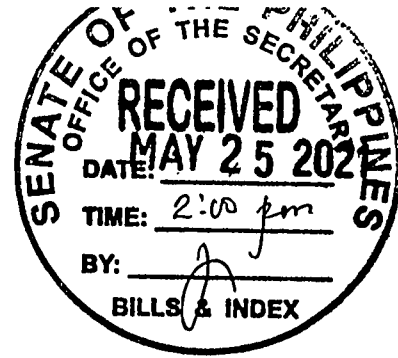


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE

S NO. 2233

Submitted by the Committees on Women, Children, Family Relations, and Gender Equality; and Social Justice, Welfare, and Rural Development with Senators Lapid, De Lima and Hontiveros as authors

AN ACT

PROMOTING THE RIGHTS OF AND PROVIDING GREATER PROTECTIONS TO DESERTED OR ABANDONED CHILDREN WITH UNKNOWN PARENTS, AMENDING FOR THIS PURPOSE ARTICLES 276 AND 277 OF THE REVISED PENAL CODE AND SPECIAL LAWS, RECOGNIZING THEIR STATUS AS NATURAL-BORN CITIZENS OF THE PHILIPPINES, PROVIDING PENALTIES AGAINST ACTS INIMICAL TO THEIR WELFARE, AND FOR OTHER PURPOSES

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

1 **SECTION 1. Short title.** This Act shall be entitled as the "Foundling Recognition
2 and Protection Act".

3 **SECTION 2. Declaration of Policy.** – The State values the dignity of every human
4 being and guarantees full respect for human rights. A child has the same general
5 human rights as an adult, with specific rights that recognize specific needs. As such,
6 the State shall protect the rights and ensure access to assistance, including proper
7 care, nutrition and special protection from all forms of neglect, abuse, cruelty,
8 exploitation and other conditions prejudicial to the development of every child.

1 The State shall uphold the best interests of the child, including and especially
2 the child with distinct vulnerabilities, such as the neglected, stateless, and
3 abandoned or deserted, by proactively and diligently inquiring into the facts of the
4 child's birth and parentage. It recognizes the generally-accepted thrust of
5 international law to reduce and prevent statelessness. It shall protect any child with
6 unknown parents by ensuring a natural-born citizen status consistent with our
7 Constitution, the United Nations Convention on the Rights of the Child and other
8 relevant instruments, and the generally accepted principles of international law. The
9 State shall also adopt measures to ensure that support services are provided to
10 foundlings and acts inimical to their welfare are penalized.

11 **SECTION 3. *Definition of foundling.*** – For purposes of this act, a foundling shall
12 be a deserted or abandoned child or infant with unknown facts of birth and
13 parentage. This shall also include those who have been duly registered as a
14 foundling during her or his infant childhood, but have reached the age of majority
15 without benefitting from adoption procedures upon the passage of this law.

16 **SECTION 4. *Finder.*** – The finder shall be a person of legal age who discovered the
17 deserted or abandoned child. The finder shall immediately inform the local social
18 welfare and development office, other relevant national or local government
19 agencies and/or recognized child-caring agencies for the provision of appropriate
20 care and services in line with the foundling's needs and best interest.

21 **ARTICLE I.**
22 **STATUS AND LEGITIMACY**

23 **SECTION 5. *Citizenship status of a foundling found in the Philippines***
24 ***and/or in Philippine embassies, consulates and territories abroad.*** – A
25 foundling found in the Philippines and/or in Philippine embassies, consulates and
26 territories abroad is a natural-born Filipino citizen regardless of the status or

1 circumstances of birth. As a natural-born citizen of the Philippines, a foundling is
2 accorded with rights and protections at the moment of birth equivalent to those
3 belonging to such class of citizens whose citizenship does not need perfection or any
4 further act.

5 The natural-born status of a foundling may not be impugned in any proceeding
6 unless substantial proof of foreign parentage is shown. The natural-born status of a
7 foundling shall not also be affected by the fact that the birth certificate was
8 simulated, or that there was absence of a legal adoption process, or that there was
9 inaction or delay in reporting, documenting, or registering a foundling.

