

Seventeenth Congress
Third Regular Session

HOUSE BILL NO. 8738



Introduced by Representative Carlo V. Lopez

EXPLANATORY NOTE

The 1987 Constitution recognizes the fundamental right of every person to be free from any form of discrimination. Section 1, Article II, states that: *"The State values the dignity of every human person and guarantees full respect for human rights."*

Also, Section 1, Article XIII, provides that *"The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities xxx."*

As the most vulnerable sector to discrimination, children are given the highest form of protection by the State.

Presidential Decree No. 603, otherwise known as *"The Child and Youth Welfare Code"* was issued to promote the rights of the child and the role and responsibilities of the parents, the school and the church in honing a child towards a useful and responsible adulthood.

In an effort to harmonize the principles and standards of international conventions and agreements on child welfare with the national legislations, the Philippines acceded to international instruments like the *United Nations Convention on the Rights of a Child* (UNCRC). Article II of the UNCRC directs all signatories that *"State parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."*

In 1988, Executive Order No. 209, otherwise known as *"The Family Code of the Philippines"* was issued barring an illegitimate child from carrying the surname of his biological father. Article 176 of E.O. No. 209 specifically provided that *"Illegitimate children shall use the surname and shall be under the parental authority of their mother xxx"*. Aside from being restricted from using the father's surname, an illegitimate child's birth certificate bears no entries of his middle name and the date of marriage of his parents. These entries in an illegitimate child's birth certificate add up to the already hard realities that illegitimate children have to contend with as the

consequence of the transgressions which, in the first place, are not theirs, but of their parents.

The latest data from the Philippine Statistics Authority shows that almost half or 49.2 % of the total 1,731,289 registered live births in 2016 were born out of wedlock. With this rise in illegitimate child birth in recent years, amendment to and review of the existing laws on the protection of children become imperative.

Legislative measures in other countries reflect the evolving acceptance of illegitimate children as human beings with rights not too distant, if not equal to that of legitimate children. With the passage of Republic Act No. 9255 entitled, "*An Act Allowing Illegitimate Children to Use the Surname of Their Father, Amending for the Purpose Article 176 of Executive Order No. 209*, otherwise known as the "*The Family Code of the Philippines*" Congress has significantly progressed in bridging the gap between the rights and privileges that legitimate and illegitimate children enjoy.

RA No. 9255 which amended Article 176 of the Family Code now entitles illegitimate children to carry the surname of their fathers provided that they are expressly recognized as shown in their record of birth or if there is an admission of their filiation by the father contained in a public document or a private handwritten instrument. While the parental authority of an illegitimate child shall be with the mother, the father of an illegitimate child who recognizes him may now be entitled to visitorial rights to enable the father to establish a bond with the child, provide emotional support, and share in the child's rearing and development.

With all the laws recognizing and promoting the rights of illegitimate children or those born out of wedlock, there are still several gaps in legislation for the protection of children, especially the illegitimate ones, which need to be addressed. For instance, there are educational institutions that refuse admission of illegitimate children to their schools. This practice of refusing school admission of children born out of wedlock contradicts Section 1, Article XIV of the 1987 Constitution which provides that "*The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.*" Further, this practice debases the intrinsic worth and dignity of a child and poses a negative effect on a child's psychological state and sense of security as a human being.

In order to provide illegitimate children with a fair and protective academic playing field, spare them from the stigma usually attached to their being born out of wedlock, and to equip them with quality education as we gear them up as the future nation-builders, passage of this bill is earnestly sought.



CARLO V. LOPEZ

HOUSE BILL NO. 8738

1 AN ACT
2 PROHIBITING DISCRIMINATION AGAINST CHILDREN ON
3 ACCOUNT OF ILLEGITIMACY OR BIRTH OUT OF WEDLOCK AND
4 PROVIDING PENALTIES THEREFOR

SECTION 1. **Short Title.**— This Act shall be known as the “*Anti-Discrimination of Illegitimacy Act.*”

SEC. 3. ***Unlawful Discrimination.*** —As used in this Act, discrimination refers to any distinction, exclusion, restriction, or preference which is based on the child's illegitimacy or birth out of wedlock.

