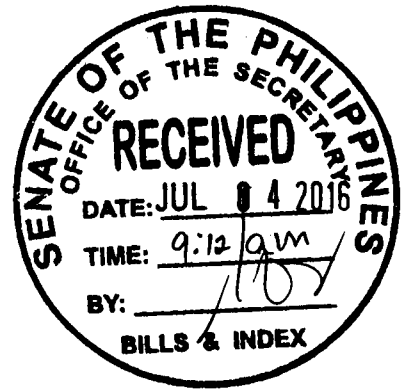


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

S. B. No. 281

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
RECOGNIZING AND STRENGTHENING ALTERNATIVE CARE OF CHILDREN,
PROVIDING INCENTIVES TO AGENCIES PROVIDING THE SAME

EXPLANATORY NOTE

The Constitution explicitly provides that the State shall defend, among others:

"The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development;"¹

In consonance with this constitutional mandate, this bill intends to institutionalize alternative family care for children as an option other than adoption and foster family care.

Bearing in mind the subsisting gap, it is submitted that alternative family care for children can address the issues confronting adoption and foster care by creating foster homes of a new kind, which can be made to adapt depending on every child's needs. Moreover, the creation of such home where a caring family thrives, children will be able to feel an actual sense of security and belonging.

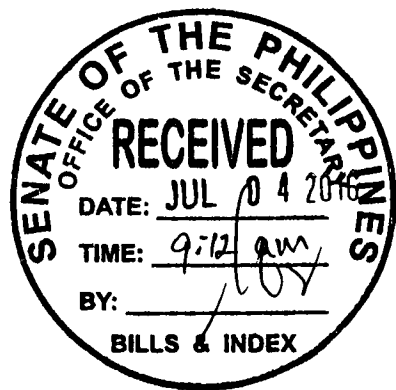
With the creation of an institution to be named as Alternative Care Agency, together with the Department of Social Welfare and Development, the plight of neglected and abandoned children will be likewise significantly addressed.

Respectfully submitted.

FRANCIS G. ESCUDERO

¹ Section 3, paragraph 2, Article XV.

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

1 **Section 1. Short Title.** - This Act shall be known as the "Alternative Care of
2 Children Act."

3 **Section 2. Declaration of Principles and State Policies.** - The State shall defend
4 the right of children to assistance, including proper care and nutrition, and special
5 protection from all forms of neglect, abuse, cruelty, exploitation or other conditions
6 prejudicial to their development. It shall provide every child who is neglected, abused,
7 surrendered, dependent, abandoned, under sociocultural difficulties, with an
8 alternative family that will provide love and care as well as opportunities for growth
9 and development.

10 Further, the State shall guarantee that all the rights of the child enumerated
11 under Article 3 of Presidential Decree No. 603, otherwise known as "The Child and
12 Youth Welfare Code", as amended, and the rights found under Article 20 of the United
13 Nations Convention on the Rights of the Child shall be observed.

14 Finally, the State recognizes that aside from adoption and foster care, alternative
15 child care shall be established in compliance to UN Guidelines on Alternative Care for
16 Children that will promote the child's growth and development, and at the same time
17 provide the biological family with the opportunity to continue its involvement in child
18 rearing.

19 Towards this end, the State shall provide every child who is neglected, abused,
20 surrendered, dependent, abandoned, under socio-cultural difficulties, whose biological
21 family cannot provide basic necessities, or with special needs with alternative family
22 care that will provide love and care as well as opportunities for growth and
23 development, without unduly severing the bonds of the child and the biological family.

24 The State shall also protect the child's right to health.

25 **Section 3. Definition of terms.** - For purposes of this Act, the following terms are
26 defined:

1 (a) *Alternative Care of Children (ACC)* refers to the provision of planned temporary
2 substitute parental care to a child by an Agency pursuant to Section 4 of this Act and as
3 may be defined by its implementing rules and regulations.

4 (b) *Alternative Care Agency (ACA)* - refers to a child-caring or child-placing
5 institution licensed and accredited by the Department of Social Welfare and
6 Development (DSWD) to provide alternative care in coordination with the host Local
7 Government Unit pursuant to Chapter IV Section 34 of RA 7160.

8 (c) *Alternative Care License (license)* refers to the document issued by the DSWD
9 authorizing an agency to provide alternative care.

10 (d) *Child* refers to a person below eighteen (18) years of age, or one who is over
11 eighteen (18) but is unable to fully take care of or protect oneself from abuse, neglect,
12 cruelty, exploitation or discrimination because of a physical or mental disability or
13 condition.

