Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 1082

Introduced by **Honorable EILEEN ERMITA – BUHAIN**

EXPLANATORY NOTE

This bill seeks to strengthen and propagate foster care for abused, abandoned, neglected and other children with special needs so that they will be provided with alternative family care.

It cannot be denied that in our society, there are individuals and families in crisis situations. And while indeed parents are responsible for providing their children with the proper environment for them to grow up as upright individuals and responsible citizens, those placed in crisis situations could not and fail to fulfill this responsibility, thus giving rise to abandoned and neglected children. The situation is worse for abused who are physically and/or sexually abused. Only timely and proper social intervention can address the problem and here, foster caring is a strong alternative.

This bill then seeks to provide a comprehensive legal framework within which the welfare and interests of those needing foster care and those who can provide it can be harmonized. This is to give flesh to the Constitutional mandate for the State to provide social protection to children and youth.

In view of the foregoing premises, approval of this bill is earnestly sought.

EILEEN ERMITA - BUHAIN

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AN ACT TO STRENGTHEN AND PROPAGATE FOSTER CARE FOR ABUSED, ABANDONED, NEGLECTED AND OTHER CHILDREN WITH SPECIAL NEEDS, PROVIDING APPROPRIATIONS THEREFOR AND FOR OTHER PURPOSES

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

ARTICLE I
GENERAL PROVISIONS

SECTION 1. ***Title.*** - This Act shall be known as the "***Foster Care Act of 2004***".

SEC.2. ***Declaration of Policy.*** – The State recognizes the vital role of children and youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall then be a declared policy of the State to provide every abused, neglected and abandoned child with an alternative family that will provide such child with love and care as well as opportunities for growth and development. The State shall guarantee all the rights enumerated in the United Nations Convention on the Rights of the Child and the provisions of Presidential Decree No.603 titled " The Child and Youth Welfare Code".

The State shall then enhance and institutionalize foster caring in the country. It shall ensure that foster families promote and motivate the foster child to relate with his/her biological or adoptive family, as the case maybe, and shall provide the positive environment to encourage bonding. The State shall also protect the rights of the biological child of foster families and ensure that in no case shall he/she be disadvantaged as a result of the placement of a foster child.

SEC. 3. ***Definition of Terms***.- For purposes of this Act, the following terms are defined as:

a) "**Child**" refers to a person below eighteen (18) years of age, or one who is eighteen (18) years of age, or one who is eighteen (18) years and above who is unable to fully take care of him/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

b) "**Foster care**" refers to provision of planned substitute parental care to a child by a foster family, as determined in Article II of this Act, licensed by the Department of Social Welfare and Development (DSWD) when his/her biological parents are unable to care for him/her temporarily or permanently.

c) "**Foster family**" refers to a family or person/s, duly licensed by DSWD, who provide foster care to a child placed with them/him/her for planned, goal-directed services which will help realize the permanent life plan of the child.

A foster family may either be one of the following:

i) Regular family – refers to a foster family, which received material provisions from the agency in order to help meet the basic needs of the child.
ii) Volunter family – refers to a foster family, which does not receive any material provision or incentive from the agency;

d) "**Agency**" refers to the DSWD or licensed and accredited child-placement institutions tasked to implement the foster care program.

e) "**Biological parents**" refer to birth parents.

f) "**Matching**" refers to the judicious pairing of a child with a family based on the former's needs and in his/her best interest, as well as the capability and commitment of the latter.

g) "**Placement**" refers to the physical transfer of the child with the foster family.

h) "**Permanency Plan**" refers to the best plan arrived at by the Social Worker with the participation of the child, if applicable, and other

significant persons/agencies for the child's best welfare and interest. This shall include activities for the child, foster family and the biological parents, if available, and shall have a specific time frame until such time a permanent placement is arrived at.

i) **"Social Worker"** refers to the registered Social Worker of an Agency.

j) **"Foster Placement Authority** " (FPA) refers to the document issued by the DSWD authorizing foster care.

