

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session
HOUSE BILL NO. 2282



Introduced by REPRESENTATIVE MARIA LOURDES ACOSTA-ALBA

EXPLANATORY NOTE

This bill seeks to institutionalize alternative family care for children as an option other than adoption and foster family care.

Adoption normally provides the orphaned child with the best substitute for the family he or she has lost. But only few of these children have the chance of being adopted. Many of them fail to meet the requirements of prospective parents who have decided ideas regarding the origin, appearance, intelligence or age of the child they wish to adopt. All too often there is some obstacle to their adoption. Sometimes relatives make difficulties or even refuse to give their consent.

Children who have no chance of being adopted would be best cared for in a foster home which, after adoption, best fulfills the ideal of a family upbringing. This however, is only true of the good foster home. Children placed in less satisfactory foster families are exposed to new dangers.

The proposed measure seeks to fill a gap in the existing welfare facilities by creating foster homes of a new kind which could be adapted on a broader basis to each child's needs. The bill promotes child development within a caring family environment. In particular, this bill strives to promote and protect the "caring" element of a family environment, so that each child has a caring parent or alternative parental caregiver who can guide and support the child's development. It strives for siblings to be able to stay together, unless this is not in their best interests. Within a caring family environment, the family creates a "home" where children enjoy a real sense of security and belonging.

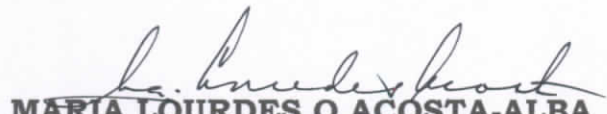
The 2009 United Nations Guidelines for Alternative Care of Children, to which the Philippines is a signatory thereof, enhances the implementation of the UN Convention of the Rights of the Child to ensure that children do not find themselves in alternative care unnecessarily, and where out-of-home care is provided, it is delivered under appropriate conditions responding to the child's rights and best interests.

The bill seeks to combine all the advantage of the private foster family through an Alternative Care Agency (ACA) with those of the best type of children's home, while eliminating the disadvantages stated above.

The ACA is basically very like an ordinary private foster family. It has, however, certain advantages. It can be supervised and controlled in its work and adults-in-charge of the children can be carefully selected and trained. It has the merit of existing solely in the interests of the children committed to its care. It is exclusively concerned with meeting their needs and with caring for their many and diverse problems.

Unlike adoption or foster care; alternative care of children does not totally cut off children's contact with their biological families. Except when the children's welfare will be endangered, or they are abused by their own family members, alternative care of children allows biological parents and families to participate in the rearing of the children given to the care of ACAs. This ensures that the unity and strength of family units is preserved.

In view of the foregoing, approval of this measure is most earnestly sought.


MARIA LOURDES O ACOSTA-ALBA
First District, Bukidnon

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Introduced by **Rep. Maria Lourdes Acosta-Alba**

AN ACT
RECOGNIZING AND STRENGTHENING ALTERNATIVE CARE OF
CHILDREN, PROVIDING INCENTIVES TO AGENCIES PROVIDING THE
SAME

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

1 **Section 1. Title.** — This Act shall be known as the "Alternative Care of
2 Children Act."

3 **Section 2. Declaration of Principles Sate Policies.** — The State shall
4 defend the right of children to assistance, including proper care and nutrition, and
5 special protection from all forms of neglect, abuse, cruelty or other conditions
6 prejudicial to their development. It shall provide child who is neglected, abused,
7 surrendered, dependent, abandoned, under sociocultural difficulties, with an
8 alternative family that will provide love and care as well as opportunities for
9 development.

10 Further, the State shall guarantee that all the rights of the child
11 enumerated under Article 3 of Presidential Decree No. 603, otherwise known as
12 "The Child and Youth Welfare Code", as amended, and the rights found under
13 Article 20 Of the United Nations Conventions on the Rights of the Child shall be
14 observed.

15 Finally, the State recognizes that aside from adoption and foster care,
16 alternative child care shall be established in compliance to UN Guidelines on
17 Alternative Care for Children that will promote the child's growth and
18 development, and the same time provide the biological family with the opportunity
19 to continue its involvement in child rearing.

20 Towards this end, the State shall provide every child who is neglected,
21 abused, surrendered, dependent, abandoned, under socio-cultural difficulties,
22 whose biological family cannot provide necessities, or with special needs with
23 alternative family care that will provide love and care as well as opportunities for
24 growth and development, without unduly severing the bonds of the child and
25 biological family.

26 The State shall also protect the child's right to health.

27 **Section 3. Definition Terms.** — For purposes of this Act, the following
28 terms are defined:

(a) *Alternative Care of Children (ACC)* refers to the provision of planned temporary substitute parental care to a child by an Agency pursuant to Section 4 of this Act and as may be defined by its implementing rules and regulations.

