AN ACT
GRANTING EMPLOYEES THE RIGHT TO DISCONNECT FROM WORK-RELATED ELECTRONIC COMMUNICATIONS AFTER WORK HOURS, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED

EXPLANATORY NOTE

Technology has played a great role in the advances of labor and employment in the economy. However, amidst the challenges posed by the COVID-19 pandemic, the lines that separate work-related tasks from home-related concern have blurred. The unfortunate situation has surfaced labor issues that pre-date work-from-home setups: the right to limited working hours and “the right to disconnect”.

Article 24 of the Universal Declaration of Human Rights enshrines the right to limited working hours, stating that “everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”

In relation to this, the International Labour Organization (ILO) notably reported the case of a man working in a major snack food processing company in Japan who has worked for as many as 110 hours a week, and died from a heart attack at the age of 34. In an attempt to diminish the risks of “burnouts” or the physical, psychological, and emotional distress caused by a total inability to rest and diminished work-family balance, the Government of France adopted a labor law that, among other provisions, included a right to disconnect. Under the right to disconnect, employees do not have to take calls or read emails related to work during their time off.
As a country that values the well-being of its people and the labor force, the State has a legal obligation to ensure the right to safe and healthy working conditions, the right to limited working hours and paid holidays, and in turn, the right to disconnect as important labor rights.

This bill recognizes that working excessive hours pose a danger to workers’ health and to their families. Thus, this legislation shall grant employees the right to disconnect from work-related electronic communications after work hours, amending for the purpose Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended.

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

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

SECTION 1. Short Title. – This Act shall be known as the “Workers’ Right to Disconnect Act”.

SECTION 2. Amendatory Provision. – Article 84 of Presidential Decree No. 442, as amended, is hereby amended to read as follows:

    Article 84. Hours worked. Hours worked shall include (a) all time during which an employee is required to be on duty or to be at a prescribed workplace; and (b) all time during which an employee is suffered or permitted to work, INCLUDING TIME SPENT READING AND RESPONDING TO WORK-RELATED COMMUNICATIONS SENT THROUGH ELECTRONIC MEANS, INCLUDING BUT NOT LIMITED TO E-MAIL, SHORT MESSAGING SERVICES (SMS), AND MOBILE PHONE CALLS, AFTER WORKING HOURS.

    Rest periods of short duration during working hours shall be counted as hours worked.
SECTION 3. A new Article 84-A is hereby inserted after Article 84 of the same law to read as follows:

   ARTICLE 84-1. RIGHT TO DISCONNECT. – AN EMPLOYEE SHALL NOT BE REPRIMANDED, PUNISHED, OR OTHERWISE SUBJECTED TO DISCIPLINARY ACTION IF HE OR SHE DISREGARDS A WORK-RELATED COMMUNICATION SENT AFTER WORK-HOURS, SUBJECT TO THE TERMS AND CONDITIONS OF THE POLICY TO BE ESTABLISHED BY THE EMPLOYER AS REQUIRED IN ARTICLE 85-B HEREOF.

SECTION 4. A new Article 84-B is hereby inserted after Article 84 of the same law to read as follows:

   ARTICLE 84-B. POLICY ON AFTER-HOURS USE OF TECHNOLOGY. – IT SHALL BE THE DUTY OF EVERY EMPLOYER TO ESTABLISH THE HOURS WHEN EMPLOYEES ARE NOT SUPPOSED TO SEND OR ANSWER WORK-RELATED EMAILS, TEXTS, OR CALLS. THE EMPLOYER SHALL DETERMINE THE CONDITIONS AND EXEMPTIONS THEREFROM, SUBJECT TO SUCH RULES AND REGULATIONS AS THE SECRETARY OF LABOR AND EMPLOYMENT MAY PROVIDE.

SECTION 5. Implementing Rules and Regulations. – Within ninety (90) days from the effectivity of this Act, the Secretary of the Department of Labor and Employment shall, in coordination with other stakeholders, issue the necessary rules and regulations for the effective implementation of this Act.

SECTION 6. Separability Clause. – If, for any reason, any provision of this Act is declared unconstitutional or invalid, parts or provisions of this Act which are not affected shall continue to be in full force and effect.

SECTION 7. Repealing Clause. – All laws, executive orders, presidential decrees, Implementing Rules and Regulations inconsistent with this Act are hereby repealed or modified accordingly.

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

Approved,