

REPUBLIC ACT NO. 8369

AN ACT ESTABLISHING FAMILY COURTS, GRANTING THEM EXCLUSIVE ORIGINAL JURISDICTION OVER CHILD AND FAMILY CASES, AMENDING BATAS PAMBANSA BILANG 129, AS AMENDED, OTHERWISE KNOWN AS THE JUDICIARY REORGANIZATION ACT OF 1980, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* – This Act shall be known as the "Family Courts Act of 1997."

SEC. 2. *State and National Policies.* – The State shall protect the rights and promote the welfare of children in keeping with the mandate of the Constitution and the precepts of the United Nations Convention on the Rights of the Child. The State shall provide a system of adjudication for youthful offenders which takes into account their peculiar circumstances.

The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. The courts shall preserve the solidarity of the family, provide procedures for the reconciliation of spouses and the amicable settlement of family controversy.

SEC. 3. *Establishment of Family Courts.* – There shall be established a family court in every province and city in the country. In case where the city is the capital of the province, the family court shall be established in the municipality which has the highest population.

SEC. 4. *Qualifications and Training of Family Court Judges.* – Section 15 of Batas Pambansa Blg. 129, as amended, is hereby further amended to read as follows:

"SEC. 15. (a) *Qualifications.* – No person shall be appointed Regional Trial Judge or Presiding Judge of the family court unless he is a natural-born citizen of the Philippines, at least thirty-five (35) years of age, and, for at least ten (10) years, has been engaged in the practice of law in the Philippines or has held a public office in the Philippines requiring admission to the practice of law as an indispensable requisite.

"(b) *Training of Family Court Judges.* – The Presiding Judge, as well as the court personnel of the family courts, shall undergo training and must have the experience and demonstrated ability in dealing with child and family cases.

"The Supreme Court shall provide a continuing education program on child and family laws, procedure and other related disciplines to judges and personnel of such courts."

SEC. 5. *Jurisdiction of Family Courts.* – The family courts shall have exclusive original jurisdiction to hear and decide the following cases:

a) Criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age, or where one or more of the victims is a minor at the time of the commission of the offense: *Provided*, That if the minor is found guilty, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred. The sentence, however, shall be suspended without need of application pursuant to Presidential Decree No. 603, otherwise known as the "Child and Youth Welfare Code";

b) Petitions for guardianship, custody of children, *habeas corpus* in relation to the latter;

c) Petitions for adoption of children and the revocation thereof;

d) Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains;

e) Petitions for support and/or acknowledgment;

f) Summary judicial proceedings brought under the provisions of Executive Order No. 209, otherwise known as the "Family Code of the Philippines";

g) Petitions for declaration of status of children as abandoned, dependent or neglected children, petitions for voluntary or involuntary commitment of children; the suspension, termination, or restoration of parental authority and other cases cognizable under Presidential Decree No. 603, Executive Order No. 56, (Series of 1986), and other related laws;

h) Petitions for the constitution of the family home;

i) Cases against minors cognizable under the Dangerous Drugs Act, as amended;

j) Violations of Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act," as amended by Republic Act No. 7658; and

k) Cases of domestic violence against:

1) Women - which are acts of gender based violence that results, or are likely to result in physical, sexual or psychological harm or suffering to women; and other forms of physical abuse such as battering or threats and coercion which violate a woman's personhood, integrity and freedom of movement; and

2) Children - which include in the commission of all forms of abuse, neglect, cruelty, exploitation, violence, and discrimination and all other conditions prejudicial to their development.

If an act constitutes a criminal offense, the accused or batterer shall be subject to criminal proceedings and the corresponding penalties.

If any question involving any of the above matters should arise as an incident in any case pending in the regular courts, said incident shall be determined in that court.

SEC. 6. *Use of Income.* – All family courts shall be allowed the use of ten percent (10%) of their income derived from filing and other court fees under Rule 141 of the Rules of Court for research and other operating expenses including capital outlay: *Provided*, That this benefit shall likewise be enjoyed by all courts of justice.

The Supreme Court shall promulgate the necessary guidelines to effectively implement the provisions of this section.

SEC. 7. *Special Provisional Remedies.* – In cases of violence among immediate family members living in the same domicile or household, the family court may issue a restraining order against the accused or defendant upon a verified application by the complainant or the victim for relief from abuse.

The court may order the temporary custody of children in all civil actions for their custody. The court may also order support *pendente lite*, including deduction from the salary and use of conjugal home and other properties in all civil actions for support.