(b) *Alternative Care Agency (ACA)* refers to a child-caring or child-placing institution licensed and accredited by the Department of Social Welfare and Development (DSWD) to provide alternative care in coordination with the host Local Government Unit pursuant to Chapter IV Section 34 of RA 7160.

(c) *Alternative Care License (license)* refers to the document issued by the DSWD authorizing an agency to provide alternative care.

(d) *Child* refers to a person below eighteen years of age, or one who is over eighteen (18) but is unable to fully take care of or protect oneself from abuse, neglect, cruelty, exploitation or discrimination because of physical or mental disability or condition.

(e) *Family* refers to the parents or brothers and sisters, whether of the full or half-blood, of the child.

(f) *Parent* refers to the biological or adoptive parent or legal guardian of a child.

Section 4. Guiding Principles of ACC. ACC shall be guided by the following:

(a) All decisions concerning, alternative care should take full account of the desirably, in principle, of maintaining the child as close as possible to his/her habitual place of residence, in order to facilitate contact and potential reintegration with his/her family and to minimized disruption of his/her educational, cultural, and social life.

(b) Decision regarding children in alternative care, including those in informal care, should have due regard for the importance of ensuring children a family-based care, group foster care and of meeting their basic need for safe and long-term relationship to their caregivers, with permanently generally being a key goal.

(c) Children must be treated with dignity and respect at all times and must benefit from effective protection from abuse, neglect, and all forms of exploitation, whether on the part of care providers, peers or third parties, in whatever care setting they may find themselves.

(d) Siblings with existing bonds should in principle not be separated from placements in alternative care unless there is a clear risk of abuse or other justification in the best interest of the child. In any case, every effort should be made to enable siblings to grow together, maintain contact with each other unless this is against their wishes or interests.

(e) Provisions of alternative care should never be undertaken with a prime purpose of furthering the political, religious, or economic goals of the providers.

(f) Such other principles in accordance with the UN Convention on the Rights of the Child.

Section 5. Purposes. — The purposes of an ACA shall be as follow:

1 (a) To cooperate with public authorities in providing alternative care to
2 abandoned, dependent, and neglected children as defined in Presidential Decree
3 No. 603 and Republic Act No. 7610;

4 (b) To support efforts to keep children in or return them to the care of their
5 family or, failing this, to find another appropriate and permanent solution;

6 (c) To ensure that, while such permanent solutions are being sought or in
7 cases where they are not possible or are not in the best interest of the child, the
8 most suitable forms of alternative care identified and provided under conditions
9 that promote the child's full and harmonious development;

10 (d) To assist the Government to better implement their responsibilities and
11 obligations in these respects, bearing in mind the economic, social and cultural
12 conditions;

13 (e) To guide policies, decisions, and activities of all concerned with the social
14 protection and child welfare in both public and the private sectors, including the
15 civil society.

16 (f) Such other purposes to attain the guidelines and principles of the UN
17 Convention on the Rights of the Child and local statutes.

18
19 **Section 6. Parental Authority of an ACA.** ACAs shall be *in loco parents*,
20 exercising the rights, duties and liabilities of persons exercising substitute
21 parental authority over the children under their foster care, as may be provided
22 for by Executive Order No. 209, *series* of 1987 ("Family Code of the Philippines),
23 *Provided* that ACAs shall only have the rights of a person with special parental
24 authority to discipline the children under their care and protection as defined
25 under Section 233 of Family Code, insofar as it prohibits the infliction of corporal
26 punishment upon the child.

27 **Section 7. Privileges.** To allow to fully realize its mandate, an accredited
28 ACA shall:

29 (a) Enter into agreements with public authorities, and accept provisions for
30 the cost of any service or activity which may be entrusted to it, within the scope
31 of its object and functions, pursuant to such agreements;

32 (b) Own and hold real and personal properties and accept bequests,
33 donations and contributions off proper of all classes;

34 (c) Any donation, contribution, bequest and grant which may be made to
35 the agency shall be exempt from donor's tax and the same shall be considered as
36 allowable deduction from the gross income of the donor, in accordance with the
37 provisions of the National Internal Revenue Code, as amended, provided that such
38 agency are accredited NGO pursuant to Executive Order No. 720, series of 2008;

39
40 Finally, the agency shall be exempt from the payment of real property taxes
41 on all real properties owned by it.