ARTICLE II
ELIGIBILITY PROCEDURES

SEC. 5. ***Who May be Fostered.*** – The following may benefit from foster care:

a) A child as defined in Article I, Section 3(a) of this Act;
b) A child who is either abused, abandoned, neglected or orphaned;
c) A child in need of special protection due to any of the following conditions and circumstances:

   i) When his/her parents/guardians are in crisis which render him/her temporarily or permanently incapable of adequately providing care for him/her;
   ii) When his/her parents/guardians are known to be inflicting physical or sexual abuse;
   iii) When he/she is a victim of commercial sexual exploitation;
   iv) When he/she has emotional and psychological difficulties;
   v) When he/she is affected with Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS);
   vi) When the child has committed a minor offense and released on cognizance or on custody supervision but whose family or relatives are not capable of providing him/her adequate/appropriate care.

d) A child matched for adoption.

SEC.6. ***Who May Foster.*** – The kin or relatives of the foster child, if willing and able, become the priority prospective foster family. All applicants, including the kin or relatives of the foster child, mist meet all the following qualifications:

a) Shall be at least twenty five (25) years of age and shall have a genuine interest in parenting a related or non-related child;
b) May either be married, separated, widowed or single. Provided, that single applicants must be able to provide a family atmosphere for the child;
c) Must have a healthy and harmonious relationship with each family member;

d) Must have good moral character, emotional maturity, be physically fit and financially able to provide for the family's needs;
e) Must be willing to be trained to hone their knowledge, attitude and skills in caring for children.

Alien-applicants must have at least one(1) year residency in the Philippines and possess all the qualifications stated above.

SEC. 8. ***General Procedures.*** – The following shall be observed in the foster care of the child:

a) Pre-Placement

i) Child

1) A Permanency Plan for the best interest of the child shall be accomplished at each placement;
2) Placement shall be done immediately as soon as the Permanency Plan is approved even as efforts are undertaken to strengthen his/her biological family;
3) Placement shall be based on proper matching;
4) Preparation for placement shall be consistent with the child's age, understanding and emotional maturity. The child shall be helped to understand what foster care means and the reason for it;
5) No child shall be placed with a foster family that is not licensed except in case of an emergency, but in which case, evaluation and licensing shall be done not later than one week.

ii) Foster Family

1) A thorough study necessary to determine the motivations, capacities and potentials for development of families to be licensed shall be made by the Agency, and be used as basis for the issuance of license;
2) After being licensed, foster families shall undergo periodic training on the understanding and management of children to enhance and develop parenting capability;
3) Information on the child shall be shared, only when necessary, to help foster families understand and develop plans for the child;
4) A maximum number of two(2) children under two(2) years of age or three(3) older children shall be placed with a foster family at any given time, or as determined by the Agency, except where siblings have to be together in one foster family.

iii) **Foster Care Committee**. For purposes of this Act, a Foster Care Committee (FCC) shall be formed to decide on cases affecting the child's welfare. It shall be a complementary partnership among the Agencies, foster families, and biological families, if available, and shall include, as far as practicable, professionals from relevant fields such as psychology, health, education, medicine and law.

b) Placement

i) The FPA shall be prepared by the concerned Agency and approved by the DSWD;

ii) After the child has been placed with his/her foster family, the Social Worker shall continue to provide the necessary assistance to the child and the foster family;

iii) No transfer of a child to another foster family or residential institution/facility shall be authorized except after the FCC has convened and approved such.

c) **Post Placement**. In case of injury or death of a foster child, or if he/she runs away or get lost, such shall be reported immediately to the Agency, which, in turn, shall report the same to the nearest DSWD field office. The Agency shall submit an incident report together with the medical and death certificate, as the case may be, to the nearest DSWD field office.

