



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 54
Tuesday, January 25, 2011

FIFTEENTH CONGRESS
FIRST REGULAR SESSION

SESSION NO. 54
Tuesday, January 25, 2011

CALL TO ORDER

At 3:40 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

PRAYER

Sen. Ferdinand R. Marcos Jr. led the prayer, to wit:

Thank You, Lord, for gathering us all here today.

Bless us with wisdom, competence, and genuine passion in all the things we do.

But even more, bless us with patience, selflessness and compassion.

Use us today as instruments of Your unity and Your peace.

When we have food, help us to remember the hungry.

When we have work, help us remember the jobless.

When we have a home, help us remember the homeless.

When we are without pain, help us to remember those who suffer.

And in remembering, help us to destroy our complacency and once again bestir our compassion.

We offer up to You today all our plans and endeavors for the betterment of our country and our people.

Prosper the work of our hands and bless us with Your favor.

Amen.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Atty. Emma Lirio-Reyes, called the roll, to which the following senators responded:

Angara, E. J.	Legarda, L.
Arroyo, J. P.	Marcos Jr., F. R.
Cayetano, P. S.	Osmeña III, S. R.
Ejercito Estrada, J.	Pangilinan, F. N.
Enrile, J. P.	Recto, R. G.
Escudero, F. J. G.	Revilla Jr., R. B.
Guingona III, T. L.	Sotto III, V. C.
Honasan, G. B.	Trillanes IV, A. F.
Lapid, M. L. M.	Zubiri, J. M. F.

With 18 senators present, the Chair declared the presence of a quorum.

Senator Villar arrived after the roll call.

Senators Cayetano (A) and Drilon were on official business.

Senator Defensor Santiago was on sick leave.

Senator Lacson was absent.

16

APPROVAL OF THE JOURNAL

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 53 (January 24, 2011) and considered it approved.

At this juncture, Senate President Enrile relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the following guests:

- Cong. Bernardo M. Vergara of Baguio City;
- Mayor Angie Casubuan of Naujan, Oriental Mindoro
- Vice Mayor Norman Aguilar of Mercedes, Camarines Norte;
- Mayor Alen Acaín of Initao, Misamis Oriental;
- Mayor Rosauro Masilang of Sariaya, Quezon;
- Mayor Ferdinand Maliwanag of Candelaria, Quezon;
- Mayor Renato Alilio of Dolores, Quezon;
- Mayor Aniano Ariel Wagan of San Antonio, Quezon; and
- Barangay officials of General Tinio, Nueva Ecija.

Senate President Pro Tempore Ejercito Estrada welcomed the guests to the Senate.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

BILLS ON FIRST READING

Senate Bill No. 2645, entitled

AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 386 OR THE CIVIL CODE AS AMENDED

Introduced by Senator Escudero

To the Committee on Constitutional Amendments, Revision of Codes and Laws

Senate Bill No. 2646, entitled

AN ACT DEFINING THE OFFENSE OF CARNAPPING BY A SYNDICATE AND INCREASING THE PENALTY FOR THE OFFENSE OF CARNAPPING THEREBY AMENDING REPUBLIC ACT NO. 6539 OTHERWISE KNOWN AS THE "ANTI-CARNAPPING ACT OF 1972" AND FOR OTHER RELATED PURPOSES

Introduced by Senator Trillanes IV

To the Committees on Public Order and Dangerous Drugs; and Constitutional Amendments, Revision of Codes and Laws

Senate Bill No. 2647, entitled

AN ACT TO PROTECT ALL AGRICULTURAL LANDS FROM INDISCRIMINATE LAND CONVERSION, AMENDING SECTION 20 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS LOCAL GOVERNMENT CODE, FOR THIS PURPOSE

Introduced by Senator Defensor Santiago

To the Committees on Agrarian Reform; and Local Government

Senate Bill No. 2648, entitled

AN ACT INSTITUTIONALIZING SCHOLARSHIP GRANTS TO THE CHILDREN OF MEMBERS OF THE PHILIPPINE NATIONAL POLICE

Introduced by Senator Defensor Santiago

To the Committees on Public Order and Dangerous Drugs; Education, Arts and Culture; and Finance

