

HON. PAUL RUIZ DAZA
Representative, 1st District, Northern Samar
House of Representatives
Quezon City, Philippines

Dear **Representative DAZA**:

This has reference to **Unnumbered House Bill, entitled “An Act Ensuring Child Support and Penalizing Parental Refusal or Neglect Thereof”** introduced by the good Representative, which proposes more support to single parents by compelling non-custodial parents to contribute toward their child’s basic necessities.

The Department of Social Welfare and Development (DSWD) notes that the rule-making power of the Supreme Court (SC) is exclusive and is not shared with Congress pursuant to Section 5(5), Article VIII of the 1987 Constitution, which vests the Supreme Court with the power to promulgate rules concerning pleading, practice, and procedure in all courts. While the Department recognizes the authority of the Congress to define, prescribe, and apportion the jurisdiction of the various courts, this does not, however, result in the abnegation of the Court’s own power to promulgate the rules of pleading, practice, and procedure. When Congress created a court and delimits its jurisdiction, the procedure for which its jurisdiction is exercised is fixed by the Court through the rules it promulgates (*Carpio-Morales vs Court of Appeals, GR No. 217126*). Thus, the Bill cannot, in any way, provide for the procedures to be followed by the Family Courts regarding the evaluation, trial, as well as the issuance of child support order because the same is not within the purview of the rule-making power of the Congress.

Nevertheless, the Department respectfully submits the following comments and suggestions for the enhancement of the proposed measure:

1. Explanatory Note, to replace Republic Act (RA) No. 8972 with RA 11861 or the Expanded Solo Parents Welfare Act.

2. Sec. 2 – Declaration of Policies

2.1 To replace the terms “fatherhood” and “motherhood” with “**parenthood**”;

2.2 To change “deadbeat parent” to a less pejorative terminology, such as **absentee parent**; and

3. Sec. 3 – Definitions

3.1 Under item (a), to define “child” based on RA No. 11861 or the Expanded Solo Parents Welfare Act, to wit:

“Child (children or dependents) refer to those living with and depended upon the solo parent for support who are unmarried, unemployed and 22 years old

or below, or those over 22 years of age but who are unable to fully take care or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, provided that this definition shall only apply for purposes of availing of the benefits under RA 11861”;

- 3.2 Under item (w), the definition of “Solo Parent” should be consistent and harmonized with the newly approved law, Republic Act No. 11861 or the Expanded Solo Parent Welfare Act of 2020 under Sec. 4. *Categories of Solo Parent*; and
- 3.3 To include a definition of City/Municipal Social Welfare Development Office (C/MSWDO) in relation to the Local Government Code (LGC) of 1991.
- 4. Sec. 5 – Compliance of Local Government Units (LGU),** to change DSWD to C/MSWDO.
- 5. Sec. 6 – Compliance of Participating or Relevant Government Agencies,** under item (7), it is recommended that the processing of the use of denied passports need not be coursed through the DSWD as this is not under the jurisdiction of the Department. As such, Family Courts with the LSWDO may have to be tapped for this endeavor.
- 6. Sec. 9 – Roles, Responsibilities, and Services of the National Child Support Program (NCSP)**
- 6.1 Under item (2) Establishing paternity, it states that DSWD is mandated to set standards and procedures to establish the paternity of the non-custodial parent. This is in contravention with the rule-making power of the Supreme Court since the appropriate rules and relevant procedure in establishing paternity and filiation is explicitly provided for by the Rules of Court. Consequently, the Department recommends further study on these issues of having an administrative process on determination and enforcement of child support, in relation to the existing judicial process.
- 6.2 Under item (3) Establishing Orders, to clarify if the purpose is to be a judicial or administrative process since the DSWD cannot craft child support obligations if it is a judicial matter, as it is the court where the case of child support is filed that orders how the support is to be provided.
- 6.3 Under item (3.2) Determining the amount of support orders, the rule-making power of the Supreme Court (SC) is exclusive and is not shared with Congress pursuant to Section 5(5), Article VIII of the 1987 Constitution, which vests the Supreme Court with the power to promulgate rules concerning pleading, practice, and procedure in all courts.

In line with this, the SC has approved Rule 2, Section 12 (A) of Administrative Matter No. 21-03-02-SC [Rules on Action for Support and Petition for Recognition and Enforcement of Foreign Decisions or Judgment on Support]

which provides for the guidelines in the determination of the rights and obligations of individuals to give and receive support. It is our view that, by mandating the DSWD to determine the amount of support obligation of the non-custodial parent to his/her child is in effect, an amendment to the Rules of Court. This cannot be done without offending the Constitution. Hence, the amount of support obligation cannot be left primarily to the discretion of the DSWD as required by Article III, Section 9 (3.2) of the bill.

7. Sec. 10 – Child Support Register, to specify that the establishment of the Child Support Register must be led by the LGUs particularly at the C/MSWDOs.

8. Sec. 12 – Privacy, the Department recommends to the authors of the bill to specify that the proceedings and records of child support cases are deemed confidential and cannot be related or disclosed to non-parties without the written approval of the proper authority. Further, the Department emphasizes that “children merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data.”

9. Sec. 14 – Role of Government Agencies


9.1 Under item 14.1 (j) Children who are already income-earners, to clearly specify the role of DSWD;

9.2 Under item 14.1 (k), Monitoring and evaluation, to read as: “*The DSWD, in coordination with other government agencies mandated for the protection of children, shall come up with a comprehensive monitoring and evaluation system and establish a mechanism to evaluate the program’s effectiveness, efficiency and sustainability*”; and

9.3 Under item 14.12 Role of the Department of Foreign Affairs, to recommend that a certification from DSWD that an individual owes arrearages of child support is not equivalent to an order of the court allowing the DFA to refuse issuance of a passport to such individual.

For the good Representative’s consideration.

Very truly yours,



ERWIN T. TULFO
Secretary

Date: Aug. 8, 2022