



S E N A T E

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, HONTIVEROS,
ZUBIRI, VILLAR, POE, VILLANUEVA, RECTO,
GATCHALIAN, MARCOS, LACSON AND CAYETANO 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 House of Representatives of
the Philippines in Congress assembled:*

- 1 SECTION 1. *Short Title.* – This Act shall be entitled as
2 the “Foundling Recognition and Protection Act”.

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

10 The State shall uphold the best interests of the child,
11 including and especially the child with distinct
12 vulnerabilities, such as the neglected, stateless, and
13 abandoned or deserted, by proactively and diligently
14 inquiring into the facts of the child's birth and parentage.
15 It recognizes the generally-accepted thrust of international
16 law to reduce and prevent statelessness. It shall protect
17 any child with unknown parents by ensuring a natural-
18 born citizen status consistent with our Constitution, the
19 United Nations Convention on the Rights of the Child and
20 other relevant instruments, and the generally accepted

1 principles of international law. The State shall also adopt
2 measures to ensure that support services are provided to
3 foundlings and acts inimical to their welfare are penalized.

4 In furtherance of the state policy to create one body to
5 exercise all powers and functions relating to alternative
6 child care, state services relating to the protection and
7 welfare of foundlings shall be placed under the National
8 Authority for Child Care (NACC).

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

16 SEC. 4. *Finder.* – The finder shall be a person of legal
17 age who discovered the deserted or abandoned child:
18 *Provided,* That if the actual finder is a minor, his or her
19 parent or legal guardian shall assist in making the report.

1 The finder shall report within forty eight (48) hours upon
2 discovery of the child to inform the Local Social Welfare
3 and Development Office (LSWDO), closest to him/her, or
4 any safe haven provider, which shall in turn coordinate
5 with the NACC through the Regional Alternative Child
6 Care Office (RACCO), for the provision of appropriate care
7 and services in line with the foundling's needs and best
8 interest.

9 In case the finder/s apply to become foster parent/s of
10 the foundling, the NACC shall prioritize the assessment if
11 they meet the qualifications under Republic Act No. 10165,
12 or the Foster Care Act of 2012.

13 ARTICLE I

14 STATUS AND LEGITIMACY

15 SEC. 5. *Citizenship status of a foundling found in the*
16 *Philippines and/or in Philippine embassies, consulates and*
17 *territories abroad.* – A foundling found in the Philippines
18 and/or in Philippine embassies, consulates and territories
19 abroad is presumed a natural-born Filipino citizen

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

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

15 SEC. 6. *Administrative Adoption and Status of*
16 *Legitimacy.* – In the event that the biological parents
17 cannot be identified and located, the foundling shall be
18 declared legally available for adoption subject to existing

1 laws, rules, and regulations and taking into consideration
2 the best interest of the child.

3 The relevant provisions of Republic Act No. 11642
4 otherwise known as “The Domestic Administrative
5 Adoption and Alternative Child Care Act” shall apply in
6 the adoption of foundlings.

7 Consistent with Section 41 of Republic Act No. 11642,
8 once the adoption of the foundling is finalized, the adopted
9 foundling shall be considered the legitimate child of the
10 adopter for all intents and purposes and, as such, is
11 entitled to all the rights and obligations provided by law to
12 legitimate children born to them without discrimination of
13 any kind. To this end, the adoptee is entitled to love,
14 guidance, and support in keeping with the means of the
15 family. The legitimate filiation that is created between the
16 adopter and adopted foundling shall be extended to the
17 adopter’s parents, adopter’s legitimate siblings, and
18 legitimate descendants.

1 The adopter is also given the right to choose the name
2 by which the adopted foundling is to be known, consistent
3 with the best interest of the child.

4 SEC. 7. *Alternative Child Care Options.* – The NACC,
5 LSWDO, and any accredited child-caring or child-placing
6 agency shall ensure that foundlings are provided with
7 alternative child care options, such as but not limited to
8 kinship care, foster care, or even residential care,
9 consistent with existing laws, while the search and inquiry
10 into the facts of birth and parentage of the foundling is
11 ongoing.

