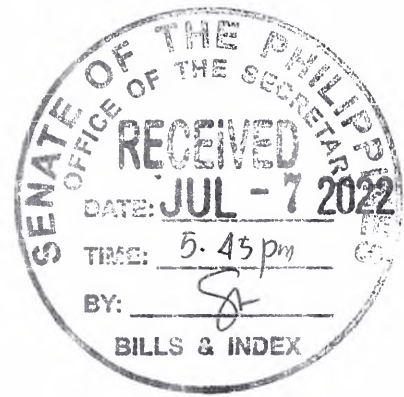


**NINETEENTH CONGRESS OF THE }  
REPUBLIC OF THE PHILIPPINES }  
First Regular Session }**



**SENATE**  
S.B. No. 215

Introduced by: **Senator Raffy T. Tulfo**

**"AN ACT REDEFINING THE CRIME OF ILLEGAL RECRUITMENT COMMITTED BY A SYNDICATE, AMENDING FOR THE PURPOSE ARTICLE 38 OF PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE "LABOR CODE OF THE PHILIPPINES", AS AMENDED AND SECTION 6 OF REPUBLIC ACT 10022 OTHERWISE KNOWN AS THE MIGRANT WORKERS ACT, AS AMENDED"**

**EXPLANATORY NOTE**

According to the International Organization for Migration (IOM), the Philippines is one of the top labor-sending countries worldwide. The exodus of Filipinos trying to secure better career opportunities overseas, unfortunately, also opened the door to illegal recruiters with only one ruthless objective – deceive, extract money and leave jobseekers with empty promises. <sup>1</sup>

Filipinos are also considered to be vulnerable to illegal international recruitment because of our fair grasp of the English language, ability to adapt and understand other languages, access to internet-based information and our "positive disposition" and "unassuming behavior which acquire less attention from police of airport authorities."<sup>2</sup>

Illegal recruitment comes in different forms. Traditionally, illegal recruitment ranges from recruiting workers to non-existent jobs, collecting placement fees for jobs

<sup>1</sup> Baclig, Cristina Eloisa. 12 November 2021. *Illegal recruiters know no pandemic, continue to prey on OFWs*. Retrieved from: <https://newsinfo.inquirer.net/1514015/for-posting-edited-illegal-recruiters-know-no-pandemic-continue-to-prey-on-ofws>

<sup>2</sup> Hofilena, Chay F. Rappler. 1 May 2015. *Drug syndicates use social media for recruitment*. Retrieved from <https://www.rappler.com/newsbreak/in-depth/91706-drug-syndicates-social-media-recruitment>

which are not actually allowed in certain countries, deployment of workers without POEA permits, including leaving the country as “tourists”, with complimentary plane tickets and hotel accommodations. In recent months however, numerous schemes have been perpetrated through social media platforms. Such were in the form of text schemes, online household worker recruitment, travel and tours scams, and direct hiring that does not seek exemption from the prohibition of the Labor Code. “These advertisements proliferate on Facebook, with seemingly legitimate offers, but are actually nonexistent jobs for the unknowing clients,” according to Philippine Overseas Employment Administration (POEA) director Levinson Alcantara.<sup>3</sup>

POEA data shows, according to Director Alcantara, that “There [was] a steady indication that even during the time of COVID-19, illegal, unethical and unfair ways of recruitment have continued.”<sup>4</sup>

Illegal recruitment is generally perpetrated by a syndicate, a term defined in our jurisdiction as a group of three or more persons formed with the intention of carrying out any or illegal transaction, enterprise or scheme.

Under the present set up, persons accused of illegal recruitment by a syndicate may evade the penalty of life imprisonment and a fine of not less than Two million pesos (₱2,000,000.00) nor more than Five million pesos (₱5,000,000.00) as provided under R.A. No. 8042, as amended by R.A. No. 10022, by simply alleging that the victim failed to establish that the crime was carried out by a group of three (3) or more persons conspiring or confederating with one another.

This proposed bill seeks to amend the definition of syndicate by lowering the number of perpetrators from three to two persons to qualify the act as illegal recruitment by a syndicate.

With the continued proliferation of illegal recruitment based on post-pandemic data, it has become more critical than ever to adopt stricter measures to protect our

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<sup>3</sup> Bacilig, Cristina Eloisa. 12 November 2021. *Illegal recruiters know no pandemic, continue to prey on OFWs*. Retrieved from: <https://newsinfo.inquirer.net/1514015/for-posting-edited-illegal-recruiters-know-no-pandemic-continue-to-prey-on-ofws>

<sup>4</sup> *Id.*

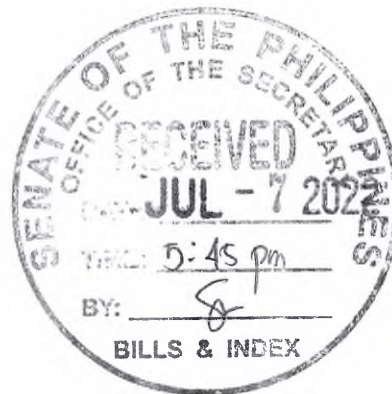
Filipino migrant workers and provide them with a stronger shield from unfair labor practices and injustice.