14 (e) *Family* refers to the parents or brothers and sisters, whether of the full or half-
15 blood, of the child.

16 (f) *Parent* refers to the biological or adoptive parent or legal guardian of a child.

17 **Section 4. Guiding Principles of ACC** - ACC shall be guided by the following:

18 (a) All decisions concerning alternative care should take full account of the
19 desirability, in principle, of maintaining the child as close as possible to his/her habitual
20 place of residence, in order to facilitate contact and potential reintegration with his/her
21 family and to minimized disruption of his/her educational, cultural, and social life.

22 (b) Decisions regarding children in alternative care, including those in informal
23 care, should have due regard for the importance of ensuring children a family-based
24 care, group foster care and of meeting their basic need for safe and long-term
25 relationships to their caregivers, with permanency generally being a key goal.

26 (c) Children must be treated with dignity and respect at all times and must
27 benefit from effective protection from abuse, neglect, and all forms of exploitation,
28 whether on the part of care providers, peers or third parties, in whatever care setting
29 they may find themselves.

30 (d) Siblings with existing bonds should in principle not be separated from
31 placements in alternative care unless there is a clear risk of abuse or other justification
32 in the best interest of the child. In any case, every effort should be made to enable
33 siblings to grow together, maintain contact with each other unless this is against their
34 wishes or interests.

35 (e) Provisions of alternative care should never be undertaken with a prime
36 purpose of furthering the political, religious, or economic goals of the providers.

37 (f) Such other principles in accordance with the UN Convention on the Rights of
38 the Child.

39 **Section 5. Purposes.** - The purposes of an ACA shall be as follow:

1 (a) To cooperate with public authorities in providing alternative care to
2 abandoned, dependent, and neglected children as defined in Presidential Decree No.
3 603 and Republic Act No. 7610;

4 (b) To support efforts to keep children in, or return them to the care of their
5 family or, failing this, to find another appropriate and permanent solution;

6 (c) To ensure that, while such permanent solutions are being sought or in cases
7 where they are not possible or are not in the best interest of the child, the most suitable
8 forms of alternative care are identified and provided under conditions that promote the
9 child's full and harmonious development;

10 (d) To assist the Government to better implement their responsibilities and
11 obligations in these respects, bearing in mind the economic, social, and cultural
12 conditions;

13 (e) To guide policies, decisions, and activities of all concerned with the social
14 protection and child welfare in both the public and the private sectors, including the
15 civil society.

16 (f) Such other purposes to attain the guidelines and principles of the UN
17 Convention on the Rights of the Child and local statutes.

18 **Section 6. Parental Authority of an ACA.** - ACAs shall be *in loco parentis*,
19 exercising the rights, duties and liabilities of persons exercising substitute parental
20 authority over the children under their foster care, as may be provided for by Executive
21 Order No. 209, series of 1987 ("Family Code of the Philippines"), *Provided*, that ACAs
22 shall only have the rights of a person with special parental authority to discipline the
23 children under their care and protection as defined under Section 233 of the Family
24 Code, insofar as it prohibits the infliction of corporal punishment upon the child.

25 **Section 7. Privileges.** - To allow it to fully realize its mandate, an accredited ACA
26 shall:

27 (a) Enter into agreements with public authorities, and accept provisions for the
28 cost of any service or activity which may be entrusted to it, within the scope of its object
29 and functions, pursuant to such agreements;

30 (b) Own and hold real and personal properties and accept bequests, donations
31 and contributions of property of all classes;

32 (c) Any donation, contribution, bequest, and grant which may be made to the
33 agency shall be exempt from donor's tax and the same shall be considered as allowable
34 deduction from the gross income of the donor, in accordance with the provisions of the
35 National Internal Revenue Code, as amended, provided, that such agency are
36 accredited NGO pursuant to Executive Order No. 720, series of 2008;

37 Finally, the agency shall be exempt from the payment of real property taxes on
38 all real properties owned by it.

39 **Section 8. Who May Be Placed Under Alternative Care.** - The following may be
40 placed in alternative care:

- 1 (a) A child who is abandoned, surrendered, neglected, dependent or orphaned;
- 2 (b) A child who is a victim of sexual, physical, or any other form of abuse or
3 exploitation;
- 4 (c) A child with special needs;
- 5 (d) A child whose family members are temporarily or permanently unable or
6 unwilling to provide the child with adequate care;
- 7 (e) A child who needs long-term care and close family ties but who cannot be
8 placed for domestic adoption;
- 9 (f) A child who is under socially difficult circumstances such as, but not limited
10 to, a street child, a child in armed conflict or a victim of child labor or trafficking;
- 11 (g) A child who committed a minor offence but is released on recognizance, or
12 who is in custody supervision or whose case is dismissed; and
- 13 (h) A child who is in need of special protection as assessed by a social worker, an
14 agency or the DSWD.

