Article 7 provides “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.” (Universal Declaration of Human Rights (UDHR) - Article 7 December 10, 1948).

Likewise, the International Covenant on Civil and Political Rights (ICCPR) seeks to protect the civil and political rights of individuals. It obligates countries which have ratified it to promote and protect basic human rights including the right to life; equality before courts and tribunals and right to a fair trial; freedom of speech, assembly, and association; religious freedom and privacy; freedom from torture, ill-treatment, and arbitrary detention; gender equality; right family life and

family unity; and minority rights (International Covenant on Civil and Political Rights (ICCPR) December 16, 1966).

Furthermore, the Declaration on the Rights of Disabled Persons states that all persons with disabilities have the same rights as all other persons (Declaration on the Rights of Disabled Persons - December 09, 1975).

Finally, the Declaration on the Rights of Deaf-Blind Persons states that deaf-blind persons are entitled to the universal rights guaranteed to people by the UN Declaration of Human Rights and the rights of disabled persons under the Declaration on Rights of Disabled Persons (Declaration on the Rights of Deaf-Blind Persons - September 16, 1977).

18. Q: Are there international mandates that lobby for the well-being and quality of life of deaf-mutes?

A: The Formulation of the World Programme of Action Concerning Disabled Persons (WPA) is an overview of the world situation regarding persons with disabilities, emphasizing the need to approach disability from a human rights perspective. It is a global strategy that aims to enhance disability prevention, rehabilitation and equalization of opportunities in order to achieve full participation of persons with disabilities in all aspects of social and economic life (Formulation of the World Programme of Action Concerning Disabled Persons (WPA) December 03, 1982).

In addition, the Standard Rules on the Equalization of Opportunities for Persons with Disabilities provides a basis for technical and economic cooperation among the States, the United Nations and other international organizations, offering an instrument for policy-making and action to persons with disabilities and their organizations in order to achieve full participation and equality (Standard Rules on the Equalization of Opportunities for Persons with Disabilities - December 20, 1993).

Also, the Beijing Declaration on the Rights of People with Disabilities calls for the collaboration of all heads of state and government, public administrators, local authorities, members of the United Nations system, people with disabilities, and civic organizations, for an inclusive and wide consultative process that aims to develop and adopt an international convention that would promote and protect the rights of people with disabilities and provide equal opportunities, thereby addressing the continued exclusion of people with disabilities from the mainstream development process (Beijing Declaration on the Rights of People with Disabilities - March 12, 2000).

Lastly, the BMF is a regional framework for action by the Government to achieve an inclusive, barrier-free and rights-based society for persons with disabilities by identifying seven areas for priority action in the new decade and incorporating the millennium development goals and their relevant targets to ensure that concerns relations to persons with disabilities are addressed (Biwako Millennium Framework (BMF) - October 25-28, 2002).

REPUBLIC ACT NO. 7277
MAGNA CARTA FOR DISABLED PERSONS

**AN ACT PROVIDING FOR THE REHABILITATION, SELF-DEVELOPMENT AND
SELF-RELIANCE OF DISABLED PERSONS AND THEIR INTEGRATION INTO THE
MAINSTREAM OF SOCIETY AND FOR OTHER PURPOSES**

**TITLE ONE
GENERAL PROVISIONS**

**CHAPTER I
Basic Principle**

SECTION 1. Title: This Act shall be known and cited as the **Magna Carta for Disabled Persons**.

SECTION 2. Declaration of Policy: The grant of the rights and privileges for disabled persons shall be guided by the following principles:

(a) Disabled persons are part of Philippine society, thus the Senate shall give full support to the improvement of the total well-being of disabled persons and their integration into the mainstream of society. Toward this end, the State shall adopt policies ensuring the rehabilitation, self-development and self-reliance of disabled persons. It shall develop their skills and potentials to enable them to compete favorably for available opportunities.

(b) Disabled persons have the same rights as other people to take their proper place in society. They should be able to live freely and as independently as possible. This must be the concern of everyone – the family, community and all government and non-government organizations. Disabled person's rights must never be perceived as welfare services by the Government.