Senate Bill No. 2649, entitled

AN ACT TO PROHIBIT THE ESTABLISHMENT OF POLITICAL DYNASTIES

Introduced by Senator Defensor Santiago

To the Committee on Constitutional Amendments, Revision of Codes and Laws

Senate Bill No. 2650, entitled

AN ACT TO DIRECT THE SECRETARY OF LABOR AND EMPLOYMENT TO REVISE REGULATIONS CONCERNING THE RECORDING AND REPORTING OF OCCUPATIONAL INJURIES AND ILLNESSES

Introduced by Senator Defensor Santiago

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 2651, entitled

AN ACT INCREASING THE PENALTY FOR THE CRIME OF CARNAPPING AMENDING FOR THAT PURPOSE SECTION 14 OF REPUBLIC ACT NO. 6539

Introduced by Senator Escudero

To the Committees on Public Order and Dangerous Drugs; and Constitutional Amendments, Revision of Codes and Laws

Senate Bill No. 2652, entitled

AN ACT PROHIBITING THE DISCRIMINATION ON THE EMPLOYMENT OF ANY INDIVIDUAL ON THE BASIS MERELY OF AGE

Introduced by Senator Cayetano (P.)

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 2653, entitled

AN ACT EARMARKING FIFTY PERCENT (50%) OF PHILHEALTH'S EXCESS RESERVE FUNDS TO FUND PUBLIC HEALTHCARE INFRASTRUCTURE DEFICIT, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7875,

OTHERWISE KNOWN AS "AN ACT INSTITUTING A NATIONAL HEALTH INSURANCE PROGRAM FOR ALL FILIPINOS AND ESTABLISHING THE PHILIPPINE HEALTH INSURANCE CORPORATION"

Introduced by Senator Recto

To the Committees on Health and Demography; and Banks, Financial Institutions and Currencies

RESOLUTIONS

Proposed Senate Resolution No. 340, entitled

RESOLUTION CONGRATULATING AND COMMENDING FILIPINO MODEL DANICA FLORES MAGPANTAY FOR WINNING THE PRESTIGIOUS 2011 FORD MODELS SUPERMODEL OF THE WORLD ON 22 JANUARY 2011 IN NEW YORK CITY, UNITED STATES OF AMERICA

Introduced by Senator Lapid

To the Committee on Rules

Proposed Senate Resolution No. 341, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NEED TO ADDRESS THE LACK OF FORMAL INVESTIGATIVE TRAINING OF MEMBERS OF THE PHILIPPINE NATIONAL POLICE (PNP)

Introduced by Senator Defensor Santiago

To the Committee on Public Order and Dangerous Drugs

Proposed Senate Resolution No. 342, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED

for

INCIDENTS OF DEATH AND HARASSMENT AGAINST GOVERNMENT ANTI-ILLEGAL LOGGING AGENTS COMMITTED BY ARMED MEN ALLEGEDLY LINKED TO ILLEGAL LOGGING OPERATORS

Introduced by Senator Defensor Santiago

To the Committees on Public Order and Dangerous Drugs; and Environment and Natural Resources

Proposed Senate Resolution No. 343, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED THEFT OF FLOOD WARNING EQUIPMENT IN THE AGNO AND TARLAC WEATHER STATIONS

Introduced by Senator Defensor Santiago

To the Committee on Justice and Human Rights

Proposed Senate Resolution No. 344, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NEED TO CURTAIL THE PREVAILING PRACTICE OF LOANING COMPANIES AND FINANCIAL INSTITUTIONS OF DELAYING COLLECTIONS IN ORDER TO INCREASE THE INTEREST DUE ON A DEBTOR'S OBLIGATION

Introduced by Senator Defensor Santiago

To the Committees on Banks, Financial Institutions and Currencies; and Trade and Commerce

Proposed Senate Resolution No. 345, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT

AN INQUIRY, IN AID OF LEGISLATION, ON THE LACUNA IN THE CLIMATE CHANGE ACT, WHICH CONTRIBUTES TO THE LAW'S INSUFFICIENCY IN MITIGATING THE ADVERSE EFFECTS OF CLIMATE CHANGE

Introduced by Senator Defensor Santiago

To the Committee on Climate Change

Proposed Senate Resolution No. 346, entitled

RESOLUTION COMMENDING THE PHILIPPINE NATIONAL FOOTBALL TEAM, OTHERWISE KNOWN AS THE AZKALS, FOR THE FAIR PLAY AWARD THEY RECEIVED DURING THE 2010 AFF SUZUKI CUP

Introduced by Senator Revilla Jr.

