

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
17th CONGRESS
Second Regular Session
House Bill No. **6457**



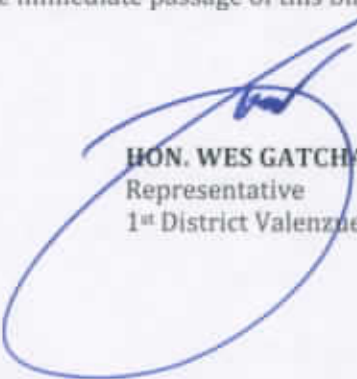
Introduced by *Representative Wes Gatchalian*

EXPLANATORY NOTE

The aim of this bill is to have an administrative avenue to enforce support against parents in favor of their acknowledged children. Support in this context is the act of providing financial facilities for the sustenance and development of one's child as provided in the civil code and the family code.

As it stands today, support for all instances may only be demanded through our court processes. While the rules of court are solicitous to those needing support, the fact remains that such process is occasioned by unnecessary delay not to mention the social costs entailed by such a process. This process also adds to the clogging of the dockets of the court. While the author concedes that a thorough hearing requiring the competence of the court in a special proceeding is required when the aim of the process is to determine the fact of filiation/relationship between the parties. It is submitted that when the parties agree, explicitly or impliedly, that such a relationship exists, the court's participation is no longer required. The moment a person admits that a child is his own he necessarily also takes on the obligation to support such child. The due process clause protecting the property rights of such person therefore does not come into play as he himself implicitly volunteered to make his properties available to support his acknowledged child. If passed into law, this measure does not work to confiscate another's property but rather merely facilitates an obligation a person voluntarily took on.

Children who have been neglected should not have to beg for what is rightfully theirs. Parents who have failed to live up to their calling should not be able to hide behind legal technicalities. While it is true that wealth and money is not everything, it is equally known that in growing up a person needs some of it in order to achieve and become everything he is capable of becoming. There is no substitute to the intimate love of a parent, but alas not all parents are up to this duty, it is their children that this bill aims to benefit. It is for all these that the immediate passage of this bill is sought.


HON. WES GATCHALIAN
Representative
1st District Valenzuela City

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House Bill No. _____

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AN ACT
AUTHORIZING THE LOCAL SOCIAL WELFARE
AND DEVELOPMENT OFFICER OF EACH MUNICIPALITY TO
ORDER THE GRANTING OF SUPPORT TO AN ACKNOWLEDGED
CHILD OF A PARENT

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

Section 1. Authority of the Local Social Worker and Development Officer- Upon a verified petition, the Local Social Welfare and Development Officer (LSWDO), shall have the authority to order the delivery of support and in default of such, the attachment of as much of the properties of a parent as may be necessary for the support of their acknowledged child. For this purpose the LSWDO may issue writs of execution and may deputize any sherriff commissioned within the territorial jurisdiction to perform all the necessary processes to perfect the attachment.

Section 2. Definition of Terms - As used in this Act, the following terms shall mean:

- (1) "Acknowledged Child" a child of a parent, regardless of legitimacy, but whose filiation is not disputed by the parent. This term shall also be applicable to an adopted child of an adopter.
- (2) "Petitioner" refers to a natural person filing the petition and who has direct and personal interest in obtaining support.

Section 3. Who May File the Petition and Where. - Any acknowledged child, with the assistance of his parent or legal guardian, may file a verified petition in the municipality or city of:

- a. The residence of the parent;
- b. The residence of the child; or
- c. The place where a property of the parent may be found;

Citizens of the Philippines who are presently residing or domiciled in foreign countries may file their petition, in person, with the nearest Philippine Consulates.

In the absence of Local Social Welfare and Development Officer in the municipality or city, a petitioner may file with the Local Social Welfare and Development Officer of the province.

