

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

SIXTEENTH CONGRESS  
FIRST REGULAR SESSION

HOUSE BILL NO. **4789**



**AN ACT GRANTING ILLEGITIMATE CHILDREN EQUAL SUCCESSIONAL RIGHTS WITH THAT OF  
LEGITIMATE CHILDREN TO THE ESTATE OF THEIR MOTHER**

Introduced by Representative Isagani S. Amatong

**EXPLANATORY NOTE**

There is no law in this world that could articulate the unique relationship of a mother and her child. A mother, who carried a child in her womb for nine months and has opted to give birth to such child to this world under any circumstance, is presumed to have loved that child. The laws of men may put a label on the child's status as either legitimate or illegitimate, but a mother's heart recognizes no label. Hence, our laws, being laws of compassion and equity must be consistent with a mother's natural inkling to care for her children with no discrimination and legally imposed limitations.

Further, the sacred relationship between a mother and her child has long been recognized in our society as reflected in our Family Code. A child is assured by our laws that whenever conceived and born outside a valid marriage, he or she has a mother to take care of him or her, especially in the absence or default of the father. The child is to stay within the custody and care of the mother during tender years, (Article 214 of the Family Code) unless of course the mother is shown to be unfit to perform her parental duties.

The mother is always presumed by our laws to be the best custodian of her child or children, without any regard to the legitimacy or illegitimacy of their relationship. As opposed to paternity, maternity can never be denied since the relationship of mother and child can easily be established by the very existence of a child's birth. Undoubtedly, this is the reason why our Family Code does not allow one's maternity to be impugned *vis-a-vis* to that of paternity.

The Family Code also provides that an illegitimate child must first be recognized by the father in order to be entitled to at least half of the legitime of a legitimate child. The father is even given the right to deny his paternity and is not compelled to sign the birth certificate of a child.

However, this is never the case with respect to maternal relations of the child to the mother. Our present law requires that a mother should adopt her own illegitimate child in order to raise the child's status to "legitimated," to entitle the child to the same rights and privileges to that of his or her legitimate siblings, if any.

In addition, under our present laws in Domestic Adoption, a mother who intends to adopt her own child out of wedlock who eventually marries, must get the consent of her husband before she could do so. Article 3.7.ii of RA 8552 otherwise known as Domestic Adoption Law provides "*Husband and wife shall jointly adopt, except in the following cases: (ii) if one spouse seeks to adopt his/her own illegitimate son/daughter: Provided, However, that the other spouse has signified his/her consent thereto;*". This, all the more puts the illegitimate child at a disadvantageous situation assuming that the husband of the mother refuses to give his consent to the child's adoption.

Either way, a mother has to go through the long judicial process just so she could ensure that her child born out of wedlock could receive the same rights and privileges exclusively given to legitimate children and secondary compulsory heirs i.e parents of his or her mother. And at worst, the mother is left with no recourse if her husband refuses to give his consent to adopt.

In the absence of such adoption proceedings, the child is left with merely one half of the right of a legitimate child over his or her mother's estate and worse, the child has to make do of whatever is left for him or her after other legitimes of other heirs are satisfied. i.e. secondary heirs such as the parents of his or her mother, if the mother died without a husband and legitimate children.

Therefore, the absurdity in law of having to "adopt" one's own child just so he or she could enjoy the equal rights and privileges only given to legitimate children for purposes of succession should now be addressed.

It is only equitable and just that any child born in this world should receive the same successional rights from the estate of his or her mother as a "birth right." That is to say, the mother is no longer required to adopt her own child to vest him or her same rights and privileges of that of legitimate children insofar as the mother's estate is concerned. After all, children born to this world may have fathers ignorant of their very existence, but we will always have mothers who have witnessed who have witnessed our first breath of life.

This, however, shall not automatically raise the child's status to "legitimate". The mother may still opt to adopt the child if she wants her child to receive equal rights of representation to the estate of grandparents *ab intestato*.

  
ISAGANI S. AMATONG

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SECOND REGULAR SESSION

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

**SECTION 1. Short Title-** This Act shall be known as "Expanded Illegitimate Children's Rights Act of 2014"

**SECTION 2. Declaration of Policy-** It is hereby declared the policy of the State to protect the rights and promote the welfare of children born out of wedlock while taking into consideration the vested rights of their legitimate siblings. The State shall strive to promote and improve their economic status and empower their mothers who have the primary parental authority over them, consistent with the constitutional provision on equal protection clause.

**SECTION 3. Objectives**

- Raise the illegitimate child's rights' status on equal footing with that of legitimate child to the estate of the mother
- Take away the legal absurdity of requiring a mother to adopt her own child to raise rights on equal footing with her other legitimate children

**SECTION 4. Coverage**



The equality with respect to legitime is limited only to the mother's estate and in no way shall affect the child's rights with respect to his biological father and other relatives. This law shall cover children born out of wedlock regardless of circumstances.

**SECTION 5. Maternal Bond; How Established**

In order to establish the maternal bond, a proof that the mother had given birth to the child is needed. Certificate of Live Birth is prima facie proof of maternal bond. A DNA test may also be undertaken to establish maternal bond.

**SECTION 6. Scope of Expanded Illegitimate Children's Rights**

The expanded rights of the illegitimate children shall cover both testate and intestate succession. The illegitimate children shall receive one full share in the estate of their mother in the same way as those of legitimate children and for all intents and purposes shall be in the same category with those of legitimate children.

If the mother is survived by an illegitimate child concurring with other relatives, the presence of the illegitimate child shall exclude in the order of succession all other surviving relatives, just like the presence of a legitimate child.

**SECTION 7. Limitation as to the Rights Conferred**

The rights conferred shall be limited only to the estate of the mother and in no way confer other rights and privileges with respect to child's successional rights to the estate of the relatives of the mother in case of predecease.

**SECTION 8. Repealing Clause.** – Any provisions of law presidentials decree, executive orders, rules and regulations contrary to the provisions of this Act are hereby repealed or modified accordingly.

**SECTION 9. Effectivity.** – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of genral circulation, whichever comes earlier.

Approved

