



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 7500



Introduced by
REPRESENTATIVE PANTALEON D. ALVAREZ

AN ACT
AMENDING EXECUTIVE ORDER NO. 209, S. 1987, AS AMENDED,
OTHERWISE KNOWN AS THE FAMILY CODE OF THE
PHILIPPINES, INsofar AS RECLASSIFYING LEGITIMATE
CHILDREN INTO CHILDREN BORN WITHIN WEDLOCK AND
ILLEGITIMATE CHILDREN INTO CHILDREN BORN OUT OF
WEDLOCK, AND FOR OTHER PURPOSES.

EXPLANATORY NOTE:

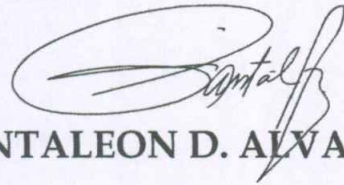
This bill seeks to remove the distinction between children born within wedlock and children born out of wedlock, formally known as legitimate and illegitimate children, as provided under Republic Act No. 389, as amended, Executive Order No. 209, s. 1987, as amended, and other pertinent laws of the land.

Under our existing laws, illegitimate children have lesser rights compared to legitimate children. In terms of inheritance, for instance, the illegitimate child is only entitled to one one-half of the inheritance of a legitimate child. This bill seeks to address such inequality before the law, ensuring that all their rights are equally protected.

Further, it provides for the rights of children conceived through traditional or gestational altruistic surrogacy, an area that is not clearly regulated and this bill seeks to remedy that lack of clarity.

As a signatory of the UN Convention on the Rights of the Child, the Philippine government is obligated to ensure that the best interests of the child must be the primary consideration in all actions concerning their welfare and future.

Hence, approval of this bill is earnestly sought.

A handwritten signature in black ink, appearing to read 'Pantaleon D. Alvarez', written over a large, stylized oval shape.

PANTALEON D. ALVAREZ



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WEDLOCK, AND FOR OTHER PURPOSES.

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

SECTION 1. All provisions in the Civil Code of the Philippines, the Family Code of the Philippines, and other pertinent laws classifying children born inside a valid marriage as legitimate children are hereby amended to classify them as "children born within wedlock". All provisions classifying children born outside of a valid marriage as illegitimate children are hereby amended to classify them as "children born out of wedlock".

SEC. 2. Art. 50 is hereby amended to read as follows -

"Art. 50. The effects provided for by paragraphs (2), (3), (4) and (5) of Article 43 and by Article 44 shall also apply in the proper cases to marriages which are declared void *ab initio* or annulled by final judgment under Articles 40 and 45.

The final judgment in such cases shall provide for the liquidation, partition and distribution of the properties of the spouses, the custody and support of the common children, ~~[and the delivery of their presumptive legitimes]~~, unless such matters had been adjudicated in previous judicial proceedings.

All creditors of the spouses as well as of the absolute community or the conjugal partnership shall be notified of the proceedings for liquidation.

In the partition, the conjugal dwelling and the lot on which it is situated, shall be adjudicated in accordance with the provisions of Articles 102 and 129."

SEC. 3. Art. 51 is hereby amended to read as follows -

Art. 51. In said partition, the value of the ~~[presumptive]~~ legitimes of all ~~[common]~~ children, ~~[computed as of the date of the final judgment of the trial court]~~ **WHETHER BORN WITHIN OR OUT OF WEDLOCK**, shall be ~~[delivered in cash, property or sound securities, unless the parties, by mutual agreement judicially approved, had already provided for such matters]~~ **EQUAL WHICH WILL BE TAKEN FROM THE RESPECTIVE ESTATES OF THEIR PARENTS.**

~~[The children or their guardian or the trustee of their property may ask for the enforcement of the judgment.]~~

~~[The delivery of the presumptive legitimes herein prescribed shall in no way prejudice the ultimate successional rights of the children accruing upon the death of either of both of the parents; but the value of the properties already received under the decree of annulment or absolute nullity shall be considered as advances on their legitime.]~~

THE LEGITIMES OF THE CHILDREN RECEIVED FROM THE RESPECTIVE ESTATES OF THEIR PARENTS SHALL IN NO WAY PREJUDICE THE ULTIMATE