(c) The rehabilitation of the disabled persons shall be the concern of the Government in order to foster their capability to attain a more meaningful, productive and satisfying life. To reach out to a greater number of disabled persons, the rehabilitation services and benefits shall be expanded beyond the traditional urban-based centers to community based programs, that will ensure full participation of different sectors as supported by national and local government agencies.

(d) The State also recognizes the role of the private sector in promoting the welfare of disabled persons and shall encourage partnership in programs that address their needs and concerns.

(e) To facilitate integration of disabled persons into the mainstream of society, the State shall advocate for and encourage respect for disabled persons. The State shall exert all efforts to remove all social, cultural, economic, environmental and attitudinal barriers that are prejudicial to disabled persons.

SECTION 3. Coverage: This Act shall cover all disabled persons and, to the extent herein provided, departments, offices and agencies of the National Government or non-government organization involved in the attainment of the objectives of this Act.

SECTION 4. Definition of Terms: For purposes of this Act, these terms are defined as follows:

(a) Disabled Persons are those suffering from restriction of different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being;

(b) Impairment is any loss, diminution or aberration of psychological, physiological, or anatomical structure or function;

(c) Disability shall mean (1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment;

(d) Handicap refers to a disadvantage for a given individual resulting from an impairment or a disability, that limits or prevents the functions or activity, that is considered normal given the age and sex of the individual;

(e) Rehabilitation is an integrated approach to physical, social, cultural, spiritual, educational and vocational measures that create conditions for the individual to attain the highest possible level of functional ability;

(f) Social Barriers refer to the characteristics of institutions, whether legal, economic, cultural, recreational or other, any human group, community, or society which limit the fullest possible participation of disabled persons in the life of the group. Social barriers include negative attitudes which tends to single out and exclude disabled persons and which distort roles and interpersonal relationship;

(g) Auxiliary Aids and Services include:

(1) qualified interpreters or other effective methods of delivering materials to individuals with hearing impairments;

(2) qualified readers, taped texts, or other effective methods of delivering materials to individuals with visual impairments;

(3) acquisition or modification of equipment or devices; and

(4) other similar services and actions or all types of aids and services that facilitate the learning process of people with mental disability;

(h) Reasonable Accommodation include (1) improvement of existing facilities used by employees in order to render these readily accessible to and usable by disabled persons; and (2) modification of work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or company policies, rules and regulations, the provisions of auxiliary aids and services, and other similar accommodations for disabled persons;

(i) Sheltered Employment refers to the provision of productive work for disabled persons through workshops providing special facilities, income producing projects or homework schemes with a view to giving them the opportunity to earn a living thus enabling them to acquire a working capacity required in open industry.

(j) Auxiliary Social Services are the supportive activities in the delivery of social services to the marginalized sectors of society;

(k) Marginalized Disabled Persons refer to disabled persons who lack access to rehabilitative services and opportunities to be able to participate fully in socioeconomic activities and who have no means of livelihood or whose incomes fall below poverty threshold;

(l) Qualified Individual with a Disability shall mean an individual with a disability who, with or without reasonable accommodations, can perform the essential functions of the employment position that such individual holds or desires. However, consideration shall be given to the employer's judgement as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job;

(m) Readily Achievable means a goal can be easily attained and carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include

(1) the nature and cost of the action;

(2) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(3) the overall financial resources of the covered entity with respect to the number of its employees; the number, type and location of its facilities; and

(4) the type of operation or operations of the covered entity, including the composition, structure and functions of the work force of such entity; the geographic separateness, administrative or fiscal relationship of the facilities in question to the covered entity;

(n) Public Transportation means transportation by air, land and sea that provides the public with general or special service on a regular and continuing basis;

(o) Covered entity means employer, employment agency, labor organization or joint labor-management committee; and

(p) Commerce shall be taken to mean a s travel, trade, traffic, commerce, transportation, or communication among the provinces or between any foreign country or any territory or possession and any province.