To the Committee on Rules

Proposed Senate Resolution No. 347, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE IMPLEMENTATION OF REPUBLIC ACT NO. 8799 WHICH HAS RESULTED IN UNDUE DELEGATION, MONOPOLY AND RESTRAINT OF TRADE AND VIOLATION OF OTHER RELATED LAWS SUCH AS THE GENERAL BANKING LAW AND THE SECRECY OF BANK DEPOSITS ACT WITH THE END IN VIEW OF ENACTING LEGISLATIVE MEASURES TO ADDRESS THE SAME AND PROTECT NATIONAL AND FINANCIAL SECURITY, AND THE INVESTING PUBLIC

Introduced by Senator Escudero

To the Committee on Banks, Financial Institutions and Currencies

Proposed Senate Resolution No. 348, entitled

RESOLUTION URGING THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE STATE AND EXTENT OF DEFORESTATION IN THE PHILIPPINES AND FORMULATE POLICIES AND PROGRAMS TO CURB ITS EFFECTS WHILE INITIATING REFORESTATION EFFORTS

Introduced by Senator Villar

To the Committee on Environment and Natural Resources

Proposed Senate Resolution No. 349, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE/S TO CONDUCT AN INQUIRY IN AID OF LEGISLATION INTO THE OWNERSHIP, CONTROL AND OPERATION OF THE METRO RAIL TRANSIT III PROJECT (MRT 3) WITH THE END IN VIEW OF ENACTING LEGISLATIVE MEASURES TO ADDRESS THE SAME

Introduced by Senator Escudero

To the Committee on Public Services

COMMUNICATION

Letter from the *Vanguard Radio Network Co., Inc.*, dated 11 January 2011, informing the Senate of the company's compliance with the requirements of Republic Act Nos. 7529 and 8069.

To the Committee on Public Services

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 5 on Senate Bill No. 1052 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 5 ON SENATE BILL NO. 1052

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 1052 (Committee Report No. 5), entitled

AN ACT AMENDING ARTICLE 26 OF EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, AS AMENDED.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Sotto, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Cayetano (P) for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR CAYETANO (P)

In presenting Senate Bill No. 1052 for plenary consideration, Senator Cayetano (P) delivered the following speech:

I rise to sponsor Senate Bill No. 1052 under Committee Report No. 5, entitled "AN ACT AMENDING ARTICLE 26 OF EXECUTIVE ORDER NO. 209 OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, AS AMENDED."

It has been two decades since the Family Code of the Philippines took effect on August 3, 1988. Throughout the decades, there have been significant developments in Philippine legislation and jurisprudence. As such, the Committee on Youth, Women and Family Relations consulted with family law experts and conducted a hearing to review and fill in the gaps or inadequacies of certain provisions in the Family Code as a result of said developments.

There are a number of amendments that need to be presented on the floor. I will present these amendments individually.

The proposed amendments subject of this Committee Report are on Article 26 which allows a Filipino to contract a subsequent marriage in cases where divorce is validly obtained abroad by his or her alien spouse.

Discriminatory to Filipino spouses

Paragraph 2 of Article 26 of the Family Code states:

“Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under Philippine law.”

Based on this Article, if the marriage of a Filipino citizen and a foreigner results in divorce which allows the alien spouse to remarry, the Filipino spouse shall be able to remarry. Records show that the intention of the framers of this law was to allow the Filipino spouse to remarry once the foreign spouse had obtained a foreign divorce.