d) Termination of Placement

i) Termination of placement shall be done by the Agency, upon the recommendation of the Social Worker, on any of the following grounds: reunion of the child with his/her biological family; adoption; referral to another foster family or residential institution/facility; and death of the child;

ii) After the reunion of the child with his/her family, adoption or referral to another foster family or residential institution/facility, the Social Worker shall be available to ensure the child's reintegration and adjustment to his/her biological/adoptive/foster family;

iii) The biological/adoptive/foster family shall be provided with counseling to enable them to understand and cope with the child's adjustment problem to his/her environment.

e) **Revocation of license.** The DSWD can revoke the license of a foster family after a thorough study and recommendation thereof is made by the concerned Agency. In cases of dispute on the matter between the Agency concerned and the DSWD, the FCC, together with a representative from the DSWD – Central Office, shall be convened to settle such disagreement.

ARTICLE III
ADOPTION OF A FOSTER CHILD

SEC.10. ***Conditions.***- A foster family may adopt their/his/her foster child. The following conditions shall be observed in the adoption of the foster child by the foster family.

a) The foster family must have all the qualifications as provided for by Republic Act No. 8552, otherwise known as the Domestic Adoption Act of 1998, or Republic Act No. 8043, otherwise known as the Inter-Country Adoption Act of 1995, as the case may be.
b) The trial custody, as required in adoption, may be waived. Provided, That a harmonious relationship exists between the foster child and his/her family.
c) The procedure for adoption, for purposes of this Act, shall be governed by Republic Act No. 8552 or Republic Act No. 8043, as the case may be.

ARTICLE IV
SUPPORT SERVICES

SEC. 11. Support Services. – Support services shall be made available to the following:

a) Biological parents

i) Counseling shall be provided to parents to help them understand foster care and prepare them for eventual reunion with the child.
ii) Training on child-caring and child-protecting skills shall be provided to biological parents to improve their knowledge, attitude and skills in parenting.

b) Foster family

i) A foster parent shall be entitled to a deduction from his/her gross income the amount of eight thousand pesos (P8,000.00) for each taxable year for each foster child. Provided, that this deduction shall be claimed by only one of the spouses in the case of married foster parents. Provided, further That, this deduction shall be allowed in full if the period of foster care is at least (6) months but less than two(2) months, the amount deductible from gross income shall be pro-rated.
ii) Foster families shall be provided training to upgrade their knowledge and skills on childcare, development and protection.

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c) **Foster Child**. He/she shall be entitled to full care and support, including but not limited to, counseling and supplies in the form of milk, medicines, feeding paraphernalia, clothing and school supplies, as needed.

ARTICLE V
PENALTIES

SEC. 12. ***Penalties.***- Any person/s caring for a child, whether licensed or without a license as a foster family, found to be committing act of neglect, abuse, cruelty or exploitation and other conditions prejudicial to the child's development or has under his/her custody two or more children without any legal basis or without being licensed to act as a foster family shall be penalized in accordance with Republic Act No. 7610, otherwise known as An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing for its Violation, and for Other Purposes.

ARTICLE VI
FINAL PROVISIONS

SEC.13. ***Implementing Rules and Regulations.***- The DSWD, in consultation with accredited child-caring institutions and other related organizations, is hereby mandated to prepare and draft the implementing rules and regulations to operationalize the provisions of this Act, within six(6) months from its effectivity.

SEC.14. ***Appropriations.***- The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter. An initial amount of thirty million pesos (P30,000,000.00) which shall include among others, the amount for monthly assistance to regular families and emergency fund for medical/hospitalization needs of the child, shall be allocated for the first year of its implementation. Such sum shall be included in the allocation for child-related programs of the DSWD.

SEC.15. ***Repealing Clause.*** – Any law, presidential decree, issuance, executive order, letter of instruction, administrative order, rule and regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SEC.16. ***Separability Clause.*** – If any provision of this Act is held invalid or unconstitutional, the other provisions not affected hereby shall remain valid and subsisting.

SEC. 17. Effectivity Clause.- This Act shall take effect fifteen (15) days following its complete publication in any newspaper of general circulation or in the Official Gazette.

Approved,

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