TITLE TWO RIGHTS AND PRIVILEGES OF DISABLED PERSONS

CHAPTER I Employment

SECTION 5. Equal Opportunity for Employment: No disabled persons shall be denied access to opportunities for suitable employment. A qualified disabled employee shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as a qualified able-bodied person.

Five percent (5%) of all casual, emergency and contractual positions in the Department of Social Welfare and Development; Health; Education, Culture and Sports; and other government agencies, offices or corporations engaged in social development shall be reserved for disabled persons.

SECTION 6. Sheltered Employment: If suitable employment for disabled persons cannot be found through open employment as provided in the immediately preceding Section, the State shall endeavor to provide it by means of sheltered employment. In the placement of disabled persons in sheltered employment, it shall accord due regard to the individual qualities, vocational goals and inclinations to ensure a good working atmosphere and efficient production.

SECTION 7. Apprenticeship: Subject to the provision of the Labor Code as amended, disabled persons shall be eligible as apprentices or learners; Provided, That their handicap is not much as to effectively impede the performance of job operations in the particular occupation for which they are hired; Provided, further, That after the lapse of the period of apprenticeship if found satisfactory in the job performance, they shall be eligible for employment.

SECTION 8. Incentives for Employer:

(a) To encourage the active participation of the private sector in promoting the welfare of disabled persons and to ensure gainful employment for qualified disabled persons, adequate incentives shall be provided to private entities which employ disabled persons.

(b). Private entities that employ disabled persons who meet the required skills or qualifications, either as regular employee, apprentice or learner, shall be entitled to an additional deduction, from their gross income, equivalent to twenty-five percent (25%) of the total amount paid as salaries and wages to disabled persons: Provided, however, That such entities present proof as certified by the Department of Labor and Employment that disabled person are under their employ. Provided, further, That the disabled employee is accredited with the Department of Labor and Employment and the Department of Health as to his disability, skills and qualifications.

(c). Private entities that improve or modify their physical facilities in order to provide reasonable accommodation for disabled persons shall also be entitled to an additional deduction from their net taxable income, equivalent to fifty percent (50%) of the direct costs of the improvements or modifications. This section, however, does not apply to improvements or modifications of facilities required under Batas Pambansa Bilang 344.

SECTION 9. Vocational Rehabilitation: Consistent with the principle of equal opportunity for disabled workers and workers in general, the State shall take appropriate vocational rehabilitation measures that shall serve to develop the skills and potential of disabled persons and enable them to compete favorably for available productive and remunerative employment opportunities in the labor market. The State shall also take measures to ensure the provisions of vocational rehabilitation and livelihood services for disabled persons in the rural areas. In addition, it shall promote cooperation and coordination between the government and non-government organizations and other private entities engaged in vocational rehabilitation activities.

The Department of Social Welfare and Development shall design and implement training programs that will provide disabled persons with vocational skills to enable them to engage in livelihood activities or obtain gainful employment. The Department of Labor and Employment shall likewise design and conduct training programs geared towards providing disabled persons with skills for livelihood.

SECTION 10. Vocational Guidance and Counselling: The Department of Social Welfare and Development shall implement measures providing and evaluating vocational guidance and counselling to enable disabled persons to secure, retain and advance in employment. It shall ensure the availability and training counsellors and other suitability qualified staff responsible for the vocational guidance and counselling of disabled persons.

SECTION 11. Implementing Rules and Regulations: The Department of Labor and Employment shall in coordination with the Department of Social Welfare and Development (DSWD) and National Council for the Welfare of Disabled Persons (NCWDP), shall promulgate the rules and regulations necessary to implement the provision under this Chapter.

CHAPTER II

Education

SECTION 12. Access to Quality Education: The State shall ensure that disabled persons are provided with adequate access to quality education and ample opportunities to develop their skills. It shall take appropriate steps to make such education accessible to all disabled persons. It shall be unlawful for any learning institutions to deny a disabled person admission to any course it offers by reason of handicap or disability. The State shall take into consideration the special requirements of disabled persons in the formulation of education policies and programs. It shall encourage learning institutions to take into account the special needs of disabled persons with respect to the use of school facilities, class schedules, physical education requirements and other pertinent considerations. The State shall also promote the provision by learning institutions of auxiliary services that will facilitate the learning process for disabled persons.

