

S. No. 2233
H. No. 7679

Republic of the Philippines
Congress of the Philippines
Metro Manila
Eighteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-sixth day of July, two thousand twenty-one.

[REPUBLIC ACT NO. **11767**]

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:

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

The State shall uphold the best interests of the child, including and especially the child with distinct vulnerabilities, such as the neglected, stateless, and abandoned or deserted, by proactively and diligently inquiring into the facts of the child's birth and parentage. It recognizes the generally accepted thrust of international law to reduce and prevent statelessness. 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.

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

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

SEC. 4. *Finder.* – The finder shall be a person of legal age who discovered the deserted or abandoned child: *Provided,* That if the actual finder is a minor, his or her parent or legal guardian shall assist in making the report. The finder shall report within forty-eight (48) hours upon discovery of the child

to inform the Local Social Welfare and Development Office (LSWDO), closest to him/her, or any safe haven provider, which shall in turn coordinate with the NACC through the Regional Alternative Child Care Office (RACCO), for the provision of appropriate care and services in line with the foundling's needs and best interest.

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

ARTICLE I

STATUS AND LEGITIMACY

SEC. 5. *Citizenship Status of a Foundling Found in the Philippines and/or in Philippine Embassies, Consulates and Territories Abroad.* – A foundling found in the Philippines and/or in Philippine embassies, consulates and territories abroad is presumed 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 protections at the moment of birth equivalent to those belonging to such class of citizens whose citizenship does not need perfection or any further act.

The presumption of 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. 6. *Administrative Adoption and Status of Legitimacy.* – In the event that the biological parents cannot be identified and located, the foundling shall be declared legally available for adoption subject to existing laws, rules, and regulations and taking into consideration the best interest of the child.

The relevant provisions of Republic Act No. 11642, otherwise known as the "Domestic Administrative Adoption and Alternative Child Care Act", shall apply in the adoption of foundlings.

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

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

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

SEC. 8. Right to Government Programs and 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 NACC, through the RACCOS, all relevant government agencies, the concerned local government units (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 RACCOS, shall ask assistance from the finder, the 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 who has an existing certificate of foundling or a similar official document issued before the implementation of this Act may secure a Certificate of Live Birth before the Local Civil Registrar, which shall immediately issue one, without cost, on the basis of such document alone: *Provided, further*, That a certificate of foundling or a similar official document shall continue to have the same legal effect as a 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, furthermore*, That the foundling shall not be considered stateless between the period of finding or discovery and the issuance of the order of confirmation of citizenship: *Provided, finally*, That the privacy and best interest of the child shall be protected at all times.

SEC. 11. *Revocation of Issued Certificate of Live Birth.* – The biological parent/s, the NACC or the LSWDO may file a petition for the revocation of the Certificate of Live Birth before the Local Civil Registrar based on the following grounds:

(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. 12. *Recovering Legal Custody and Restoring Parental Authority.* – The biological parent/s or legal guardian of a foundling may petition the NACC to recover the legal custody and restore parental authority over the child: *Provided*, That if the child was voluntarily committed, or if any of the following is pending with the NACC: (a) Petition for the issuance of Certificate Declaring a Child Legally Available for Adoption (CDCLAA), (b) Supervised trial custody, or (c) Petition for Adoption, the relevant provisions of Republic Act No. 11642 shall apply. In deciding all cases, the best interest of the child shall be the paramount consideration of the NACC.

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

The NACC or the LSWDO shall provide the necessary counseling and other necessary programs and services to the biological parents, and the necessary assistance to authorities when the biological parents of a foundling are identified and express the desire to reclaim or exercise parental authority over them.

ARTICLE III

SAFE HAVEN

SEC. 13. *Safe Haven.* – Notwithstanding Articles 276 and 277 of the Revised Penal Code and Republic Act No. 7610, any parent who relinquishes an infant thirty (30) days old and

younger to the following persons or entities shall be exempt from criminal liability:

- (a) A licensed child-caring agency;
- (b) A licensed child-placing agency;
- (c) A church: *Provided*, That, for purposes of this Act, a church shall be defined as a place devoted to religious worship held with regularity;
- (d) DOH-accredited health facilities including hospitals, infirmaries, city health offices, birthing homes, 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 its custody, including all information surrounding the identity and circumstances of abandonment of the child.

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

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

ARTICLE IV

PENALTIES

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

- (a) 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: *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;
- (b) 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 NACC or RACCO employees, staff of child-caring and child-placing facilities, safe haven providers, 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;
- (c) A fine ranging from Five hundred thousand pesos (P500,000.00) to One million pesos (P1,000,000.00) shall be imposed on a safe haven provider that does not report within forty-eight (48) hours that an infant was 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

SEC. 18. *Advocacy and Information Dissemination.* – The Philippine Statistics Authority (PSA) and the NACC, together with the LSWDOs, Local Council for the Protection of Children (LCPC), Department of the Interior and Local Government (DILG), 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. 19. *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 PSA, NACC 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 of 2012”.

SEC. 20. *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. 21. *Implementing Rules and Regulations.* – Within ninety (90) days from the approval of this Act, the Secretary of Social Welfare and Development and the Executive Director of the Inter-Country Adoption Board, shall, in consultation with the Secretary of Justice, Secretary of the Interior and Local Government, PSA, Council for the Welfare of Children (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. 22. *Transitory Provision.* – All the benefits of this Act shall also apply to foundlings duly registered as such during their childhood, but have reached the age of majority without benefitting from adoption procedures: *Provided*, That such foundling shall undergo the procedure and comply with the requirements outlined in the IRR within ten (10) years from its effectivity.

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

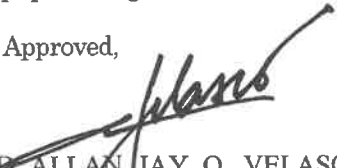
SEC. 23. *Repealing Clause.* – All other laws, decrees, executive orders, issuances, rules and regulations, or parts thereof inconsistent with this Act are hereby likewise repealed or amended accordingly.

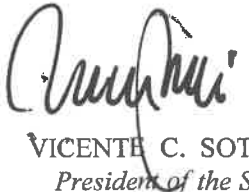
SEC. 24. *Separability Clause.* – If, for any reason, any section or provisions of this Act is declared unconstitutional or invalid, the other sections or provisions not affected thereby shall remain in full force and effect.

SEC. 25. *Suppletory Clause.* – Republic Act No. 11642, otherwise known as the “Domestic Administrative Adoption and Alternative Child Care Act”, 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.

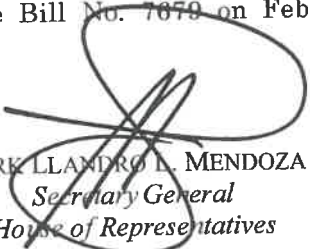
SEC. 26. *Effectivity.* – This Act shall take effect after fifteen (15) days upon publication in at least two (2) newspapers of general circulation.


Approved,


LORD ALLAN JAY Q. VELASCO
Speaker of the House
of Representatives



VICENTE C. SOTTO III
President of the Senate

This Act was passed by the Senate of the Philippines as Senate Bill No. 2233 on January 31, 2022 and adopted by the House of Representatives as an amendment to House Bill No. 7679 on February 2, 2022.


MARK LLANDRO L. MENDOZA
*Secretary General
House of Representatives*


MYRA MARIE D. VILLARICA
Secretary of the Senate

Approved: MAY 06 2022


RODRIGO ROA DUTERTE
President of the Philippines



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