The law, however, as presently worded, has created much confusion because some judges require that, in addition to the divorce decree obtained abroad, a statement in the divorce decree or a separate certification that the foreign spouse is capacitated to remarry, is presented. *Para maliwanag, ang problema po natin ay ang pagkakaintindi ng ibang huwes sa probisyon na ito ng batas na liban doon sa decree ng divorce, nangangailangan pa sila ng hiwalay na certification o hiwalay na statement na may capacity to remarry.*

This has proven difficult for many Filipinos because divorce decrees are worded differently all over the world. Some provide that the marriage is dissolved, others state that the divorce is granted. Many do not include an explicit statement that the parties are allowed to remarry because this is already implicit in any decree in divorce. Since the marriage ties are dissolved, it necessarily follows that the parties are free to remarry.

It is interesting to note that during the time the Family Code was drafted, many Filipinos with alien spouses would go to the Dominican Republic to obtain divorce decrees. The dispositive portion of their divorce decree states that the spouses are divorced and that they are now capacitated to remarry. Article 26 followed the wording style of the divorce decree issued by the Dominican Republic, hence, the problems and the confusion that later on arose.

Guide for Judges in Interpreting Foreign Divorce Decrees

Given all the foregoing, a reasonable reading

of the law should be that a Filipino spouse who has been legally divorced by his or her alien spouse in a foreign country where divorce is allowed should be allowed to remarry regardless “the alien spouse is capacitated to marry according to the laws of his or her country of origin because, as I stated earlier, this is already implicit in any decree of divorce.”

Conclusion

To put Filipino and alien spouses on equal footing and prevent unintentional discrimination against our fellow countrymen, it is necessary that Article 26 should be amended by removing “the alien spouse’s capacity to remarry after the divorce as a requisite for the Filipino spouse’s ability to remarry.”

In other words, paragraph 2 of Article 26 should simply read as follows:

Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse, the Filipino spouse shall have the capacity to remarry under the law.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1052

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 6 on Senate Bill No. 480 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 6 ON SENATE BILL NO. 480

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 480 (Committee Report No. 6), entitled

AN ACT AMENDING EXECUTIVE ORDER NO. 209 OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, ARTICLE III.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Sotto, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Cayetano (P) for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR CAYETANO (P)

In presenting Senate Bill No. 480 for plenary consideration, Senator Cayetano (P) delivered the following speech:

I rise to sponsor Senate Bill No. 480 under Committee Report No. 6, entitled "AN ACT AMENDING ARTICLE 111 OF EXECUTIVE ORDER NO. 209 OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES."

This is the second of a series of bills that the Committee on Youth, Women and Family Relations will present seeking to amend several provisions of the Family Code. Since the Family Code took effect in 1988, numerous laws governing family relations have been enacted, some affecting and even amending or superseding several provisions contained in the Code.

One of these provisions is Article 111 which reads:

A spouse of age may mortgage, encumber, alienate or otherwise dispose of his or her exclusive property, without the consent of the other spouse, and appear alone in court to litigate with regard to the same.

We should recall that at the time the Family Code came into effect in 1988, the majority age was 21 years. Since emancipation takes place upon attainment of majority age, at that time, it was possible to have a situation wherein a person aged 18, 19, or 20 was married but not yet "of legal age." Consequently, the framers of the Code felt the need to specify under Article 111 that a spouse must be of age before he or she can dispose of his or her exclusive property.

However, on December 13, 1989, the age of majority was lowered to 18 years by virtue of Republic Act No. 6908. This law affected all Family Code provisions relating to the age of majority and explicitly amended several provisions of the Family Code.

As a result, certain words in Article 111 have become superfluous because the marriageable age is now the same as the age of emancipation — that is 18. All married persons should now be able to mortgage, encumber, alienate or otherwise dispose of his or her exclusive property without the consent of the other spouse.

Thus, the phrase "spouse of age" in Article 111 should be replaced with the more accurate phrase "either spouse" since at present, a person must necessarily be of age to be a spouse.

For the same reason, the last phrase of Article 111, which states: "without the consent of the other spouse and appear alone in court to litigate with regard to the same" should also be deleted. However, the deletion of this last phrase, let me emphasize, should not mean that consent from the other spouse is needed. Article 111 should read as follows:

Article 111. Either spouse may mortgage encumber, alienate, or otherwise dispose of his or her exclusive property.