SECTION 13. Assistance to Disabled Students: The State shall provide financial assistance to economically marginalized but deserving disabled students pursuing post secondary or tertiary education. Such assistance may be in the form of scholarship grants, student loan programs, subsidies, and other incentives to qualified disabled students in both public and private schools. At least five percent (5%) of the allocation for the Private Education Student Financial Assistance Program created by virtue of R.A. 6728 shall be set aside for disabled students pursuing vocational or technical and degree courses.

SECTION 14. Special Education: The State shall establish, maintain and support a complete, adequate and integrated system of special education for the visually impaired, hearing impaired, mentally retarded persons and other types of exceptional children in all regions of the country. Towards this end, the Department of Education, Culture and Sports shall establish special education classes in public schools in cities, or municipalities. It shall also establish, where viable, Braille and Record Libraries in provinces, cities or municipalities. The National Government shall allocate funds necessary for the effective implementation of the special education program nationwide. Local government units may likewise appropriate counterpart funds to supplement national funds.

SECTION 15. Vocational or Technical and Other Training Programs: The State provides disabled persons with training in civics, vocational efficiency, sports and physical fitness, and other skills. The Department of Education, Culture and Sports shall establish in at least one government-owned vocational and technical school in every province a special vocational and technical training program for disabled persons. It shall develop and implement sports and physical fitness programs specifically designed for disabled persons taking into consideration the nature of their handicap.

SECTION 16. Non-Formal Education: The State shall develop non formal education programs intended for the total human development of disabled persons. It shall provide adequate resources for non-formal education programs and projects that cater to the special needs of disabled persons.

SECTION 17. State Universities and Colleges: If viable and needed, the State Universities or State Colleges in each region or province shall be responsible for (a) the development of material appliances and technical aids for disabled persons; (b) the development of training materials for vocational rehabilitation and special education instructions; and (c) the research on special problems, particularly of the visually-impaired, hearing-impaired, and orthopedically-impaired students, mentally retarded, and multi-handicapped and other, and the elimination of social barriers and discrimination against disabled persons; and (d) inclusion of the Special Education for Disabled (SPED) course in the curriculum. The National Government shall provide these state universities and colleges with the necessary special facilities for visually-impaired, hearing impaired, speech impaired, and orthopedically-impaired students. It shall likewise allocate the necessary funds in support of the above.

CHAPTER III

Health

SECTION 18. National Health Program: The Department of Health, in coordination with National Council for the Welfare of Disabled Persons, shall institute a national health program which shall aim to attain the following:

- (a) prevention of disability, whether occurring prenatally or postnatally;
- (b) recognition and early diagnosis of disability; and
- (c) early rehabilitation of the disabled.

SECTION 19. Rehabilitation Centers: The Department of Health shall establish medical rehabilitation centers in government provincial hospitals, and shall include its annual appropriation of the necessary funds for the operation of such centers. The Department of Health shall formulate and implement a program to enable marginalized disabled persons to avail of free rehabilitation services in government hospitals.

SECTION 20. Health Services: The State shall protect and promote the right to health of disabled persons and shall adopt an integrated and comprehensive approach to their health development which shall make essential health services available to them at affordable cost. The National Government shall provide an integrated health service for disabled persons which shall include, but not limited to, the following:

- (a) prevention of disability through immunization, nutrition, environmental protection and preservation, and genetic counselling; and early detection of disability and timely intervention to arrest disabling condition; and

(b) medical treatment and rehabilitation. The Department of Health shall field medical personnel specializing in the treatment and rehabilitation of disabled persons to provincial hospitals and, when viable, to municipal health centers. It shall also train its field health personnel in the provision of medical attention to disabled persons. It shall further ensure that its field health units have the necessary capabilities to fit prosthetic and orthotic appliances on disabled persons.