10 **SECTION 6. *Status of legitimacy.*** – A foundling shall be recognized as the
11 legitimate child of the finder from the time of her/his birth, *provided*, that before
12 such recognition, the DSWD shall conduct a preliminary assessment that will identify
13 the needs of the child and the capacity of the finder to provide for these needs, and
14 afford the child the opportunity to be heard in accordance with her/his development
15 age and capacity; *provided further* that the foundling has lived with and depended
16 on the finder until the foundling reaches the age of majority; and *provided finally*
17 that the finder and foundling have conducted themselves as, and made known
18 themselves to be, parent/s and child in their community. If the finder is married at
19 the time the foundling was discovered, the foundling shall be considered the
20 legitimate child of the finder and HER/his spouse.

21 **SECTION 7. *Right to government programs and services.*** – A foundling shall,
22 as a matter of right, be entitled to every available government program or service,
23 including registration, facilitation of documents for adoption, education, legal and
24 police protection, proper nourishment and medical care for survival and
25 development, and admission to safe and secure child centers.

1 The DSWD or its accredited child caring center or licensed and accredited
2 SWDAs, the concerned LGUs, police authority and the finder shall, at all times,
3 consider the CHILD'S best interest in all actions or support services provided for a
4 foundling

ARTICLE II. REGISTRATION

7 **SECTION 8. *Conduct of Search and Inquiry.*** – Within fifteen (15) days after
8 commitment, or submission of the affidavit of the finder or other concerned person,
9 or the information that there is a probable foundling was brought to the attention of
10 the Department of Social Welfare and Development (DSWD), unless more time is
11 needed in view of significant developments, the DSWD or any of its accredited child
12 caring centers or licensed and accredited social welfare and development agencies
13 (SWDAs), shall conduct a proactive and diligent search and inquiry into the facts of
14 birth and parentage of the foundling.

15 The DSWD or its accredited child caring center or licensed and accredited SWDAs,
16 shall ask assistance from the finder, the local government units (LGUs), Local Social
17 Welfare Development Offices (LSWDOs), the local or rural health units, the women
18 and child protection desks of the Philippine National Police (PNP), the Department of
19 Health (DOH), any public or private hospital, and other concerned individuals in the
20 conduct of the search and inquiry. The official report of such inquiry shall thereafter
21 be used for the application for and issuance of the certificate of live birth.

22 Television, radio or print media or tri-media and other social media platforms may be
23 used to conduct the search or to locate the whereabouts of the parents of the
24 foundling without compromising the confidentiality of one's identity.

25 **SECTION 9. *Registration of a Foundling.*** – In addition to the affidavit of the
26 finder and the certification of the barangay captain or police authority, the report of

1 the DSWD or its accredited child caring center or licensed and accredited SWDAs,
2 duly signed by the authorized officer, is also required before the foundling may be
3 registered with the Local Civil Registrar. The report must indicate the fact that the
4 birth and parentage of the foundling are unknown despite the proactive and diligent
5 search and inquiry conducted. The report must be exhaustive and must include all
6 facts that have been gathered regarding the parents and the birth of the foundling.

7 The DSWD shall fill out and submit the application for registration to the Local
8 Civil Registrar which shall issue the Certificate of Live Birth of the foundling after
9 receipt of the foregoing requirements: *Provided*, That one who has an existing
10 certificate of foundling or a similar official document issued before the
11 implementation of this Act shall also be immediately issued a Certificate of Live Birth
12 on the basis of such document alone: *Provided further*, That if such certificate of live
13 birth has not been issued yet, the certificate of foundling or a similar official
14 document shall function as such with the same legal effect.

15 The concerned agencies shall streamline the registration process for a
16 foundling, regardless of age and circumstances, in order to expedite the issuance of
17 a Certificate of Live Birth and without placing any unnecessary burden on the
18 foundling; *provided*, that the foundling has the right to access all the documentary
19 requirements submitted for registration; *provided further*, that in the certificate of
20 live birth and succeeding public documents, the foundling shall not be referred to as
21 such, or in any other discriminatory manner; *provided further*, that the foundling
22 shall not be considered stateless between the period of finding or discovery and the
23 issuance of the order of confirmation of citizenship; *provided finally*, that the privacy
24 and best interest of the child shall be protected at all times.