SEC. 8. *Supervision of Youth Detention Homes.* – The judge of the family court shall have direct control and supervision of the youth detention home which the local government unit shall establish to separate the youth offenders from the adult criminals: *Provided, however*, That alternatives to detention and institutional care shall be made available to the accused including counseling, recognizance, bail, community continuum, or diversions from the justice system: *Provided, further*, That the human rights of the accused are fully respected in a manner appropriate to their well-being.

SEC. 9. *Social Services and Counseling Division.* – Under the guidance of the Department of Social Welfare and Development (DSWD), a Social Services and Counseling Division (SSCD) shall be established in each judicial region as the Supreme Court shall deem necessary based on the number of juvenile and family cases existing in such jurisdiction. It shall provide appropriate social services to all juvenile and family cases filed with the court and recommend the proper social action. It shall also develop programs, formulate uniform policies and procedures, and provide technical supervision and monitoring of all SSCD in coordination with the judge.

SEC. 10. *Social Services and Counseling Division Staff.*
– The SSCD shall have a staff composed of qualified social workers and other personnel with academic preparation in behavioral sciences to carry out the duties of conducting intake assessment, social case studies, casework and counseling, and other social services that may be needed in connection with cases filed with the court: *Provided, however,* That in adoption cases and in petitions for declaration of abandonment, the case studies may be prepared by social workers of duly licensed child caring or child placement agencies, or the DSWD. When warranted, the division shall recommend that the court avail itself of consultative services of psychiatrists, psychologists, and other qualified specialists presently employed in other departments of the government in connection with its cases.

The position of Social Work Adviser shall be created under the office of the Court Administrator, who shall monitor and supervise the SSCD of the Regional Trial Court.

SEC. 11. *Alternative Social Services.* – In accordance with Section 17 of this Act, in areas where no family court has been established or no regional trial court was designated by the Supreme Court due to the limited number of cases, the DSWD shall designate and assign qualified, trained, and DSWD accredited social workers of the local government units to handle juvenile and family cases filed in the designated regional trial court of the place.

SEC. 12. *Privacy and Confidentiality of Proceedings.* – All hearings and conciliation of the child and family cases shall be treated in a manner consistent with the promotion of the child's and family's dignity and worth, and shall respect their privacy at all stages of the proceedings. Records of the cases shall be dealt with utmost confidentiality and the identity of parties shall not be divulged unless necessary and with authority of the judge.

SEC. 13. *Special Rules of Procedure.* – The Supreme Court shall promulgate special rules of procedure for the transfer of cases to the new courts during the transition period and for the disposition of family cases with the best interests of the child and the protection of the family as primary consideration taking into account the United Nations Convention on the Rights of the Child.

SEC. 14. *Appeals.* – Decisions and orders of the court shall be appealed in the same manner and subject to the same conditions as appeals from the ordinary regional trial courts.

SEC. 15. *Appropriations.* – The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

SEC. 16. *Implementing Rules and Regulations.* – The Supreme Court, in coordination with the DSWD, shall formulate the necessary rules and regulations for the effective implementation of the social aspects of this Act.

SEC. 17. *Transitory Provisions.* – Pending the establishment of such family courts, the Supreme Court shall designate from among the branches of the regional trial court at least one family court in each of the cities of Manila, Quezon, Pasay, Caloocan, Makati, Pasig, Mandaluyong, Muntinlupa, Laoag, Baguio, Santiago, Dagupan, Olongapo, Cabanatuan, San Jose, Angeles, Cavite, Batangas, Lucena, Naga, Iriga, Legazpi, Roxas, Iloilo, Bacolod, Dumaguete, Tacloban, Cebu, Mandaue, Tagbilaran, Surigao, Butuan, Cagayan de Oro, Davao, General Santos, Oroquieta, Ozamiz, Dipolog, Zamboanga, Pagadian, Iligan, and in such other places as the Supreme Court may deem necessary.

Additional cases other than those provided in Section 5 may be assigned to the family courts when their dockets permit: *Provided*, That such additional cases shall not be heard on the same day family cases are heard.

In areas where there are no family courts, the cases referred to in Section 5 of this Act shall be adjudicated by the regional trial court.

SEC. 18. *Separability Clause.* – In cases any provision of this Act is declared unconstitutional, the other provisions shall remain in effect.

SEC. 19. *Repealing Clause.* – All other laws, decrees, executive orders, rules or regulations inconsistent herewith are hereby repealed, amended, or modified accordingly.

SEC. 20. *Effectivity.* – This Act shall take effect fifteen (15) days after its publicaton in at least two (2) national newspapers of general circulation.

Approved, October 28, 1997.