12 SEC. 8. *Right to Government Programs and Services.* –
13 A foundling shall, as a matter of right, be entitled to every
14 available government program or service, including
15 registration, facilitation of documents for adoption,
16 education, legal and police protection, proper nourishment
17 and medical care for survival and development, and
18 admission to safe and secure child centers.

The NACC, through the RACCs, all relevant government agencies, the concerned LGUs, police authority and the finder shall, at all times, consider the child's best interest in all actions or support services provided for a foundling.

ARTICLE II

REGISTRATION

SEC. 9. *Conduct of Search and Inquiry.* – Within fifteen (15) days after commitment, or submission of the affidavit of the finder or other concerned person, or the information that there is a probable foundling was brought to the attention of the NACC, unless more time is needed in view of significant developments, the NACC, through the RACCOs, shall conduct a proactive and diligent search and inquiry into the facts of birth and parentage of the foundling.

The NACC, through the RACCs, shall ask assistance from the finder, the local government units (LGUs), LSWDOs, the local or rural health units, the

women and child protection desks of the Philippine National Police (PNP), the Department of Health (DOH), any public or private hospital, and other concerned individuals in the conduct of the search and inquiry. The official report of such inquiry shall thereafter be used for the application for and issuance of the certificate of live birth.

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

SEC. 10. Registration of a Foundling. – The following documents shall be required before the foundling may be registered with the local civil registrar:

(a) Affidavit of the finder;

(b) Certification of the barangay captain or police authority on the circumstances surrounding the foundling's discovery: *Provided*, That in the event that the

child is found in a different barangay from the residence of the finder, both barangay captains shall be informed; and

(c) Report of the NACC duly signed by the authorized officer.

The NACC report must attest to the fact that the birth and parentage of the foundling are unknown despite the proactive and diligent search and inquiry conducted. The report must be exhaustive and must include all the facts that have been gathered regarding the parents and the birth of the foundling: *Provided*, That for adult foundlings with no foundling certificate, no exhaustive social case study report by the RACCO shall be required but the LSWDO shall issue a report on his or her background and qualifications as a foundling under this Act.

The NACC shall fill out and submit the application for registration to the Local Civil Registrar which shall issue the Certificate of Live Birth of the foundling after receipt of the foregoing requirements: *Provided*, That one

1 who has an existing certificate of foundling or a similar
2 official document issued before the implementation of this
3 Act may secure a certificate of live birth before the Local
4 Civil Registrar, which shall immediately issue one, without
5 cost, on the basis of such document alone: *Provided,*
6 *further,* That a certificate of foundling or a similar official
7 document shall continue to have the same legal effect as a
8 certificate of live birth.

9 The concerned agencies shall streamline the
10 registration process for a foundling, regardless of age and
11 circumstances, in order to expedite the issuance of a
12 Certificate of Live Birth and without placing any
13 unnecessary burden on the foundling: *Provided,* That the
14 foundling has the right to access all the documentary
15 requirements submitted for registration: *Provided, further,*
16 That in the certificate of live birth and succeeding public
17 documents, the foundling shall not be referred to as such,
18 or in any other discriminatory manner: *Provided, further,*
19 That the foundling shall not be considered stateless
20 between the period of finding or discovery and the issuance

1 of the order of confirmation of citizenship: *Provided,*
2 *finally,* That the privacy and best interest of the child shall
3 be protected at all times.

4 SEC. 11. *Revocation of Issued Certificate of Live*
5 *Birth.* – The biological parent/s, the NACC or the LSWDO
6 may file a petition for the revocation of the certificate of
7 live birth before the local civil registrar based on the
8 following grounds:

9 (a) Parentage of the foundling has been established; or

10 (b) Fraud to conceal the material facts of birth or
11 parentage of the person that would otherwise not render
12 the person as a foundling.

13 If the parentage of one foundling is established, and
14 the foundling cannot acquire the citizenship of the parents
15 which will result in statelessness, the foundling shall
16 retain Philippine citizenship until such time that it can be
17 established that the foundling is able to benefit from the
18 citizenship of either parent.

