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HOUSE OF REPRESENTATIVES

H. No. 7679

BY REPRESENTATIVES ONG (R.), ROMUALDEZ (Y.M.), DELOS SANTOS, FERRER (J.M.), RADAZA, ACOSTA-ALBA, HOFER, ALONTE, ESCUDERO, SAVELLANO, DE VENECIA, VILLARAZA-SUAREZ, VERGARA, TUTOR, ACOP, ABUNDA, ARROYO, MENDOZA, TAMBUING, TY (D.), MARIANO-HERNANDEZ, SAULOG, BROSAS, LIM, YU, CASTELO, ROMAN, TAN (A.S.), ELAGO, CULLAMAT, TALLADO, TIANGCO, FORTUN AND DIALOG, PER COMMITTEE REPORT NO. 494

AN ACT
PROMOTING THE RIGHTS OF DESERTED OR ABANDONED CHILDREN WITH UNKNOWN PARENTS, PROTECTING THEIR STATUS AS NATURAL-BORN CITIZENS OF THE PHILIPPINES, AND PROVIDING PENALTIES AGAINST ACTS INIMICAL TO THEIR WELFARE

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

SECTION 1. Short Title. – This Act shall be known as the "Foundling Welfare Act."

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

Towards this end, the State shall uphold the best interest of the child, including the welfare of deserted or abandoned, by proactively and diligently inquiring into the facts of the child’s birth and parentage. It shall protect any child with unknown parents by ensuring a natural-born citizen status consistent with our
Constitution, the United Nations Convention on the Rights of the Child and other relevant instruments, and the generally accepted principles of international law. The State shall also adopt measures to ensure that support services are provided to foundlings and acts inimical to their welfare are penalized.

SEC. 3. Definition of Foundling. – A foundling refers to a deserted or abandoned child—of unknown parentage and whose date or circumstances of birth on Philippine territory are unknown and undocumented.

SEC. 4. Citizenship Status of a Foundling. – A foundling is a natural-born Filipino citizen regardless of the status or circumstances of birth. As a natural-born citizen of the Philippines, a foundling is accorded with rights and protection at the moment of birth as those belonging to such class of citizens whose citizenship does not need perfection or any further act.

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

SEC. 5. Conduct of Search and Inquiry. – Within fifteen (15) days after commitment, 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 Department of Social Welfare and Development (DSWD), unless more time is needed in view of significant developments, the DSWD or any of its accredited child caring centers or licensed and accredited social welfare and development agencies (SWDAs), shall conduct a proactive and diligent search and inquiry into the facts of birth and parentage of the foundling.

The DSWD or its accredited child caring center or licensed and accredited SWDAs, shall ask assistance from the finder, the local government units (LGUs), Local Social Welfare Development Offices (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.

Television, radio or print media or tri-media and other social media platforms may 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. 6. Registration of a Foundling. – In addition to the affidavit of the finder and the certification of the barangay captain or police authority, the report of the DSWD or its accredited child caring center or licensed and accredited SWDAs, duly signed by the authorized officer, is also required before the foundling may be registered with the Local Civil Registrar. The report must indicate 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 facts that have been
gathered regarding the parents and the birth of the foundling.

The DSWD shall fill up 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 who has an existing
certificate of foundling or a similar official document issued before the
implementation of this Act, shall also be immediately issued a certificate of live birth
on the basis of such document alone: Provided further, That if such certificate of live
birth has not been issued yet, the certificate of foundling or a similar official
document shall function as such with the same legal effect.

The DSWD, along with the other concerned agencies enumerated under
Section 5 of this Act, shall conduct a proactive and diligent search and inquiry into
the facts of birth and parentage of a foundling without need for any document as
basis for such search or inquiry. The official report of such inquiry shall thereafter be
used for the application for and issuance of the certificate of live birth.

The concerned agencies shall streamline the registration process for a
foundling, regardless of age and circumstances, in order to expedite the issuance of a
certificate of live birth and without placing any unnecessary burden on the
foundling: Provided, That the foundling has the right to access all the documentary
requirements submitted for registration: Provided further, That in the certificate of
live birth and succeeding public documents, the foundling shall not be referred to as
such, or in any other discriminatory manner: Provided finally, That the privacy of the
child shall be protected at all times.

SEC. 7. Support Services. – A foundling shall, as a matter of right, be
entitled to every available government program or service, including registration,
facilitation of documents for adoption, education, legal and police protection, proper
nourishment and medical care for survival and development, and admission to safe
and secure child centers.

