



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

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6781



Introduced by
REPRESENTATIVE PANTALEON D. ALVAREZ

AN ACT
PROVIDING ADDITIONAL LEGAL PROTECTIONS FOR CHILDREN THROUGH THE AMENDMENT OF ARTICLES 164 AND 176 OF EXECUTIVE ORDER NO. 209, S.1987, OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, AND RELATED PROVISIONS IN REPUBLIC ACT NO. 389, OTHERWISE KNOWN AS THE NEW CIVIL CODE OF THE PHILIPPINES, AS AMENDED, AND SUCH OTHER RELATED LAWS, BY REMOVING THE UNFAIR CLASSIFICATION OF CHILDREN AS LEGITIMATE OR ILLEGITIMATE, PROVIDING EQUAL LEGITIMES FOR CHILDREN BORN WITHIN OR OUTSIDE OF WEDLOCK, AND ESTABLISHING THE LEGAL FRAMEWORK FOR SURROGACY HERE IN THE PHILIPPINES

EXPLANATORY NOTE:

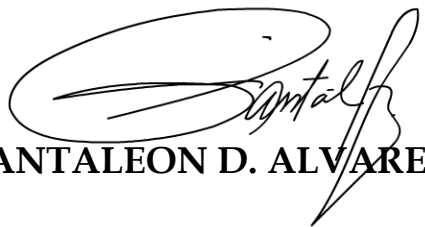
As a signatory of the UN Convention on the Rights of the Child, the Philippine Government is obligated to ensure that the best interests of the child must be the primary consideration in all actions concerning their welfare and future.

Thus, 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 Executive Order No. 209, s. 1987, as amended, Republic Act No. 389, as amended, and such other related laws, decrees, orders, issuances, rules and regulations.

Under our present legal system, 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, technological advances created a legal conundrum still not addressed by Philippines laws insofar as the status of children born through surrogacy, a method which presently has no governing legal framework that clearly establishes the status of the child, including his or her rights, in relation to the biological or surrogate parent/s.

Hence, approval of this proposed law is earnestly sought.



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

SECTION 1. Article 164 of the Family Code of the Philippines is hereby amended to read as follows -

"Article 164. Children conceived and born during the marriage of the parents are [~~legitimate~~] CHILDREN BORN WITHIN WEDLOCK.

Children conceived as a result of artificial insemination of the wife with the sperm of the husband or that of a donor or both are likewise [~~legitimate—children~~] **CHILDREN BORN WITHIN WEDLOCK** of the husband and his 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. (55a, 258a)

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."

SECTION 2. Article 176 of the Family Code of the Philippines is hereby amended to read as follows:

Art. 176. **CHILDREN BORN OUTSIDE OF WEDLOCK** ~~[Illegitimate children]~~ 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. The legitime of each **CHILDREN BORN WITHIN OR OUTSIDE OF WEDLOCK SHALL BE EQUAL.** ~~[illegitimate child shall consist of one-half of the legitime of a legitimate child.]~~ Except for this modification, all other provisions in the Civil Code governing successional rights shall remain in force. (287a)

SECTION 3. *Separability Clause.* If any part of provision of this Act be considered as unconstitutional, the remaining parts not affected shall remain valid and in full effect.

SECTION 4. *Repealing Clause.* Executive Order No. 209, s.1987, otherwise known as the Family Code of the Philippines, related provisions as found in Republic Act No. 389, otherwise known as the New Civil Code of the Philippines, as amended, and all such other related laws, decrees, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 5. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,