It shall be unlawful for any person, natural or juridical, to engage in any of the following acts of discrimination:

1 (a) Refusing admission or expelling from any educational or
2 training institution on the basis of a child's illegitimacy or birth out of
3 wedlock;

4 (b) Including the illegitimate birth of a child in the criteria for
5 admission, transfer, dismissal, access to scholastic development
6 opportunities, trainings, grants or scholarships;

7 (c) Imposing school requirements, restrictions or prohibitions that
8 are harsher than what are customary and which infringe on the rights of
9 the child by reason of the child's illegitimacy or birth out of wedlock;

10 (d) Publishing information intended to cast out or reveal the
11 illegitimate birth status of a child without the consent of the parents or
12 guardian or if such publication has been deliberately made with malicious
13 intent;

14 (e) Making derogatory comments through any form of medium
15 which tend to annoy, insult, bully, demean, offend, threaten, intimidate,
16 alarm or create a hostile or emotionally distressing environment and
17 which behavior is motivated by the offender's bias, belief or perception
18 regarding the child's illegitimacy or birth out of wedlock; and

19 (f) Subjecting a child to any other analogous acts that shall have
20 the effect or purpose of impairing or nullifying the enjoyment,
21 recognition, or exercise of the child's rights and freedoms.

1 As used in this Act, children conceived and born outside a valid marriage
2 are illegitimate as provided under *Executive Order No. 209*, Series of 1987,
3 otherwise known as the “*Family Code of the Philippines*.”

4 SEC.4. ***Penalties.***— Any person who commits any of the discriminatory
5 practices mentioned in Section 3 of this Act shall, upon conviction, pay a fine of
6 not less than Two hundred thousand pesos (P200,000.00) but not more than
7 Five hundred thousand pesos, or imprisonment of not less than one (1) year but
8 not more than six (6) years, or both, at the discretion of the court. In addition,
9 the court may impose upon a person found to have committed any of the
10 prohibited acts the rendition of community service in terms of attendance in
11 human rights education’s familiarization with and exposure to the plight of
12 children discriminated by reason of their illegitimacy or birth out of wedlock.

13 If the violation or offense is committed by a corporation, partnership,
14 association or other juridical entities, the penalty provided for in this section
15 shall be imposed upon the directors, officers, employees or other officials or
16 persons therein responsible for the offense without prejudice to the civil
17 liabilities arising from the criminal offense.

18 Any action arising from the violation of the provisions of this Act shall
19 prescribe in three (3) years.

20 SEC. 5. ***Programs to Promote Non-Discrimination.*** — The State shall
21 pursue initiatives and programs that seek to establish and maintain an
22 environment free of stigma and discrimination. The State shall direct and

1 utilize its machinery and resources to promote non-discrimination and shall
2 encourage other sectors of the society to engage and participate in the
3 implementation of the following programs:

4 (a) *Social Protection Programs*— The National Government shall
5 ensure that a child or student vulnerable to stigma and discrimination on
6 the basis of the child's illegitimacy or birth out of wedlock are integrated
7 into government-run social protection programs; and

8 (b) *Diversity Programs and Trainings* – All government agencies,
9 including government-owned and -controlled corporations, local
10 government units, private business organizations, public and private
11 educational institutions, and other entities shall establish diversity
12 programs. These institutions shall also endeavor to provide or conduct
13 trainings for their staff, employees, students and trainees, and constituents
14 to ensure that human rights violations and violence on the basis of the
15 child's illegitimacy or birth out of wedlock are prevented.

16 Such institutions may incorporate these activities into their existing
17 development training programs or school curricula. The above-listed
18 agencies, business organizations and institutions shall create an internal
19 redress mechanism to address cases of discrimination and develop
20 administrative remedies or sanctions for such cases.

21 SEC. 6. *Implementing Rules and Regulations.*— Within sixty (60)
22 days from the effectivity of this Act, the Department of Education shall, in

1 coordination with the Commission on Higher Education, the Technical
2 Education and Skills Development Authority, the Commission on Human
3 Rights, the National Youth Commission, the Philippine Statistics Authority, and
4 the Department of Labor and Employment, promulgate the necessary rules and
5 regulations for the effective implementation of the provisions of this Act.

6 SEC. 7. *Repealing Clause.* – All laws, decrees, executive orders,
7 proclamations, executive issuances or parts thereof which are inconsistent with
8 or contrary to the provisions of this Act are hereby repealed or modified
9 accordingly.

10 SEC. 8. *Effectivity Clause.*– This Act shall take effect fifteen (15) days
11 after its publication in the Official Gazette or in a newspaper of general
12 circulation.

13 Approved,