1 SEC. 12. *Recovering Legal Custody And Restoring*

2 *Parental Authority.* – The biological parent/s or legal
3 guardian of a foundling may petition the NACC to recover
4 the legal custody and restore parental authority over the
5 child: *Provided*, That if the child was voluntarily
6 committed, or if any of the following is pending with the
7 NACC: (a) Petition for the issuance of CDCLAA, (B)
8 Supervised trial custody, or (C) Petition for adoption, the
9 relevant provisions of Republic Act No. 11642 shall apply.
10 In deciding all cases, the best interest of the child shall be
11 the paramount consideration of the NACC.

12 If the child is already adopted, all legal ties between
13 the biological parents or legal guardian and the child are
14 severed and the same shall be vested on the adopters.

15 The NACC or LSWDO shall provide the necessary
16 counseling and other necessary programs and services to
17 the biological parents, and the necessary assistance to
18 authorities when the biological parents of a foundling are

1 identified and express the desire to reclaim or exercise
2 parental authority over them.

3 ARTICLE III

4 SAFE HAVEN

5 SEC. 13. *Safe Haven*. – Notwithstanding Articles 276
6 and 277 of the Revised Penal Code and Republic Act No.
7 7610, any parent who relinquishes an infant thirty days
8 old and younger to the following persons or entities shall
9 be exempt from criminal liability:

10 (a) A licensed child-caring agency;

11 (b) A licensed child-placing agency;

12 (c) A church: *Provided*, That, for purposes of this Act,
13 a church shall be defined as a place devoted to religious
14 worship held with regularity;

15 (d) DOH-accredited health facilities including
16 hospitals, infirmaries, city health offices, birthing homes,
17 rural health units and barangay health stations;

(e) A Local Social Welfare and Development Office;

and

(f) DSWD-managed residential care facilities and

LGU-managed residential care facilities.

SEC. 14. *Duties and Responsibilities of the Safe Haven*

Provider. – The safe haven provider shall:

(a) Act appropriately to take care of the infant;

(b) Inform the parent that the parent may, but is not

required to answer questions regarding the identity and

medical history of the infant;

(c) Confirm, if practicable, that the parent wishes to

permanently relinquish their parental rights and release

the infant for adoption; and

(d) Within the forty eight (48) hours from the time of

relinquishment of the child by the birth parent/s to the safe

haven provider or from the report by a finder that a

foundling was discovered, as applicable, inform the NACC

through the RACCO that a child has been relinquished in

1 its custody, including all information surrounding the
2 identity and circumstances of abandonment of the child.

3 SEC. 15. *Status of Infants Relinquished under the*
4 *Safe Haven Provisions.* – Infants relinquished under the
5 safe haven provisions of this Act shall be considered
6 foundlings.

7 SEC. 16. *Immunity for the Safe Haven Provider.* – A
8 safe haven provider who receives an infant pursuant to
9 this Act shall not be liable for any civil damages for any act
10 or omission done in maintaining custody of the infant,
11 provided that the safe haven provider acts in good faith
12 without gross negligence.

13 ARTICLE IV

14 PENALTIES

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

17 (a) The penalty of imprisonment of not less than six
18 (6) months but not more than six (6) years shall be imposed
19 on any person who falsifies or is involved in the

1 falsification of the registration of the supposed foundling,
2 including the documents required therefor: *Provided*, That
3 a public officer found to have been involved in such act of
4 falsification shall be punished by the penalty next higher
5 in degree;

6 (b) The penalty of imprisonment of not less than six
7 (6) months but not more than five (5) years shall be
8 imposed on the finder, the concerned NACC or RACCO
9 employees, staff of child-caring and child placing facilities,
10 safe haven providers, police officers, city, municipal and
11 barangay officers, health employees, hospital staff and any
12 other concerned person who refuses, delays, or obstructs
13 the conduct of search and inquiry into the facts of birth
14 and parentage of the foundling;

15 (c) A fine ranging from Five hundred thousand pesos
16 (P500,000.00) to One million pesos (P1,000,000.00) shall be
17 imposed on a safe haven provider that does not report
18 within forty eight (48) hours that that an infant was
19 relinquished within its premises;

(d) Without prejudice to criminal liability under other laws, a fine ranging from One million pesos (P1,000,000.00) to Five million pesos (P5,000,000.00) or imprisonment of not less than three (3) months but not more than two (2) years, or both, shall be imposed on any person who falsifies or is involved in the falsification of the registration of the supposed foundling, including the documents required therefor, to facilitate the crime of kidnapping or trafficking in persons: *Provided*, That a public officer found to have been involved in such act of falsification shall be punished by the penalty next higher in degree and shall be perpetually disqualified from office.