CHAPTER IV

Auxiliary Social Services

SECTION 21. Auxiliary Social Services: The State shall ensure that marginalized persons are provided with the necessary auxiliary services that will restore their social functioning and participation in community affairs. Toward this end, the Department of Social Welfare and Development shall develop and implement programs on auxiliary social services that respond to the needs of marginalized disabled persons. The components of such a program shall be as follows:

- (a) assistance in the acquisition of prosthetic devices and medical intervention of specialty services;
- (b) provision of specialized training activities designed to improved functional limitations of disabled persons related to communications skills;
- (c) development among disabled persons of a positive self-image through the provision of counselling, orientation and mobility and strengthening daily living capability;
- (d) provision of family care services geared towards developing the capability of families to respond to the needs of the disabled members of the family;
- (e) provision of substitute family care services and the facilities therefore for abandoned, neglected, abused and unattached disabled persons who need custodial care;
- (f) provision of aftercare and follow-up services for the continued rehabilitation in a community-based setting of disabled persons who were released from the residential care or rehabilitation center; and
- (g). provision of day care services for disabled children of preschool age.

CHAPTER V

Telecommunications

SECTION 22. Broadcast Media: Television stations shall be encouraged to provide a sign language inset or subtitles in at least one (1) newscast program a day and special program covering events of national significance.

SECTION 23. Telephone Services: All telephone companies shall be encouraged to install special telephone devices or units for the hearing-impaired and ensure that they are commercially available to enable them to communicate through the telephone system.

SECTION 24. Free Postal Charges for the Disabled: Postal charges shall be free on the following:

- (a) article and literature like books and periodicals, orthopedic and other devices, and teaching aids for the use of the disabled sent by mail within the Philippines and abroad; and
- (b) aids and orthopedic devices for the disabled sent abroad by mail for repair; Provided, That the aforesaid items are for personal purposes only: Provided further, That the disabled person is a marginalized disabled as certified by the Social Welfare and Development Office of the local government unit concerned or the Department of Social Welfare and Development.

CHAPTER VI

Accessibility

SECTION 25. Barrier-Free Environment: The State shall ensure the attainment of a barrier-free environment that will enable disabled persons to have access in public and private buildings and establishments and such other places mentioned in Batas Pambansa Bilang 344, otherwise known as the Accessibility Law. The national and local government shall allocate funds for the provision of architectural or structural features for disabled persons in government buildings and facilities.

SECTION 26. Mobility: The State promotes the mobility of disabled persons. Disabled persons shall be allowed to drive motor vehicles, subject to the rules and regulations issued by the Land Transportation Office pertinent to the nature of their disability and the appropriate adaptations or modifications made on such vehicles.

SECTION 27. Access to Public Transport Facilities: The Department of Social Welfare and Development shall develop a program to assist marginalized disabled persons gain access in the use of public transport facilities. Such assistance may be in the form of subsidized transportation fare. The said department shall also allocate such funds as may be necessary for the effective implementation of the public transport program for the disabled persons. The Accessibility Law as amended, shall be made supplementary to this Act.

SECTION 28. Implementing Rules and Regulations: The Department of Transportation and Communications shall formulate the rules and regulations necessary to implement the provision of this Chapter.

CHAPTER VII

Political and Civil Rights

SECTION 29. System of Voting: Disabled persons shall be allowed to be assisted by a person of his choice in voting in the national or local elections. The person thus chosen shall prepare a ballot for the disabled voter inside the voting booth. The person assisting shall bind himself in a formal document under oath to fill out the ballot strictly in accordance with the instructions of the voter and not to reveal the contents of the ballot prepared by him. Violation of this provision shall constitute an election offense. Polling places should be made accessible to disabled persons during the national or local elections.

SECTION 30. Right to Assemble: Consistent with the provisions of the Constitution, the State shall recognize the right of disabled persons to participate in processions, rallies, parades, demonstrations, public meetings, and assemblages or other forms of mass or concerted action held in public.

