

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



Senate  
Office of the Secretary

'13 AUG -8 P2:59

SENATE  
S.B. No. 1262

RECEIVED BY: *ji*

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Introduced by Senator Maria Lourdes Nancy S. Binay

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EXPLANATORY NOTE

One of the consequences of marriages declared to be null and void under our laws is that the children born or conceived of such void marriage shall be considered illegitimate. Nevertheless the Family Code of the Philippines under Article 54 recognizes that notwithstanding the nullity of marriage, children born or conceived of marriages declared null and void because of the psychological incapacity of either one or both of contracting parties under Article 36 of the Family Code of the Philippines or for failure to comply with the requirements of Article 53 of the Family Code of the Philippines, shall be considered legitimate.

The bill proposes to expand the coverage of the exception under Article 54 of the Family Code of the Philippines, and recognize the legitimacy of children born or conceived of marriages declared void on the following grounds: (a) either or both contracting parties were below eighteen years of age; (b) the solemnizing officer was not legally authorized to perform marriages; (c) marriages solemnized without a marriage license; and (d) those contracted through mistake of one contracting party as to the identity of the other. In the foregoing instances, the marriage is not declared void by reason of any violation of public policy (as in the case of incestuous marriages) or for violation of the law (as in the case of void bigamous or polygamous marriages).

It is proposed that the legal effect of a declaration of nullity of marriage on the foregoing grounds should not have the effect of penalizing the children of such void marriages. The proposal is in accordance with the policy of the State that the welfare and the best interest of the child shall be the paramount consideration in all matters which concern them.

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

  
MARIA LOURDES NANCY S. BINAY  
Senator

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1 AN ACT IMPROVING THE STATUS OF CHILDREN BORN OR CONCEIVED OF  
2 MARRIAGES DECLARED VOID FOR CERTAIN REASONS, AMENDING FOR THIS  
3 PURPOSE ARTICLE 54 OF EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS  
4 THE FAMILY CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES  
5

6 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*  
7 *assembled:*  
8

9 **SECTION 1.** Section 54 of Executive Order No. 209, otherwise known as the Family Code of  
10 the Philippines, as amended, is hereby further amended to read as follows:  
11

12 Art. 54. Children conceived or born before the judgment of annulment or absolute  
13 nullity of the marriage under Article 36 has become final and executory shall be  
14 considered legitimate. Children conceived or born of **VOID MARRIAGES UNDER**  
15 **ARTICLE 35 (1), (2), (3), (5), AND (6) WITH RESPECT TO** the subsequent  
16 marriage under Article 53 shall likewise be legitimate.  
17

18 **SECTION 2. *Retroactivity Clause.*** Section 1 of this Act shall be given retroactive effect  
19 except in cases where vested rights are impaired.  
20

21 **SECTION 3. *Separability Clause.*** If any portion or provision of this Act is declared void and  
22 unconstitutional, the remaining portions or provisions hereof shall not be affected by such  
23 declaration.  
24

25 **SECTION 4. *Repealing Clause.*** All laws, decrees, orders, rules and regulations, other  
26 issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or  
27 modified accordingly.  
28

29 **SECTION 5. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its  
30 publication in the Official Gazette or in at least two (2) newspapers of general circulation.  
31

32 Approved,