**SUCCESSIONAL RIGHTS OF THE CHILDREN
ACCRUING UPON THE DEATH OF EITHER OR BOTH
OF THE PARENTS.**

SEC. 4. Art. 52 is hereby amended to read as follows -

Art. 52. The judgment of annulment or of absolute nullity of the marriage[,] **AND** the partition and distribution of the properties of the spouses [~~and the delivery of the children's presumptive legitimes~~] shall be recorded in the appropriate civil registry and registries of property; otherwise, the same shall not affect third persons. (n)

SEC. 5. Art. 102 is hereby amended to read as follows -

“Art. 102. Upon dissolution of the absolute community regime, the following procedure shall apply:

(1) An inventory shall be prepared, listing separately all the properties of the absolute community and the exclusive properties of each spouse.

(2) The debts and obligations of the absolute community shall be paid out of its assets. In case of insufficiency of said assets, the spouses shall be solidarily liable for the unpaid balance with their separate properties in accordance with the provisions of the second paragraph of Article 94.

(3) Whatever remains of the exclusive properties of the spouses shall thereafter be delivered to each of them.

(4) The net remainder of the properties of the absolute community shall constitute its net assets, which shall be divided equally between husband and wife, unless a different proportion or division was agreed upon in the marriage settlements, or unless there has been a voluntary waiver of such share provided in this Code. For purpose of computing the net profits subject to forfeiture in accordance with Articles 43, No. (2) and 63, No. (2), the said profits shall be the increase in value between the market value of the community property

at the time of the celebration of the marriage and the market value at the time of its dissolution.

~~{(5) The presumptive legitimes of the common children shall be delivered upon partition, in accordance with Article 51.}~~

~~{(6)}~~ (5) Unless otherwise agreed upon by the parties, in the partition of the properties, the conjugal dwelling and the lot on which it is situated shall be adjudicated to the spouse with whom the majority of the common children choose to remain. Children below the age of seven years are deemed to have chosen the mother, unless the court has decided otherwise. In case there is no such majority, the court shall decide, taking into consideration the best interests of said children. (n)"

SEC. 6. Art. 129 is hereby amended to read as follows -

"Art. 129. Upon the dissolution of the conjugal partnership regime, the following procedure shall apply:

(1) An inventory shall be prepared, listing separately all the properties of the conjugal partnership and the exclusive properties of each spouse.

(2) Amounts advanced by the conjugal partnership in payment of personal debts and obligations of either spouse shall be credited to the conjugal partnership as an asset thereof.

(3) Each spouse shall be reimbursed for the use of his or her exclusive funds in the acquisition of property or for the value of his or her exclusive property, the ownership of which has been vested by law in the conjugal partnership.

(4) The debts and obligations of the conjugal partnership shall be paid out of the conjugal assets. In case of insufficiency of said assets, the spouses shall be solidarily liable for the unpaid balance with their separate properties, in accordance with the provisions of paragraph (2) of Article 121.

(5) Whatever remains of the exclusive properties of the spouses shall thereafter be delivered to each of them.

(6) Unless the owner had been indemnified from whatever source, the loss or deterioration of movables used for the benefit of the family, belonging to either spouse, even due to fortuitous event, shall be paid to said spouse from the conjugal funds, if any.

(7) The net remainder of the conjugal partnership properties shall constitute the profits, which shall be divided equally between husband and wife, unless a different proportion or division was agreed upon in the marriage settlements or unless there has been a voluntary waiver or forfeiture of such share as provided in this Code.

~~[(8) The presumptive legitimes of the common children shall be delivered upon the partition in accordance with Article 51.]~~

~~[(9)]~~ (8) In the partition of the properties, the conjugal dwelling and the lot on which it is situated shall, unless otherwise agreed upon by the parties, be adjudicated to the spouse with whom the majority of the common children choose to remain. Children below the age of seven years are deemed to have chosen the mother, unless the court has decided otherwise. In case there is no such majority, the court shall decide, taking into consideration the best interests of said children. (181a, 182a, 183a, 184a, 185a)