SECTION 31. Right to Organize: The State recognizes the rights of disabled persons to form organizations or associations that promote their welfare and advance or safeguard their interests. The National Government, through its agencies, instrumentalities and subdivisions, shall assist disabled persons in establishing self-help organizations by providing them with necessary technical and financial assistance. Concerned government agencies and offices shall establish close linkages with organizations of disabled persons in order to respond expeditiously to the needs of disabled persons. National line agencies and local government units shall assist disabled persons in setting up specific projects that will be managed like business propositions. To ensure the active participation of disabled persons in the social economic development of the country, their organizations shall be encouraged to participate in the planning, organization and management of government programs and projects for disabled persons. Organizations of disabled persons shall participate in the identification and preparation of programs that shall serve to develop employment opportunities for the disabled persons.

TITLE III

PROHIBITION ON DISCRIMINATION AGAINST DISABLED PERSONS

CHAPTER 1

Discrimination on Employment

SECTION 32. Discrimination on Employment: No entity, whether public or private, shall discriminate against a qualified disabled person by reason of disability in regard to job application procedures, the hiring, promotion, or discharge of employees, employee

compensation, job training, and other terms, conditions, and privileges of employment. The following constitute acts of discrimination:

- (a) Limiting, segregating or classifying a disabled job applicant in such a manner that adversely affects his work opportunities;
- (b) Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out a disabled person unless such standards, tests or other selection criteria are shown to be job related for the position on question and are consistent with business necessity;
- (c) Utilizing standards, criteria, or methods of administration that:
 - 1) have the effect of discrimination on the basis of disability; or
 - 2). perpetuate the discrimination of others who are subject to common administrative control;
- (d) Providing less compensation, such as salary, wage or other forms of remuneration and fringe benefits, to a qualified disabled employee, by reason of his disability, than the amount to which a non-disabled person performing the same work is entitled;
- (e) Favoring a non-disabled employee over a qualified disabled employee with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;
- (f) Re-assigning or transferring a disabled employee to a job or position he cannot perform by reason of his disability;
- (g) Dismissing or terminating the services of a disabled employee by reason of his disability unless the employer can prove that he impairs the satisfactory performance of the work involve to the prejudice of the business entities; Provided, however, That the employer first sought provide reasonable accommodations for disabled persons;
- (h) Failing to select or administer in the effective manner employment tests which accurately reflect the skills, aptitude or other factor of the disabled applicant or employee that such test purports to measure, rather than the impaired sensory, manual or speaking skills of such applicant or employee, if any; and
- (i) Excluding disabled persons from membership in labor unions or similar organizations.

SECTION 33. Employment Entrance Examination: Upon an offer of employment, a disabled applicant may be subjected to medical examination, on the following occasions:

- (a) all entering employees are subjected to such an examination regardless of disability;
- (b) information obtained during the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, Provided, however, That:
 - 1) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employees and necessary accommodations;
 - 2) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment;

3) government officials investigating compliance with this Act shall be provided relevant information on request; and

4) the results of such examinations are used only in accordance with this Act.

CHAPTER II

Discrimination on Transportation

SECTION 34. Public Transportation: It shall be considered discrimination for the franchises or operators and personnel of sea, land, and air transportation facilities to charge higher fare or to refuse to convey a passenger, his orthopedic devices, personal effects, and merchandise by reason of his disability.

CHAPTER III

Discrimination on the Use of Public Accommodations and Services

SECTION 35. Public Accommodations and Services: For purposes of this Chapter, public accommodations and services shall include the following:

- (a) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five (5) rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;
- (b) a restaurant, bar or other establishment serving food or drink;
- (c) a motion picture, theater, concert hall, stadium, or other place of exhibition or entertainment;
- (d) an auditorium, convention center, lecture hall, or other place of public gathering;
- (e) a bakery, grocery store, hardware store, shopping center, or other sales or rental establishment;
- (f) a bank, barber-shop, beauty-shop, travel service, funeral parlor, gas station, office of a lawyer, pharmacy, insurance office, professional office of a healthcare provider, hospital or other service establishment;
- (g) a terminal, depot, or other station used for specified public transportation;
- (h) a museum, gallery, library or other place of public display or collection;
- (i) a park, zoo, amusement park, or other place of recreation;
- (j) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(k) a gymnasium, health spa, bowling alley, golf course; or

(l) other places of exercise or recreation.