Section 4. Grounds for the Order Granting Support. – The petition for support shall be granted under this law in any of the following instances:

- (1) The acknowledged child has not been given support despite demand;
- (2) Parent obliged to give support has not done so for three consecutive months;

Section 5. Form and Contents of the Petition. – The petition shall be in the form of an affidavit, subscribed and sworn to before any person authorized by the law to administer oaths. The affidavit shall set forth facts necessary to establish the merits of the petition and shall show affirmatively that the petitioner is competent to testify to the matters stated. The petitioner shall state in particular facts proving filiation provided under the applicable laws, the financial needs and capacities of both parties, the properties of the parent known to the petitioner within the Philippines, as well as the ground relied upon under the next preceding section of this law.

The petition shall be supported by any or all of the following documents:

- (1) A certified true machine copy of pieces of documents proving filiation;
- (2) Affidavit of any person other than the petitioner attesting to the fact of filiation between the child and the parent from whom support is demanded; or
- (3) Other documents which the petitioner approval of the petition.

Section 6. Service to the parent. – A copy of the petition, along with its supporting documents, shall also be served on the parent from whom support is demanded. The proof of such service shall be attached to the petition filed before the LSWDO. Provided that if the said service is impossible or would unduly burden the petitioner, such may be dispensed with and instead be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation, stating such fact in the petition.

The parent from whom support is being claimed may file an answer, in the same form of a petition, within the period provided for posting or publication in the next succeeding section.

Section 7. Duties of LSWDO. – The LSWDO shall examine the petition and its supporting documents. He shall post the petition in a conspicuous place provided for that purpose for ten (10) consecutive days after he finds the petition and its supporting documents sufficient in form and substance.

If in his answer the parent denies the filiation of the petitioner, the LSWDO shall immediately dismiss the petition and assist the filing of a case for support with the proper courts as provided by the Rules of Court. Provided that a parent who knowingly falsely denied the filiation of a petitioner shall be additionally fined with not less than thrice of the annual support finally awarded by the court. This shall be without prejudice to other criminal and civil cases which may be filed for his wrongful denial.

The LSWDO shall act on the petition and shall render a decision not later than ten (10) working days after the completion of the posting and/or publication requirement. In deciding the amount of the award, such shall be in proportion to the resources or means of the giver and to the necessities of the recipient. He shall also consider the following factors:

- a. Financial Needs of the child, including board, lodging, education, medication and other daily necessities as may be just and equitable

- b. Net Income of both parents
- c. Time to be spent per year in taking care of the child by the parent from whom support is sought

A copy of the decision shall be served on the parent in the same manner as required by the Rules of Court.

Nothing in this law shall preclude the subsequent filing of a motion for the proportional increase or decrease of the support awarded in accordance with Article 202 of the Family Code. The disposition of such motion shall be within the same period provided in this section in the case of original awards.

Section 8. Appeal. - The decision of the LSWDO shall be final and executory unless if within five (5) days from service of the decision a party files a record on appeal to the proper Regional Office of the Department of Social Welfare and Development. Provided that during the pendency of appeal support shall be granted pendent lite if the original decision of the LSWDO was favorable to the petitioner.

Upon receipt of the record, the Regional Office shall require the appellee to file a comment not later than three (3) days. Upon filing of the appellee's comment or in default of such, the Regional Office shall promulgate its decision not later than ten (10) working days. The decision of the Regional Office shall be immediately final and executory, and shall not be subject to any further appeal.

Section 9. Payment of Fees. - The LSWDO or the Regional Office of the DSWD shall be authorized to collect reasonable fees as a condition for accepting the petition. An indigent petitioner shall be exempt from the payment of the said fee.

Section 10. Implementing Rules and Regulations. - The Department of Interior and Local Government and the Department of Social Welfare and Development, in consultation with the Department of Justice, the Department of Foreign Affairs, the Office of the Supreme Court Administrator, the University of the Philippines Law Center, issue the necessary rules and regulations for the effective implementation of this Act not later than three (3) months from the effectivity of this law.

Section 11. Retroactivity Clause. - This Act shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code and other laws.

Section 12. Separability Clause. - If any portion or provision of this Act is declared void or unconstitutional, the remaining portions or provisions thereof shall not be affected by such declaration.

Section 13. Repealing Clause. - All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 16. Effectivity Clause. - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspapers of general circulation.