

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

SENATE
OFFICE OF THE SECRETARY

'04 JUN 30 P10:46

SENATE

RECEIVED BY: *dm*

S.B. No. 1017

Introduced by Senator Jinggoy Ejercito Estrada

EXPLANATORY NOTE

Article 177 of Executive Order No. 209 otherwise known as the Family Code of the Philippines provides that, "only children conceived and born outside of wedlock of parent, who, at the time of conception of the former, were not disqualified by any impediment to marry each other, may be legitimated."

Thus, children of adulterous, incestuous and bigamous relationship cannot be legitimated due to the existence of legal impediments of parents to marry at the moment of the former's conception. The same is true where children who are born out of wedlock or void marriages on account of public policy as stipulated in Article 38 of the Family Code.

Verily, Article 177 was formulated to strengthen the objective of preserving the Filipino and solidify the moral fabric of our country. If Article 177 has not been otherwise provided, we will forever be confirmed with the danger of destroying the sanctity of marriage by encouraging prohibited relationships and subverting the rationale of legitimization of their children.

However, Article 177 of the Family Code has equally denied implicitly the remedy of legitimizing *ipso facto* children born of parent who at the time of their conception or birth the sole legal impediment of the latter was that they were below eighteen (18) years or age if said parents subsequently decided to contract a valid marriage. Under the existing legal procedure, to legitimize a child who was born in such situation, parents will adopt their every own natural child. Indeed, this procedure is completely unacceptable. Moreover, the adopted natural child has less successional rights compared to that of his full blooded sibling who was born when their parents are already legally married.

The unqualified tenor of Article 177 has further diluted our constitutional policies on family. Far from strengthening and promoting the integrity of the family. Article 177 has provided an opportunity for subverting and closing the remedy of legitimizing children who are born of parents who, at the time of conception were below eighteen (18) years of age. Depriving children in such situation of the remedy to become legitimated children would be a very good prescription of bringing about a scandal. Many of them continue to bear the stigma of illegitimacy not to mention the social guilt and financial stress that comes with it. In fact, to a large extent, Article 177 castigates and condemns these children from a fault that cannot, in any way, be attributed to them.

Such inadvertence has placed them in the same position as that of children of adulterous and incestuous relationships, children of bigamous marriages, and other children who were born out of wedlock or of marriages which are void by reason of public under Article 38 of the Family Code.

In the light of the foregoing, early approval of the proposed amendments is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT
AMENDING ARTICLE 177 OF EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN
AS THE FAMILY CODE OF THE PHILIPPINES

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

SECTION 1. Article 177 of Executive Order No. 209 otherwise known as the "Family Code of the Philippines," is hereby amended to read as follows:

Article 177. Only children conceived and born outside of wedlock of parent who, at the time of the conception of the former, were not disqualified by any impediment to marry each other, be legitimated: PROVIDED; THAT LEGITIMIZATION SHALL ATTACH TO CHILDREN WHOSE PARENT OR PARENTS WERE BELOW 18 YEARS OF AGE AT THE TIME OF THEIR CONCEPTION OR BIRTH AND SAID PARENTS SUBSEQUENTLY CONTRACTED A VALID MARRIAGE.

SECTION 2. Effectivity. This Act shall take effect immediately upon approval.

Approved,