

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

Thirteenth Congress
First Regular Session

House Bill No. **1385**

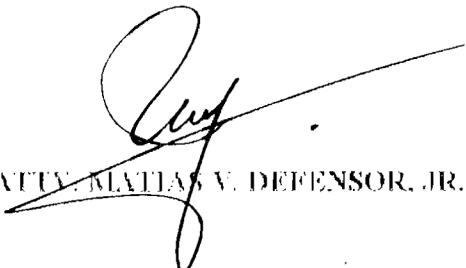
Introduced by Honorable Matias V. Defensor, Jr.

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

EXPLANATORY NOTE

This proposed Foster Care Act is a comprehensive legal framework under which every abused, neglected, surrendered, dependent and abandoned child can be provided with an alternative family. It seeks to systematize and enhance foster care in the country.

This bill guarantees rights to children in foster care under The Child and Youth Welfare Code as well as in international conventions of which the Philippines is a signatory.


ATTY. MATIAS V. DEFENSOR, JR.

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*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 2001”**

SECTION 2. *Declaration of Policy.* It is hereby declared the policy of the State to provide every abused, neglected, surrendered, dependent 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 that all the rights of the child enumerated under Article 3 of Presidential Decree No. 603 titled “The Children and Youth Welfare Code,” as amended and the rights, found under the “Convention on the Rights of the Child” particularly those enumerated in Article 20, as adopted by the General Assembly of the United Nations on November 20, 1989, of which the Philippines is a signatory, shall be observed.

Recognizing this, the State shall systematize and enhance foster caring in the country. Towards this end, the State shall ensure that foster families promote and motivate the foster child to relate with his/her biological or adoptive family, as the case may be, and shall provide the wholesome atmosphere 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.

SECTION 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 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.

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- 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 receives material provisions from the agency in order to help meet the basic needs of the child.
- ii) Volunteer 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 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

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

ARTICLE II ELIGIBILITY AND PROCEDURES

SECTION 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 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 Immune Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS);

- vi) When the child has committed a minor offense and released on recognizance 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.

SECTION 6 *Who may Foster.*—The kins or relatives of the foster child, if willing and available, become the priority prospective foster family. All applicants, including the kins or relatives of the foster child, must 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, widowed, separated 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.

SECTION 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 the 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.

ARTICLE III ADOPTION OF A FOSTER CHILD

SECTION 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 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 foster 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

SECTION 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 prepared them for eventual reunion with the child.
- ii.) Training on child-caring and child-protection 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 deductions from his/her gross income the amount of eight thousand pesos (P8,000) 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 six (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.

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

SECTION 12. *Penalties* – Any person/s caring for a child, whether licensed or without a license as foster family, found to be committing acts 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

SECTION 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.

SECTION 14. *Appropriations* The amount necessary to carry out this 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) 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 implementation. Such sum shall be included in the allocation for child-related programs of the DSWD.

SECTION 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.

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

SECTION 17. *Effectively 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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