

**EIGHTEENTH CONGRESS OF THE }  
REPUBLIC OF THE PHILIPPINES }  
Second Regular Session }**

**SENATE  
S.B. No. 2261**

'21 JUN -1 P4:47

---

INTRODUCED BY **SENATOR VICENTE C. SOTTO III**

---

**AN ACT  
AMENDING ARTICLE 174 (1) OF THE FAMILY CODE AND  
ARTICLE 364 OF THE CIVIL CODE**

**EXPLANATORY NOTE**

Section 14 of the Declaration and State Policies of the Constitution provides that "the State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men." This constitutional provision requires "the State to actively pursue affirmative means and ways to battle the patriarchy – that complex of political, cultural, and economic factors that ensure women's disempowerment."<sup>1</sup>

A fundamental matter which must be presently addressed concerns the surname of legitimate children. The given name may be freely selected by the parents for the child, but the surname to which the child is entitled is fixed by law.<sup>2</sup>

The norm in the Philippines is for the legitimate child to use the surname of the father. The wordings of Article 174 (1) of the Family Code and Article 364 of the Civil Code seem to have ambiguity as to whether or not a legitimate child, at the outset, can already use the surname of the mother upon agreement of the parents or must still require a court order.

---

<sup>1</sup> *Alamis vs. Court of Appeals* G.R. No. 216425 November 11, 2020 citing *Racho vs. Tanaka* G.R. No 199515, June 25, 2018

<sup>2</sup> *In the matter of adoption of Stephanie Nathy Astorga Garcia* G.R. No. 148311, March 31, 2005

The proposed legislation seeks to clarify the extent of the legal right of the legitimate child to use the mother's surname. It allows the father and the mother to agree on which surname the child will use and appear in the live birth certificate. Furthermore, it grants a legitimate child to change his surname within ten years upon reaching the age of majority by mere application to the proper local civil registrar. No court approval will be necessary, and such application for change of surname shall be allowed only once.

The mother is the initial life-bearer of a child. The legitimate child's developing physical and biological link was with the mother, as physiologically evidenced by the umbilical cord. Not only that, the nurturing and child-rearing starts with the mother. Accordingly, if most of the biological, physiological, nurturing, and emotional content of the creation of the child is with the mother, in case of conflict between the latter and the father, the mother's decision should have influence and weight.

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



VICENTE C. SOTTO III

**SENATE**  
**S.B. No. 2261**

'21 JUN -1 P4:47

---

INTRODUCED BY **SENATOR VICENTE C. SOTTO III**

---

**AN ACT**  
**AMENDING ARTICLE 174 (1) OF THE FAMILY CODE AND ARTICLE 364**  
**OF THE CIVIL CODE**

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

1       **SECTION 1.** This Act shall be known as "Maternal Surname for  
2 Legitimate Children and for other purposes."

3       **SECTION 2.** Article 174 (1) of the Family Code shall be amended to  
4 read as follows:

5               **"Article 174.** Legitimate Children shall have the right:

6           (1) To bear the surname of **THE MOTHER OR THE FATHER. THE**  
7 **PARENTS SHALL AGREE AS TO THE SURNAME OF LEGITIMATE**  
8 **CHILDREN. IN CASE OF DISAGREEMENT, THE SURNAME OF THE**  
9 **MOTHER SHALL BE USED BY THE LEGITIMATE CHILDREN. THE**  
10 **SURNAME OF THE FIRST CHILD SHALL ALSO BE USED AS THE**  
11 **SURNAME OF SUBSEQUENT CHILDREN OF THE SAME PARENTS. ONLY**  
12 **THE LEGITIMATE CHILDREN SHALL HAVE THE RIGHT TO CHANGE**  
13 **THEIR SURNAME TO THE SURNAME OF EITHER THE FATHER OR THE**  
14 **MOTHER WITHIN TEN YEARS FROM REACHING THE AGE OF**

1 MAJORITY BY MERE APPLICATION WITH THE OFFICE OF THE LOCAL  
2 CIVIL REGISTRAR (OLCR) WHERE THE ORIGINAL CERTIFICATE OF  
3 BIRTH HAS BEEN ISSUED. THE DUTY OF THE OLCR SHALL BE  
4 MINISTERIAL REQUIRING THE RELEASE OF THE NEW CERTIFICATE  
5 OF BIRTH REFLECTING THE CHANGE WITHIN 15 DAYS FROM THE  
6 FILING OF THE APPLICATION. APPLICATION FOR CHANGE OF  
7 SURNAME SHALL BE ALLOWED ONLY ONCE.

8 AFTER THE LAPSE OF THE TEN-YEAR PERIOD, THE LEGITIMATE  
9 CHILDREN SHALL HAVE RECOURSE TO THE PROPER COURT WITHIN  
10 SUCH PERIOD AND UNDER SUCH OTHER CAUSES AS MAY BE  
11 ALLOWED BY OTHER PERTINENT LAWS."

12 SECTION 3. Article 364 of the Civil Code of the Philippines shall be  
13 amended as follows:

14 "Article 364. Legitimate and legitimated children MAY  
15 principally use the SURNAME OF THE MOTHER IN ACCORDANCE WITH  
16 THE PROVISIONS OF THE FAMILY CODE OF THE PHILIPPINES."

17 SECTION 4. *Repealing Clause.* — All laws, decrees, rules and  
18 regulations or other issuances or parts thereof inconsistent with the  
19 provisions of this Act shall be repealed.

20 SECTION 5. *Effectivity.* — This Act shall take effect fifteen (15) days  
21 after publication in the Official Gazette or in a newspaper of general  
22 circulation.

23 *Approved.*