These very simple amendments simply meant to clarify what Article 111 of the Family Code was intended to mean and to make it consistent with existing laws, specifically R.A. No 6908 which lowered the age of majority to 18. For these reasons, I urge the immediate approval of Senate Bill No. 480 under Committee Report No. 6.

MANIFESTATION OF SENATOR EJERCITO ESTRADA

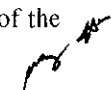
As coauthor of Senate Bill No. 480, Senator Ejercito Estrada submitted his manifestation of support for the bill to be inserted into the Journal and Record of the Senate.

Following is the full text of the manifestation:

MANIFESTATION OF SUPPORT

This Representation, as the author of Senate Bill No. 480, would like to manifest his unqualified and wholehearted support to the recommendation of the Committees on Youth, Women and Family Relations; and Constitutional Amendments, Revision of Codes and Laws, to approve the said bill, with amendments, as contained in Committee Report No. 6.

This measure is simple but appropriate amendment to Article 111 of Executive Order No. 209, also known as the Family Code of the



Philippines, seeking to promote clarity and consistency in our laws.

I am genuinely thankful to the Chairperson of the Committee on Youth, Senator Pia Cayetano, for giving valuable merit to this proposed legislation and including it among the bills prioritized to be reported out by the Committee. I am urging all my colleagues in this Chamber to support the same.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 480

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

COMMITTEE REPORT NO. 1 ON SENATE BILL NO. 2486 (Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2486 (Committee Report No. 1), entitled

AN ACT TO STRENGTHEN AND
PROPAGATE FOSTER CARE FOR
ABUSED, ABANDONED, NEGLECTED
AND OTHER CHILDREN WITH
SPECIAL NEEDS, PROVIDING
APPROPRIATIONS THEREFOR
AND FOR OTHER PURPOSES.

Senator Sotto stated that the parliamentary status was still the period of interpellations.

Thereupon, the Chair recognized Senator Cayetano (P), Sponsor of the measure, and Senator Sotto for his interpellation.

INTERPELLATION OF SENATOR SOTTO

Senator Sotto expressed his full support for the measure, as he believed that the right of children to assistance, proper care, nutrition, special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions which are prejudicial to their development must be upheld.

Asked for the guidelines that the bill provides aimed at protecting the best interest of the child, Senator Cayetano (P) pointed out that Section 5 of

the bill requires that an applicant for foster care must be of legal age and of good moral character; must be emotionally mature; physically and mentally capable; must have enough resources to provide for the needs of the family; must have a healthy and harmonious relationship with his or her family members; must have a genuine interest, capacity and commitment in parenting, and is able to provide a family atmosphere for the foster child; and must be willing to be trained by experts who will further hone his or her skills as a foster parent.

Further, Senator Cayetano (P) stated that Article III (*Procedure*) provides for a procedure that must be strictly implemented, and for one to be qualified as a foster parent, a number of documentation requirements must be complied with, such as:

- The DSWD shall submit a Home Study Report on an applicant's background and circumstances to be carried out in a series of visits and interviews to ensure the certainty of their qualifications;
- If the applicant passed the home study test, he or she will be issued a Foster Family Care License which is renewable every three (3) years unless earlier revoked by the DSWD;
- A specific machine system will be used to match the foster parent with the child;
- Before the physical transfer of the child to the foster parent, Foster Placement Authority must first be issued; and
- A supervised foster placement will take place once the foster parent receives the child, which means that the social worker shall continuously oversee the parenting of the foster parent.

In addition, Senator Cayetano (P) stated that the the LGUs, which would be playing an active role, shall be responsible for the implementation of the foster care system and promotion of foster care as an alternative to institutionalization, i.e. orphanages.

Asked whether the applicants for foster care parenting would undergo a special training program, Senator Cayetano (P) replied in the affirmative, saying that this is one of the vital features of the measure. She also stated that under the bill, the Regional Welfare Specialists Group of the DSWD shall review and deliberate the situation of every child to ensure that the child is continually monitored

from the regional level. She stressed that there must be a matching process because there are different kinds of children who need foster care, i.e. a physically abused child, a sexually abused child, or a child who lost his/her parents to a tragic accident.