SECTION 36. Discrimination on the Use of Public Accommodations

(a) No disabled persons shall be discriminated on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation. The following constitute acts of discrimination:

- 1) denying a disabled person, directly through contractual, licensing, or other arrangement, the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity by reason of his disability;
- 2) affording a disabled person, on the basis of his disability, directly or through contractual, licensing, or other arrangement, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other able-bodied persons; and
- 3) providing disability, directly or through contractual, licensing, or other arrangement, with a good, service, facility, advantages, privilege, or accommodation that is different or separate from that provided to other able-bodied persons unless such action is necessary to provide the disabled person with a good, service, facility, advantage, privilege or accommodation, or other opportunity that is as effective as that provided to others;

For the purpose of this section, the term individuals or class individuals refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(b) Integrated Settings: Goods, services, facilities, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(c) Opportunity to Participate: Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(d) Association: It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, advantages, privileges, accommodations or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(e) Prohibitions: For purposes of this Section, the following shall be considered as discriminatory.

1) The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class or individuals with disabilities from fully and equally enjoying and goods, services, facilities, privileges, advantages, accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, or accommodations being offered;

2) A failure to make reasonable modifications in policies, practices, or procedures, when such modification are necessary to afford such goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modification would fundamentally alter the nature of the goods, facilities, services, privileges, advantages, or accommodations;

3) Failure to take steps as may be necessary to ensure that no individual with disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege or would result in undue burden;

4) A failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, where such removal is readily achievable; and

5) Where an entity can demonstrate that the removal of a barrier under clause (4) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

SECTION 37. Use of Government Recreational or Sports Centers

Free of Charge: Recreational or sports centers owned or operated by the Government shall be used, free of charge, by marginalized disabled persons during their social, sports or recreation activities.

SECTION 38. Implementing Rules and Regulations: The Department of Public Works and Highway shall formulate the rules and regulations necessary to implement the provisions of this Chapter.

TITLE IV FINAL PROVISIONS

SECTION 39. Housing Program: The National Government shall take into consideration in its national shelter programs the special housing requirement of disabled persons.

SECTION 40. Role of National Agencies and Local Government Units: Local government units shall promote the establishment of organizations of disabled persons in their respective territorial jurisdictions. National agencies and local government units may enter into joint ventures with organizations or associations of disabled persons to explore livelihood opportunities and other undertakings that shall enhance the health, physical fitness and the economic and social well-being of disabled persons.

SECTION 41. Support From Non-government Organizations: Non-government organizations or private volunteer organizations dedicated to the purpose of promoting and enhancing the welfare of disabled persons shall, as they, are hereby encouraged, become partners of the Government in the implementation of vocational rehabilitation measures and other related programs and projects. Accordingly, their participation in the implementation of said measures, programs and projects is to be extended to all possible support by the Government. The Government shall sponsor a volunteer service program which shall harness the involvement of private individuals in the provision of assistance to disabled persons.

SECTION 42. Tax Incentives:

(a) Any donation, bequest, subsidy or financial aid which may be made to government agencies engaged in the rehabilitation of disabled persons and organizations of disabled persons shall be exempt from the donor's tax subject to the provisions of Section 94 of the National Internal Revenue Code (NIRC), as amended and shall be allowed as deduction from the donor's gross income for purposes of computing the taxable income subject to the provisions of Section 29 (h) of the Code.

(b) Donations from foreign countries shall be exempt from taxes and duties on importation subject to the provisions of Section 105 of the Tariff and Customs Code of the Philippines, as amended, Section 103 of the NIRC, as amended and other relevant laws and international agreements.