SEC. 7. Art. 176 is hereby amended to read as follows -

"Article 176. ~~[Illegitimate children]~~ **CHILDREN BORN OUT OF WEDLOCK** shall use the surname and shall be under the parental authority of their mother, and shall be entitled to support in conformity with this Code. However, ~~[illegitimate children]~~ **CHILDREN BORN OUT OF WEDLOCK** may use the surname of their father if their filiation has been expressly recognized by the father through the record of birth appearing in the civil register, or when an admission in a public document or private handwritten instrument is made by the

father. Provided, the father has the right to institute an action before the regular courts to prove non-filiation during his lifetime. The legitime of each ~~[illegitimate child]~~ **CHILD BORN OUT OF WEDLOCK** shall ~~[consist of one-half of]~~ **BE EQUAL TO** the legitime of a ~~[legitimate child]~~ **CHILD BORN WITHIN WEDLOCK.**

FOR PURPOSES OF THIS PROVISION, CHILDREN BORN WITHIN WEDLOCK ARE CHILDREN CONCEIVED OR BORN DURING THE MARRIAGE OF THE PARENTS. CHILDREN BORN OUT OF WEDLOCK ARE CHILDREN CONCEIVED AND BORN OUTSIDE A VALID MARRIAGE."

SEC. 8. Art. 164 is hereby amended to read as follows -

"Article 164. Children conceived **or** born during the marriage of the parents are children born within wedlock.

Children conceived as a result of artificial insemination of the wife of the sperm of the husband or that of a donor or both are likewise ~~[legitimate children]~~ **CHILDREN BORN WITHIN WEDLOCK** of the husband and wife, provided, that both of them authorized or ratified such insemination in a written instrument executed and signed by them before the birth of the child. The instrument shall be recorded in the civil registry together with the birth certificate of the child.

IN THE ABSENCE OF SAID WRITTEN INSTRUMENT, THE MOTHER AND THE FATHER OF THE CHILD WILL BE THE PERSONS FROM WHOM THE SPERM AND THE EGG WERE SOURCED FROM.

ARTICLE 164-A. CHILDREN CONCEIVED THROUGH ALTRUISTIC SURROGACY, WHETHER TRADITIONAL OR GESTATIONAL, SHALL BE DEEMED CHILDREN BORN WITHIN WEDLOCK OF THE COMMISSIONING PARENTS, PROVIDED THAT THEY AND THE SURROGATE MOTHER VOLUNTARILY EXECUTE AND SIGN A WRITTEN AGREEMENT EITHER AUTHORIZING OR RATIFYING THE SAME BEFORE

THE BIRTH OF THE CHILD. THE INSTRUMENT SHALL BE ATTACHED TO THE BIRTH CERTIFICATE AND RECORDED IN THE CIVIL REGISTRY. NOTWITHSTANDING ISSUANCE OF ANY JUDICIAL DECLARATION, NULLIFYING OR DECLARING AS VOID SAID WRITTEN AGREEMENT, THE STATUS OF THE CHILD AS A CHILD BORN WITHIN WEDLOCK REMAINS FOR ALL INTENTS AND PURPOSES THAT ARE BENEFICIAL TO HIM OR HER. IN THE ABSENCE OF SAID WRITTEN AGREEMENT, THE IMMEDIATELY PRECEDING PARAGRAPH SHALL APPLY.

FOR PURPOSES OF THIS PROVISION, TRADITIONAL SURROGACY MEANS THE SURROGATE IS PREGNANT WITH HER OWN BIOLOGICAL CHILD, WITH THE INTENTION OF RELINQUISHING THE CHILD TO BE RAISED BY THE BIOLOGICAL FATHER AND HIS SPOUSE.

GESTATIONAL SURROGACY MEANWHILE MEANS THE SURROGATE BECOMES PREGNANT VIA EMBRYO TRANSFER WITH A CHILD OF WHICH SHE IS NOT A BIOLOGICAL MOTHER.

IF THE COMMISSIONING PARENTS ARE FOREIGN CITIZENS, THEY SHALL BE REQUIRED TO ADOPT THE CHILD AND COMPLY WITH THE PROVISIONS OF R.A. 8043 AND ONLY AFTER THE REQUIREMENTS HAVE BEEN MET SHALL THE CHILD BE CONSIDERED A CHILD BORN WITHIN WEDLOCK."

SEC. 9. Separability Clause. If any part of provision of this Act be considered as invalid or unconstitutional, the remaining parts not affected shall remain valid and in full effect.

SEC. 10. Repealing Clause. All laws, decrees, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

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

Approved,