It is for this purpose that the approval of this bill is earnestly sought.



**Raffy T. Tulfo**  
**Senator**

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

1 SECTION 1. Article 38 of Presidential Decree No. 442, otherwise known as the  
2 "Labor Code of the Philippines," as amended is hereby further amended to read as  
3 follows:

4 "Article 38. Illegal Recruitment. – (a) Any recruitment  
5 activities, including the prohibited practices enumerated under Article  
6 34 of this Code, to be undertaken by non- licensees or non-holders of  
7 authority, shall be deemed illegal and punishable under Article 39 of  
8 this Code. Department of Labor and Employment or any enforcement  
9 officer may initiate complaints under this Article.

10 "(b) Illegal recruitment when committed by a syndicate or in  
11 large scale shall be considered an offense involving economic  
12 sabotage and shall be penalized in accordance with Article 39 hereof.

1 "Illegal recruitment is deemed committed by a syndicate if  
2 carried out by a group of **TWO (2)** [~~three (3)~~] or more persons  
3 conspiring and/or confederating with one another in carrying out any  
4 unlawful or illegal transaction, enterprise or scheme defined under  
5 the first paragraph hereof. Illegal recruitment is deemed committed  
6 in large scale if committed against three (3) or more persons  
7 individually or as group."

8 "(c) The Secretary of Labor and Employment or his duly  
9 authorized representatives shall have the power to cause the arrest  
10 and detention of such non-licensee or non-holder of authority if after  
11 investigation it is determined that his activities constitute a danger to  
12 national security and public order or will lead to further exploitation  
13 of job-seekers. The Secretary shall order the search of the office or  
14 premises and seizure of documents, paraphernalia, properties and  
15 other implements used in illegal recruitment activities and the closure  
16 of companies, establishments and entities found to be engaged in the  
17 recruitment of workers for overseas employment, without having  
18 been licensed or authorized to do so."

19 Sec. 2. Section 6 of Republic Act No. 8042, otherwise known as the "Migrant  
20 Workers and Overseas Filipinos Act of 1995," as amended by R.A. 10022, is hereby  
21 further amended to read as follows:

22 "*SEC. 6. Definition.* - For purposes of this Act, illegal  
23 recruitment shall mean any act of canvassing, enlisting, contracting,  
24 transporting, utilizing, hiring, or procuring workers and includes  
25 referring, contract services, promising or advertising for employment  
26 abroad, whether for profit or not, when undertaken by non-licensee  
27 or non-holder of authority contemplated under Article 13(f) of  
28 Presidential Decree No. 442, as amended, otherwise known as the  
29 Labor Code of the Philippines: Provided, That any such non-licensee  
30 or non-holder who, in any manner, offers or promises for a fee

1 employment abroad to two or more persons shall be deemed so  
2 engaged. It shall likewise include the following acts, whether  
3 committed by any person, whether a non-licensee, non-holder,  
4 licensee or holder of authority:

5 "(a) To charge or accept directly or indirectly any amount  
6 greater than that specified in the schedule of allowable fees  
7 prescribed by the Secretary of Labor and Employment, or to make a  
8 worker pay or acknowledge any amount greater than that actually  
9 received by him as a loan or advance;

10 X X X

11 "(m) Failure to reimburse expenses incurred by the worker in  
12 connection with his documentation and processing for purposes of  
13 deployment, in cases where the deployment does not actually take  
14 place without the worker's fault. Illegal recruitment when committed  
15 by a syndicate or in large scale shall be considered an offense  
16 involving economic sabotage; and

17 "(n) To allow a non-Filipino citizen to head or manage a  
18 licensed recruitment/manning agency.

19 "Illegal recruitment is deemed committed by a syndicate if  
20 carried out by **TWO (2)** [~~three (3)~~] or more persons conspiring or  
21 confederating with one another. It is deemed committed in large scale  
22 if committed against three (3) or more persons individually or as a  
23 group.

24 X X X

25 "The filing of an offense punishable under this Act shall be  
26 without prejudice to the filing of cases punishable under other existing  
27 laws, rules or regulations."

1           Sec. 3. *Separability Clause.* – If any provision or part hereof, is held invalid or  
2 unconstitutional, the remainder of the law or the provision not otherwise affected shall  
3 remain valid and subsisting.

4           Sec. 4. *Repealing Clause.* – Any law, presidential decree or issuance, executive  
5 order, letter of instruction, administrative order, rule or regulation contrary to or is  
6 inconsistent with the provision of this Act is hereby repealed, modified, or amended  
7 accordingly.

8           Sec. 5. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
9 publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,