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

The Council for the Welfare of Children (CWC) or its local counterpart, shall
provide the necessary assistance to authorities when the biological parents of a
foundling are identified and express the desire to reclaim parental authority over
one.

SEC. 8. Revocation of Issued Certificate of Live Birth. – The following are
grounds for cancellation of a foundling’s certificate of live birth:

a. Parentage of the foundling has been established; or
b. Fraud to conceal the material facts of birth or parentage of the person that would otherwise not render the person as a foundling.

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

SEC. 9. Data Collection. – In order to develop and implement more responsive policies, plans and programs for foundlings, regular and synchronized data collection shall be conducted by the LGUs in coordination with the Philippine Statistics Authority (PSA), DSWD and other relevant stakeholders. The collection, preservation and sharing of data shall be conducted pursuant to Republic Act No. 10173 otherwise known as the Data Privacy Act.

SEC. 10. Penalties. – The following penalties shall be imposed:

a) The penalty of fine ranging from Fifty thousand pesos (P50,000.00) to One hundred thousand pesos (P100,000.00) or imprisonment of not less than one (1) month but not more than one (1) year shall be imposed on any person using the status of the child as foundling in a derogatory remark or to cause dishonor to the foundling as a second-class citizen resulting in an adverse effect on the foundling’s well-being;

b) A fine ranging from Two hundred thousand pesos (P200,000.00) to One million pesos (P1,000,000.00) or imprisonment of not less than one (1) month but not more than one (1) year, or both, at the discretion of the court, shall be imposed on any person discriminating against a foundling in terms of education, scholarship, practice of profession, delaying the delivery of services due to the foundling, or requiring proof of parentage from the foundling before allowing the exercise of the foundling’s rights as a natural-born citizen. If the violation is committed by a corporation, partnership, or association, the board of directors, partners, trustees, officials, and employees who directly participated in the commission of the unlawful act shall be liable;

c) The penalty of imprisonment of not less than six (6) months but not more than six (6) years 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. A public officer found to have been involved in such act of falsification shall be punished by the penalty next higher in degree;

d) The penalty of imprisonment of not less than six (6) months but not more than five (5) years shall be imposed on the finder, the concerned DSWD officer or staff or its accredited child caring center or licensed and accredited SWDA, police officers, city, municipal and barangay officers, health employees, hospital staff and any other concerned person who refuses, delays, or obstructs the conduct of search and inquiry into the facts of birth and parentage of the foundling; and

e) 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, at the discretion of the court, shall be imposed on
any person filing a malicious complaint found to have been initiated for the purpose
of harassing, annoying, vexing, persecuting or injuring a foundling especially in the
exercise of the foundling’s rights as a natural-born citizen.

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.

SEC. 11. Advocacy and Information Dissemination. – The PSA and
DSWD, together with LSWDOs, and other relevant stakeholders shall conceptualize,
conduct and coordinate information dissemination and advocacy campaigns on the
provisions and implementation of this Act, and the issues and concerns affecting a
foundling.

SEC. 12. Retroactive Application. – This Act shall have retroactive effect for
any foundling insofar as it does not prejudice or impair vested or acquired rights
pursuant to existing laws.

SEC. 13. Implementing Rules and Regulations. – Within ninety (90) days
from the approval of this Act, the Secretary of Social Welfare and Development shall,
in consultation with the Secretary of Justice, Secretary of the Interior and Local
Government, PSA, CWC, and two (2) representatives from child-caring agencies
catering to abandoned children and foundlings, formulate the rules and regulations
to implement this Act.

SEC. 14. Separability Clause. – If any provision or part hereof is held invalid
or unconstitutional, the remaining provisions not affected thereby shall remain valid
and subsisting.

SEC. 15. Suppletory Clause. Republic Act No. 11222 or the “Simulated Birth
Rectification Act”, Executive Order No. 209, s. 1987 or “The Family Code of the
Philippines,” and other existing and applicable laws on adoption and on child welfare,
care and protection, shall have suppletory application to this Act.

SEC. 16. Repealing Clause. – All laws, presidential decrees or issuances,
executive orders, letters of instruction, administrative orders, rules or regulations
contrary to or inconsistent with the provisions of this Act are hereby repealed,
modified or amended accordingly.

SEC. 17. Effectivity. – This Act shall take effect fifteen (15) days after its
publication in the Official Gazette or in a newspaper of general circulation.

Approved,