The penalties under this section are without prejudice to other liabilities arising from existing civil, administrative and criminal laws for the same act or violation.

ARTICLE V

FINAL PROVISIONS

1 SEC. 18. *Advocacy and Information Dissemination.* –

2 The Philippine Statistics Authority (PSA) and NACC,
3 together with LSWDOs, Local Council for the Protection of
4 Children (LCPC), Department of the Interior and Local
5 Government (DILG), and other relevant stakeholders shall
6 conceptualize, conduct and coordinate information
7 dissemination and advocacy campaigns on the provisions
8 and implementation of this Act, and the issues and
9 concerns affecting a foundling.

10 SEC. 19. *Data Collection.* – In order to develop and

11 implement more responsive policies, plans and programs
12 for foundlings, regular and synchronized data collection
13 shall be conducted by the LGUs in coordination with the
14 PSA, NACC and other relevant stakeholders. The
15 collection, preservation and sharing of data shall be
16 conducted pursuant to Republic Act No. 10173 otherwise
17 known as the Data Privacy Act.

18 SEC. 20. *Retroactive application.* – This Act shall have

19 retroactive effect for any foundling insofar as it does not

1 prejudice or impair vested or acquired rights pursuant to
2 existing laws.

3 SEC. 21. *Implementing Rules and Regulations.* –
4 Within ninety (90) days from the approval of this Act, the
5 Secretary of Social Welfare and Development and the
6 executive director of the inter-country adoption board
7 shall, in consultation with the Secretary of Justice,
8 Secretary of the Interior and Local Government, PSA,
9 Council for the Welfare of Children (CWC) and two (2)
10 representatives from child-caring agencies catering to
11 abandoned children and foundlings, formulate the rules
12 and regulations to implement this Act.

13 SEC. 22. *Transitory Provision.* – All the benefits of
14 this act shall also apply to foundlings duly registered as
15 such during their childhood, but have reached the age of
16 majority without benefitting from adoption procedures:
17 *Provided,* That such foundling shall undergo the procedure
18 and comply with the requirements outlined in the IRR
19 within ten (10) years of its effectivity.

1 Before the establishment of the NACC as provided
2 under Section 56 of Republic Act No. 11642, the functions
3 of the NACC relating to foundlings shall remain with the
4 DSWD. The functions of the RACCO shall, during the
5 three (3)-year period, be performed by the DSWD field
6 offices in coordination with the LSWDOs.

7 SEC. 23. *Repealing Clause.* – All other laws, decrees,
8 executive orders, issuances, rules and regulations, or part
9 thereof inconsistent with this Act are hereby likewise
10 repealed or amended accordingly.

11 SEC. 24. *Separability Clause.* – If, for any reason, any
12 section or provisions of this Act is declared
13 unconstitutional or invalid, the other sections or provisions
14 not affected thereby shall remain in full force and effect.

15 SEC. 25. *Suppletory Clause.* – Republic Act No. 11642,
16 otherwise known as the “Domestic Administrative
17 Adoption and Alternative Child Care Act”, Republic Act
18 No. 11222 or the “Simulated Birth Rectification Act”,
19 Executive Order No. 209, s. 1987 or “The Family Code of

1 the Philippines,” and other existing and applicable laws on
2 adoption and on child welfare, care and protection, shall
3 have suppletory application to this Act.

4 SEC. 26. *Effectivity Clause.* – This Act shall take
5 effect after fifteen (15) days upon publication in at least
6 two (2) newspapers of general circulation.

Approved,