

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE OF REPRESENTATIVES
H.B. No. **5849**



Introduced by Representative H. Harry L. Roque Jr.

AN ACT
AMENDING EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE
FAMILY CODE, BY INCLUDING PROVISIONS ON PERMANENT
GUARDIANSHIP OVER MINORS WHO HAVE BEEN PLACED IN THE CARE
OF SUITABLE RELATIVES AND THE CONDITIONS FOR ITS TERMINATION

EXPLANATORY NOTE

The Family Code, Article 216 enumerates those who may exercise substitute parental authority over a child:

Art. 216. In default of parents or a judicially appointed guardian, the following persons shall exercise substitute parental authority over the child in the order indicated:

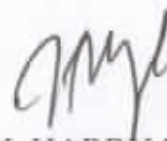
- (1) The surviving grandparent, as provided in Art. 214;
- (2) The oldest brother or sister, over twenty-one years of age, unless unfit or disqualified; and
- (3) The child's actual custodian, over twenty-one years of age, unless unfit or disqualified.

Whenever the appointment or a judicial guardian over the property of the child becomes necessary, the same order of preference shall be observed.

Under the current law, parental authority over children is vested upon parents or judicially appointed guardians and, if there are none, in the people enumerated under Article 216. In some cases, however, children without parents, judicially

appointed guardians, grandparents or older siblings live with other relatives who, while being willing caregivers, may prefer not to legally adopt the children. Thus, remaining with a suitable relative on a permanent basis may not be recognized unless the concerned relative files for a petition for judicial guardianship or adoption.

This bill seeks to enable children to remain in the caring home of a relative who has bonded and cared for the child, and for such relative to have all of the rights and benefits of a guardian or foster parent so that they can adequately provide for the child. The bill ensures that a child will not be removed solely because a relative chooses not to file for a petition for judicial guardianship or adoption. It promotes family life by making it easier for relatives who provide decent homes for family members but may not choose to adopt. Given this amendment in the Family Code, these concerned relatives can remain guardians over their wards, thus providing stability in the family life experience of the child.¹



H. HARRY L. ROQUE JR.

¹ This bill was previously filed by Senator Miriam Defensor Santiago during the Sixteenth Congress, Second Regular Session.

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

1 AN ACT

2 AMENDING EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE
3 FAMILY CODE, BY INCLUDING PROVISIONS ON PERMANENT
4 GUARDIANSHIP OVER MINORS WHO HAVE BEEN PLACED IN THE CARE
5 OF SUITABLE RELATIVES AND THE CONDITIONS FOR ITS TERMINATION

6 SECTION 1. There is hereby added a new section to read as follows:

7 **ART. 216-A. PERMANENT GUARDIANSHIP. – WHEN PARENTAL**
8 **AUTHORITY OVER A CHILD IS TERMINATED OR THE CHILD IS**
9 **OTHERWISE FREED FOR ADOPTION AND THE CHILD HAS BEEN**
10 **PLACED IN THE CARE OF A SUITABLE RELATIVE PURSUANT TO THE**
11 **PROVISIONS OF THIS CODE OR OTHER LAWS, SUCH RELATIVE IS**
12 **DEEMED TO BE THE PERMANENT GUARDIAN OF THE PERSON AND**
13 **PROPERTY OF SUCH CHILD.**

14 **IT SHALL BE DEEMED IN THE BEST INTERESTS OF THE CHILD**
15 **TO REMAIN IN THE CARE AND CUSTODY OF THE SUITABLE**
16 **RELATIVE, REGARDLESS OF WHETHER THE RELATIVE CHOOSES TO**
17 **FILE AN APPLICATION FOR ADOPTION OF THE CHILD.**

18 SECTION 2. There is hereby added a new section to read as follows:

19 **ART. 216-B. – TERMINATION OF PERMANENT GUARDIANSHIP. –**
20 **ANY RELATIVE MAINTAINING PERMANENT GUARDIANSHIP OVER A**
21 **CHILD PLACED IN HIS OR HER CARE SHALL BE ENTITLED TO ALL**

1 THE RIGHTS AND BENEFITS GRANTED TO A GUARDIAN OR A FOSTER
2 PARENT, PROVIDED THE CHILD IS UNDER THE PHYSICAL CARE OF
3 THE RELATIVE, UNTIL EITHER ONE OF THE FOLLOWING
4 CONDITIONS ARE ATTAINED:

- 5 (A) THE CHILD REACHED THE AGE OF EIGHTEEN (18); OR
6 (B) IF THE CHILD ATTENDS COLLEGE, THE CHILD
7 GRADUATED FROM COLLEGE OR ATTAINED THE AGE OF
8 TWENTY-ONE (21) WHILE STILL ATTENDING COLLEGE,
9 WHICHEVER OCCURS FIRST.

10 ONCE A CHILD HAS BEEN PLACED WITH A RELATIVE, THE
11 CHILD SHALL NOT BE REMOVED BY THE COURT OR ANY OTHER
12 AGENCY UNLESS:

- 13 (A) THE RELATIVE IS FOUND TO BE UNFIT OR UNABLE TO
14 ADEQUATELY PROVIDE FOR THE CARE AND SUPPORT OF
15 THE CHILD; OR
16 (B) THE RELATIVE CONSENTS TO THE REMOVAL OF THE
17 CHILD FROM THE HIS/HER CARE.

18 SECTION 3. *Separability Clause.* – If any provision, or part hereof, is held
19 invalid or unconstitutional, the remainder of the law or the provision not otherwise
20 affected shall remain valid and subsisting.

21 SECTION 4. *Repealing Clause.* – Any law, presidential decree or issuance,
22 executive order, letter of instruction, administrative order, rule or regulation contrary
23 to or inconsistent with the provisions of this act is hereby repealed, modified or
24 amended accordingly.

25 SECTION 5. *Effectivity.* – This Act shall take effect fifteen (15) days after its
26 publication in at least two (2) newspapers of general circulation.

27 Approved,