Asked who would undertake the matching process, Senator Cayetano (P) referred to Section 9 (*Matching*) which states that the matching shall be done by the Agency only after it has conducted the child case study report to determine the child's needs as well as the home study report, which shall establish the foster parent's capacity and resources to provide him/her with a safe, secure and loving home. She underscored the importance of ensuring that the foster parent could identify and meet the needs of the child.

Senator Sotto clarified that he asked about the matching program because in drug rehabilitation programs, there is the mistaken notion that all drug dependents should undergo the same rehabilitation programs, even if, in fact, none of these programs could meet their individual needs. As such, he stressed the importance of treatment-matching program that is specific to a person.

In a related matter, Senator Cayetano (P) noted that even victims of child trafficking would also benefit from the measure because they, as well as victims of drug abuse, fall under the definition of a child in need. However, she said that proper matching would also be necessary since indeed, victims of human trafficking and drug abuse have different needs.

Senator Sotto expressed concern that the bill might also be abused by perpetrators of human trafficking who have been exploiting the Adoption Act. He asked if Senate Bill No. 2486 provides safeguards against possible abuses. In reply, Senator Cayetano (P) cited the pending amendments to the Anti-Trafficking bill which has specific provisions that seek to protect infants who will be taken by foster parents in the guise of adoption but really intend to sell them. She expressed willingness to accept amendments that would address this issue at the proper time.

Asked whether the bill includes the rights and duties of a foster parent to a child and vice versa, Senator Cayetano (P) said that although the bill does

not include such provisions, Section 5 (*Who May Be A Foster Parent*) lists the qualifications of a foster parent as one who should have good moral character, maturity, genuine interest, capacity and commitment in parenting. She stressed that under the bill, the foster parent has the primary responsibility to provide a healthy and harmonious family life to meet the special needs of the child. However, she said that a separate provision for the rights and obligations of foster parents could also be incorporated in the measure.

As regards the accountability of the foster parent to the Agency, Senator Cayetano (P) cited Section 5(e) which states that the foster parent must be willing to be trained to further hone his knowledge, attitudes and skills in caring for a child, as well as Section 7 (*Submission of Home Study Report*) which requires him to submit himself to the home study report as part of the process for accreditation.

On whether the bill allows the child to rescind foster care, Senator Cayetano (P) explained that if the foster parent is not able or unwilling to provide the quality of care needed by the child, then the DSWD can withdraw the child. She clarified that the DSWD follows internal guidelines in such situations even though the bill does not have specific provisions enumerating the grounds pertaining to rescission. Senator Sotto confirmed that such a provision is included in the Adoption Act.

Asked whether the Foster Care bill would not repeal any provision of the Adoption Law, Senator Cayetano (P) replied that it would not, adding that existing laws, for instance, PD 603 (*Child and Youth Welfare Code*), would have suppletory effect on the bill because they generally uphold the rights of the child.

As regards Section 25, Senator Cayetano (P) explained that the provision is the standard repealing clause that is placed in any bill.

As to the distinction between foster care and adoption, Senator Cayetano (P) explained that while foster care is temporary, it should not in any way diminish the quality of care the child ought to receive, the objective being to provide the child a healthy home environment.

Asked whether the consent of the spouse of the foster parent is needed to foster a child,

17

Senator Cayetano (P) admitted that she has yet to consult with the DSWD on the matter as she noted that the Adoption Law requires the consent of the spouse and children over 10 years but the bill in itself does not address the issue. In connection therewith, she pointed out that as provided in Section 5(c) of the bill, "the applicant must have a healthy and harmonious relationship with each family member." She said that if the applicant's children do not agree to the arrangement, it does not bode well for a harmonious relationship. She agreed to include a provision that would address this matter during the period of amendments. Relative thereto, she cited the DSWD policy on foster care, to wit: "Biological children of the prospective foster family who are five years and above shall be consulted and their approval is required for fostering a child." She said that she would welcome a proposal to incorporate in the bill some of the DSWD policies on foster care.