15 **Section 9. Role of the Department of Social Welfare and Development (DSWD).**

16 (a) *Issuance of License.* - The DSWD shall have the authority to accredit by issuing an
17 Alternative Care license based on the application by the agency to include stipulation of
18 its track record and to determine the motivations, capacities and potentials of said
19 agency. The license is renewable every three (3) years unless earlier revoked by the
20 DSWD.

21 (b) *Periodic Review.* - The DSWD shall review its existing alternative care
22 guidelines, align it to the UN Guidelines and domestic laws and conduct periodic
23 review on it.

24 **Section 10. Role of Local Government Units (LGUs).** - The host LGU, pursuant
25 to Section 108 of Republic Act No. 7160 ("Local Government Code"), shall accredit
26 alternative care agencies that are duly recognized by the DSWD in their locality. It shall
27 put in place monitoring mechanisms over these alternative care agencies.

28 The LGU, through its Local Social Welfare and Development Office, shall include
29 the provisions of this Act in the development of its plans and strategies, and upon
30 approval thereof by the governor or mayor, as the case may be, implement the same
31 particularly those which have to do with social welfare programs and projects which
32 the governor or mayor is empowered to implement and which the sanggunian is
33 empowered to provide for under the Local Government Code.

34 **Section 11. Seminars and Trainings.** - The DSWD, in coordination with the
35 Department of the Interior and Local Government (DILG), is hereby mandated to
36 develop and provide programs to ensure the awareness and responsiveness of local
37 government officials in the promotion and development of the alternative care system
38 in every city, municipality or barangay.

1 **Section 12. Unlawful Solicitation.** - It shall be unlawful for any person to solicit,
2 collect or receive money, materials or property of any kind by falsely representing
3 himself to be a member, agent or representative of any alternative care agency.

4 **Section 13. Penal Clause.** - Any person, whether natural or juridical, violating
5 any section of this Act shall, upon conviction therefore, be liable to a fine of not less
6 than Fifty thousand pesos (P50,000.00) or imprisonment for a term not exceeding one (1)
7 year, or both, at the discretion of the court for each and every violation. In case the
8 violation is committed by a corporation or an association, the penalty shall devolve
9 upon the President, Director or any other officer responsible for such violation.

10 **Section 14. Alternative Care of Children (ACC) Committee.** - There is hereby
11 created an Alternative Care of Children Committee, chaired by the DSWD Secretary.
12 The secretaries, or duly appointed representatives of the Department of Health,
13 Department of Education, Department of the Interior and Local Government, Council
14 for the Welfare of Children, and the various local government leagues shall be members
15 thereof.

16 **Section 15. Duties of the ACC Committee.** - The ACC Committee shall primarily
17 monitor the implementation, review, and recommend changes in policies concerning
18 alternative family care and other matters related to the child's welfare. It shall submit to
19 the DSWD Secretary and to Congress an annual report of the policies, programs and
20 activities relative to the implementation of this Act, and recommendations for remedial
21 legislation to strengthen alternative family care.

22 **Section 16. Implementing Rules and Regulations.** - The DSWD, as lead agency,
23 the Department of Justice (DOJ), the Department of Health (DOH), the Bureau of
24 Internal Revenue (BIR), the Council on Welfare of Children (CWC), the DILG, with
25 institutions presently providing alternative family care, the Leagues Provinces, Cities
26 and Municipalities, and Liga ng mga barangay, and other concerned government
27 agencies, in consultation with agencies are hereby mandated to prepare and draft the
28 IRR to operationalize the provisions of this Act within ninety (90) days from its
29 effectivity.

30 **Section 17. Suppletory Clause.** - The provisions of Executive Order No. 209,
31 series of 1987, otherwise known as the Family Code of the Philippines and other
32 applicable laws, shall have suppletory application to this Act.

33 **Section 18. Repealing Clause.** - Any law, presidential decree, issuance, executive
34 order, letter of instruction, administrative order, rule and regulation contrary to or
35 inconsistent with the provisions of this Act is hereby repealed, modified or amended
36 accordingly.

37 **Section 19. Separability Clause.** - If any provision of this Act is held invalid or
38 unconstitutional, the other provisions not affected hereby shall remain valid and
39 subsisting.

40 **Section 20. Effectivity.** - This Act shall take effect fifteen (15) days after its
41 publication in two (2) newspapers of general circulation or in the *Official Gazette*.

42 *Approved,*