(c) Local manufacturing of technical aids and appliances used by disabled persons shall be considered as a preferred area of investment subject to the provisions of Executive Order No. 226 otherwise known as the Omnibus Investments Code of 1987 and, as such, shall enjoy the rights, privileges and incentives as provided in said Code such as, but not limited, to the following:

- 1). repatriation of investments;
- 2). remittance of earnings;
- 3). remittance of payments on foreign contracts;
- 4). freedom from expropriations;
- 5). freedom from requisition of investment;
- 6). income tax holiday;
- 7). additional deduction for labor expense;
- 8). tax and duty exemption on imported capital equipment;

- 9). tax credit on domestic capital equipment;
- 10). exemption from contractor's tax;
- 11). simplification of customs procedures;
- 12). unrestricted use of consigned equipment;
- 13). employment of foreign nationals;
- 14). tax credits for taxes and duties on raw materials;
- 15). access to bonded manufacturing/trading warehouse system;
- 16). exemption from taxes and duties on imported spare parts; and
- 17). Exemption from wharfage dues and any export tax, duty, impost and free.

SECTION 43. Continuity Clause: Should any department or agency tasked with the enforcement or formulation of rules and regulations and guidelines for implementation of any provisions of this Act is abolished, merge with another department or agency or modified, such shall not affect the enforcement or formulation of rules, regulations and guidelines for implementation of this Act to the effect that

(a) In case of abolition, the department or agency established to replace the abolished department or agency shall take-over the functions under this Act of the abolished department or agency.

(b) In case of the department or agency tasked with the enforcement or formulation of rules, regulations and guidelines for implementation of this Act is merged with another department or agency, the former shall continue the functions under this Act of the merged department or agency.

(c) In case of modification, the department or agency modified shall continue the functions under this Act of the department or agency that has undergone modification.

SECTION 44. Enforcement by the Secretary of Justice

(a) Denial of Right

1) Duty to Investigate: The Secretary of Justice shall investigate alleged violations of this Act, and shall undertake periodic reviews of compliance of covered entities under this Act.

(b) Potential Violations: If the Secretary of Justice has reasonable cause to believe that

1) any person or group of persons is engaged in a pattern of practice of discrimination under this Act; or

2) any person or group of persons has been discriminated against under this Act and such discrimination raises an issue of general public importance, the Secretary of Justice may commence a legal action in any appropriate court.

SECTION 45. Authority of Court: The court may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this Act:

- (a) granting temporary, preliminary or permanent relief;
- (b) providing an auxiliary aid or service, modification of policy, practice or procedure, or alternative method; and
- (c) making facilities readily accessible to and usable by individuals with disabilities.

SECTION 46. Penal Clause:

(a) Any person who violates any provision of this Act shall suffer the following penalties:

- 1) for the first violation, a fine of not less than Fifty thousand pesos (P 50,000.00) but not exceeding One hundred thousand pesos (P 100,000.00) or imprisonment of not less than six (6) months but not more than two (2) years, or both at the discretion of the court; and
- 2) for any subsequent violation, a fine of not less than One hundred thousand pesos (P 100,000.00) but not exceeding Two hundred thousand pesos (P 200,000.00) or imprisonment for less than two (2) years but not more than six (6) years, or both at the discretion of the court.

(b). Any person who abuses the privileges granted herein shall be punished with imprisonment of not less than six (6) months or a fine of not less than Five thousand pesos (P 5,000.00) but not more than Fifty thousand pesos (P 50,000.00), or both, at the discretion of the court.

(c). If the violator is a corporation, organization or any similar entity, the officials thereof directly involved shall be liable therefor.

(d). If the violator is an alien or a foreigner, he shall be deported immediately after service of sentence without further deportation proceedings.

SECTION 47. Appropriations: The amount necessary to carry out the provision of this Act shall be included in the General Appropriation Act of the year following its enactment into law and thereafter.

SECTION 48. Separability Clause: Should any provision of this Act be found unconstitutional by a court of law, such provisions shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of this Act.

SECTION 49. Repealing Clause: All laws, presidential decrees, executive orders and rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 50. Effectivity: This Act shall take effect fifteen (15) days after its publication in any two (2) newspapers of general circulation.