25 **SECTION 10. Revocation of Issued Certificate of Live Birth.** – The following
26 are grounds for cancellation of a foundling's certificate of live birth:

1 (e) Any other person that shall be designated as a safe haven provider by the
2 Secretary of Social Welfare and Development under the implementing
3 rules and regulations of this Act.

4 **SECTION 13. *Duties and responsibilities of the safe haven provider.*** – The
5 safe haven provider shall act appropriately to take care of the infant; inform the
6 parent that the parent may, but is not required to answer questions regarding the
7 identity and medical history of the infant; confirm that the parent wishes to
8 permanently relinquish their parental rights and release the infant for adoption; and
9 within forty eight (48) hours inform the nearest office of the Department of Social
10 Welfare and Development.

11 **SECTION 14. *Immunity for the safe haven provider.*** – A safe haven provider
12 who receives an infant pursuant to this Act shall not be liable for any civil damages
13 for any act or omission done in maintaining custody of the infant, provided that the
14 safe haven provider acts in good faith without gross negligence.

15 **ARTICLE IV.**
16 **Penalties**

17 **SECTION 15. *Penalties*** – The following penalties shall be imposed:

18 a) The penalty of imprisonment of not less than six (6) months but not more
19 than six (6) years shall be imposed on any person who falsifies or is
20 involved in the falsification of the registration of the supposed foundling,
21 including the documents required therefor, *provided*, that a public officer
22 found to have been involved in such act of falsification shall be punished by
23 the penalty next higher in degree;

- 1 b) The penalty of imprisonment of not less than six (6) months but not more
2 than five (5) years shall be imposed on the finder, the concerned DSWD
3 officer or staff or its accredited child caring center or licensed and
4 accredited SWDA, police officers, city, municipal and barangay officers,
5 health employees, hospital staff and any other concerned person who
6 refuses, delays, or obstructs the conduct of search and inquiry into the
7 facts of birth and parentage of the foundling; and
- 8 c) A fine ranging from One million pesos (P1, 000, 000.00) to Five million
9 pesos (P5, 000, 000.00) or imprisonment of not less than three (3) months
10 but not more than two (2) years, or both, at the discretion of the court,
11 shall be imposed on any person filing a malicious complaint found to have
12 been initiated for the purpose of harassing, annoying, vexing, persecuting
13 or injuring a foundling especially in the exercise of the foundling's rights as
14 a natural-born citizen;
- 15 d) Without prejudice to criminal liability under other laws, a fine ranging from
16 One million pesos (P1,000,000.00) to Five million pesos (P5, 000, 000.00)
17 or imprisonment of not less than three (3) months but not more than two
18 (2) years, or both, shall be imposed on any person who falsifies or is
19 involved in the falsification of the registration of the supposed foundling,
20 including the documents required therefor, to facilitate the crime of
21 kidnapping and trafficking in persons, *provided*, that a public officer found
22 to have been involved in such act of falsification shall be punished by the
23 penalty next higher in degree and shall be perpetually disqualified from
24 office.

1 **SECTION 20. *Transitory Provision.*** All the benefits of this act shall also apply to
2 foundlings duly registered as such during their childhood, but have reached the age
3 of majority without benefitting from adoption procedures; *provided that* such
4 foundling shall undergo the procedure and comply with the requirements outlined in
5 the IRR within ten (10) years of its effectivity.

6 **SECTION 21. *Repealing Clause.*** – All other laws, decrees, executive orders,
7 issuances, rules and regulations, or part thereof inconsistent with this Act are hereby
8 likewise repealed or amended accordingly.

9 **SECTION 22. *Separability Clause.*** – If, for any reason, any section or provisions
10 of this Act is declared unconstitutional or invalid, the other sections or provisions not
11 affected thereby shall remain in full force and effect.

12 **SECTION 23. *Suppletory Clause.*** – Republic Act No. 11222 or the "Simulated
13 Birth Rectification Act", Executive Order No. 209, s. 1987 or "The Family Code of the
14 Philippines," and other existing and applicable laws on adoption and on child
15 welfare, care and protection, shall have suppletory application to this Act.

16 **SECTION 24. *Effectivity Clause.*** - This Act shall take effect after fifteen (15) days
17 upon publication in at least two (2) newspapers of general circulation.

18 Approved,