On whether an unmarried person can be a foster parent, Senator Cayetano (P) answered in the affirmative, reiterating that to qualify, the person must be of good moral character and must be of legal age. However, she surmised that an 18-year old might not be allowed to foster a child since the bill also requires emotional maturity. She clarified that the bill gives priority to existing family members, thus, if the biological parents are incapable of giving a child the care that he/she needs, the older siblings, 18 years old and above, would be given the foster parenting role.

Asked whether the bill provides a monthly subsidy to be given by the DSWD to a foster family and how much it is, Senator Cayetano (P) cited Section 17 which states that, "A foster child, through the agency, shall be entitled to a monthly subsidy from the DSWD, subject to the existing government auditing rules and regulations." She explained that the subsidy is for the child's expenses so as to lessen the financial burden on the foster parent. She revealed that many accredited agencies have been giving P3,000 monthly subsidy to the foster parents because the DSWD has not been able to provide for it. She said that the bill proposes a P25 million funding for that purpose.

As regards the safeguards in the bill to prevent the misuse or abuse of funds, Senator Cayetano (P) replied that the bill requires the DSWD to spearhead the drafting of the implementing rules and regulations (IRRs). She said that it would be appropriate to

place safety measures in the bill because it only provides the general statement that the subsidy is aimed at supporting the expenses of the child.

Senator Sotto agreed that the IRRs to implement the proposed Act are important given the broad range of powers allowed the DSWD. He acknowledged that the subsidy could be a form of incentive for individuals to foster a child. In reaction, Senator Cayetano (P) clarified that the bill was drafted primarily to promote foster care which has not been institutionalized, and to encourage people, even those who are not wealthy, to become foster parents. She revealed that according to a report from resource persons, many foster parents are not wealthy but they have a lot of love to give.

Asked on the age limit for a child to still qualify for foster care, Senator Cayetano (P) replied that the definition of "child" in the bill is anyone under 18 year of age but it also includes a person above 18 year of age who is differently-abled or with special needs.

Asked whether the use of the word "must" in Section 17 which requires foster parents to enroll with PhilHealth is an added qualification to be a foster parent, Senator Cayetano (P) explained that the PhilHealth requirement was necessary to assure that the foster parent would look after the child's health, otherwise, the other option is to enroll the child with PhilHealth.

As to how the BIR would monitor the grant of additional tax exemption to qualified foster parents, Senator Cayetano (P) stated that the IRRs ought to require an annual certification from the DSWD supported by the proper documents like receipts from the foster parents to qualify them for exemptions.

On another matter, Senator Sotto inquired on the possibility of establishing a foster care for adults as he adverted to a UNICEF website on an adult foster care program. He asked whether the program could be incorporated in the bill or be the subject of a separate bill. Senator Cayetano (P) welcomed the suggestion, saying that a separate measure may be appropriate for them.

However, Senator Sotto admitted his apprehension about an expanded adult foster care program, fearing that certain individuals might abuse it. For her part, Senator Cayetano (P) admitted that the suggestion

made her aware of the needs of other members of society. The question, she said, is who could be covered in the instant bill and who should be covered in separate bills.

MOTION OF SENATOR CAYETANO (P)

Upon motion of Senator Cayetano (P), there being no objection, Senate Bill Nos. 2099 and 2430, filed by Senators Escudero and Lapid, respectively, were deemed to have been taken into consideration in the preparation of Committee Report No. 1.

She explained that both bills, which she wholeheartedly support, tackle the issue of foster care but were filed after the Committee had conducted the hearings and prepared the committee report very early in the present Congress.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2486

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:42 p.m.

RESUMPTION OF SESSION

At 4:43 p.m., the session was resumed.

ACKNOWLEDGMENT OF THE PRESENCE OF GUEST


At this juncture, Senate President Pro Tempore Ejercito Estrada acknowledged the presence in the gallery of Bacolod City Mayor Evelio Leonardia.

ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, Senate President Pro Tempore Ejercito Estrada declared the session adjourned until three o'clock in the afternoon of the following day.

It was 4:43 p.m.

I hereby certify to the correctness of the foregoing.


EMMA LIRIO REYES
Secretary of the Senate

Approved on January 26, 2011