42 **Section 8. Who May Be Placed Under Alternative Care.** – The following
43 may be placed in alternative care:

- 1 (a) A child who is abandoned, surrendered, neglected, dependent or
2 orphaned;
3 (b) A child who is a victim of sexual, physical, or any other form of abuse or
4 exploitation;
5 (c) A child with special needs;
6 (d) A child whose family members are temporarily or permanently unable
7 or unwilling to provide the child with adequate care;
8 (e) A child who needs long-term care and close family ties but who cannot
9 be placed for domestic adoption;
10 (f) A child who is under socially difficult circumstances such as, but not
11 limited to, a street child, a child in armed conflict or a victim of child labor or
12 trafficking;
13 (g) A child who committed a minor offense but is released on recognizance,
14 or who is in custody supervision or whose case is dismissed; and
15 (h) A child is in need of special protection as assessed by a social worker,
16 an agency or the DSWD.

17
18 **Section 9. Role of the Department of Social Welfare and Development**
19 **(DSWD).** — (a) *Issuance of License.* – The DSWD shall have the authority to
20 accredit by issuing an Alternative Care license based on the application by the
21 agency to include stipulation of its track record and to determine the motivations,
22 capacities and potentials of said agency. The license is renewable every three (3)
23 years unless earlier revoked by the DSWD.

24 (b) *Periodic Review.* The DSWD shall review its existing alternative care
25 guidelines, align it to the UN Guidelines and domestic laws and conduct periodic
26 review on it.

27
28 **Section 10. Role of Local Government Units (LGUs).** — The host LGU,
29 pursuant Section 108 of Republic Act No. 7160 ("Local Government Code"), shall
30 accredit alternative care agencies that are duly recognized by the DSWD in their
31 locality. It shall put in place monitoring mechanism over these alternatives care
32 agencies.

33 The LGU, through its Local Social Welfare and Development Office, shall
34 include the provisions of this Act in the development of its plans and strategies,
35 and upon approval thereof by the governor or mayor, as the case may be,
36 implement the same particularly those which have to do with social welfare and
37 projects which the governor or mayor is empowered to implement and which the
38 sanggunian is empowered to provide for under the Local Government Code.

39 **Section 11. Seminars and Trainings.** The DSWD, in coordination with
40 the Department of the Interior Local Government (DILG), is hereby mandated to
41 develop and provide programs to ensure the awareness and responsiveness of
42 local government officials in the promotion and development of the alternative
43 care system in every city, municipality or barangay.

44 **Section 12. Unlawful Solicitation.** – It shall be unlawful for any person
45 to solicit, collect or receive money, materials or property of any kind by falsely

1 representing himself to be a member, agent or representative of any alternative
2 care agency.

3 **Section 13. Penal Clause.** — Any person, whether natural or juridical,
4 violating any section of this Act shall, upon conviction therefore, be liable to a fine
5 of not less than fifty thousand pesos (P50,000.00) or imprisonment for a term not
6 exceeding one (1) year, or both, at the discretion of the court for each and every
7 violation. In case the violation is committed by a corporation or an association,
8 the penalty shall devolve upon the President, Director or any other officer
9 responsible for such violation.

10 **Section 14. Alternative Care of Children (ACC) Committee.** – There is
11 hereby created an Alternative Care of Children Committee, chaired by the DSWD
12 Secretary. The secretaries, or duly appointed representatives of the Department
13 of Health, Department of Education, Department of the Interior and Local
14 Government, Council for the Welfare of Children, and the various local
15 government leagues shall be members thereof.

16 **Section 15. Duties of ACC Committee.** – The ACC Committee shall
17 primarily monitor the implementation, review, and recommend changes in
18 policies concerning alternative family care and other matters related to the child's
19 welfare. It shall submit to the DSWD Secretary and to Congress an annual report
20 of the policies, programs and activities relative to the implementation of this Act,
21 and recommendations for remedial legislation to strengthen alternative family
22 care.

23 **Section 16. Implementing Rules and Regulations.** – The DSWD, as lead
24 agency, the Department of Justice (DOJ), the Department of Health, the Bureau
25 of Internal Revenue (BIR), the Council on Welfare of Children (CWC), the DILG,
26 with institutions presently providing alternative family care, the Leagues
27 Provinces, Cities, and Municipalities, and Liga ng mga Barangay, and other
28 concerned government agencies, in consultation with agencies are hereby
29 mandated to prepare and draft the IRR to operationalize the provision of this Act
30 within ninety (90) days from its effectivity.

31 **Section 17. Suppletory Clause.** – The provisions of Executive Order No.
32 209, series of 1987, otherwise known as the Family Code of the Philippines and
33 other applicable laws, shall have suppletory application to this Act.

34 **Section 18. Repealing Clause.** – Any law, presidential decree, issuance,
35 executive order, letter of instruction, administrative order, rule and regulation
36 contrary to or inconsistent with the provisions of this Act is hereby repealed,
37 modified or amended accordingly.

38 **Section 19. Separability Clause.** – If any provisions of this Act is held
39 invalid or unconstitutional, the other provisions not affected hereby shall remain
40 valid and subsisting.

Section 10. Effectivity.

– This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation or in the *Official Gazette*.

Approved.