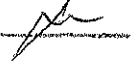


13th CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
SECOND REGULAR SESSION)

51 DEC -5 P7:

SENATE BILL No. 2173

RECEIVED BY: 

Introduced by Senator Aquilino Q. Pimentel, Jr.

AN ACT REQUIRING CERTIFICATION OF THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT (DSWD) TO DECLARE A "CHILD LEGALLY AVAILABLE FOR ADOPTION" AS A PREREQUISITE FOR ADOPTION PROCEEDINGS, AMENDING FOR THIS PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8552, OTHERWISE KNOWN AS THE DOMESTIC ADOPTION ACT OF 1998, REPUBLIC ACT NO. 8043, OTHERWISE KNOWN AS THE INTER-COUNTRY ADOPTION CODE, PRESIDENTIAL DECREE NO. 603, OTHERWISE KNOWN AS THE CHILD AND YOUTH WELFARE CODE, AND OTHER PURPOSES

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

Section 1. *Declaration of Policy.* – It is hereby declared the policy of the State that alternative protection and assistance shall be afforded to every child who is abandoned. In this regard, the State shall extend such assistance in the most expeditious manner in the interest of full emotional and social development of the abandoned child.

Section 2. *Definition of Terms.* – As used in this Act, the following terms shall mean:

- (1) "Department of Social Welfare and Development", DSWD for brevity, is the agency charged to implement the provisions of this Act and shall have the sole authority to issue the certification declaring a child legally available for adoption.
- (2) "Child" refers to a person below eighteen (18) years of age.
- (3) "Abandoned Child" refers to a child who has no proper parental care or guardianship, or whose parent(s) has deserted him or her for a period of at least three (3) continuous months.
- (4) "Child Legally Available for Adoption" refers to a child in whose favor a certification was issued by the DSWD that he/she is legally available for adoption after the fact of abandonment has been proved through submission of pertinent documents, or one who was voluntarily committed by his/her parent(s).
- (5) "Voluntarily Committed Child" is a child whose parent(s) knowingly and willingly relinquishes parental authority to the DSWD
- (6) "Child caring agency or institution" is one that provides twenty-four hour resident group care service for the physical, mental, social and spiritual well-being of nine or more mentally gifted, dependent, abandoned, neglected, handicapped or disturbed children, or youthful offenders;
- (7) "Child placing agency or institution" is an institution or person assuming the care, custody, protection and maintenance of children for placement in any child-caring institution or home, or under the care and custody of any person or persons for purposes of adoption, guardianship or foster care. The relatives

of such child or children within the sixth degree of consanguinity or affinity are excluded from this definition;

- (8) "Petitioner" refers to any child caring agency or institution or child placing agency or institution which shall have in its custody an abandoned child who files a petition for certification to declare such child legally available for adoption, or if the child is under the custody of any other person, the agency or institution does so with consent of the child's custodian.

Section 3. *Petition.* – The petition shall be in the form of an affidavit, subscribed and sworn to before any person authorized by law to administer oaths. It shall contain facts necessary to establish the merits of the petition and shall state the circumstances surrounding the abandonment of the child.

The petition shall be supported by the following documents:

- (1) Case study made by the DSWD, licensed and accredited child caring agency or child placement agency charged with the custody of the child;
- (2) Proof that efforts were made to locate the parent(s) or any known relatives. Any two of the following shall be considered sufficient:
 - (a) Written certification from a radio or television station that the case was aired on three (3) different occasions;
 - (b) Publication in two (2) newspapers of general circulation; and
 - (c) Returned registered mail to the last known address of the parent(s) or known relatives;
- (3) Birth certificate/ foundling certificate;
- (4) Recent Photograph of the Child;

The petition shall be filed in the regional office of the DSWD where the child was found or abandoned.

The regional director shall examine the petition and its supporting documents. He/she shall post the petition in a conspicuous place for ten (10) consecutive days after he/she finds the petition and its supporting documents sufficient in form and substance.

He/she shall act on the same and shall render a decision not later than five (5) working days after the completion of its posting or publication. He/she shall transmit a copy of his/her decision and records to the Office of the Secretary of the DSWD within five (5) working days from the date of the decision.

The Secretary shall review the petition and the supporting documents. Upon finding merit in the petition, he/she shall issue a certification declaring the child legally available for adoption within ten (10) days from receipt of the decision.

The decision of the Secretary shall be appealable to the regular courts.

Section 4. *Voluntary Commitment.* – In the case of voluntary commitment as contemplated in Article 154 of Presidential Decree No. 603, the certification declaring the child legally available for adoption shall be issued by the Secretary within three (3) months following the filing of the Deed of Voluntary Commitment, as signed by the parent(s), with the DSWD.

Any petition for restoration of parental authority may be filed by the parent(s) within three (3) months after the filing thereof, with the DSWD.

Section 5. *Certification.* – The certification that a child is legally available for adoption shall be issued by the DSWD in lieu of a judicial order, making the entire process administrative in nature.

The certification issued by the DSWD shall be considered a prerequisite in all adoption proceedings. For all intents and purposes, it shall be primary evidence that the child is legally available in a domestic adoption proceeding, as provided in Republic Act No. 8552 and in an inter-country adoption proceeding, as provided in Republic Act No. 8043.

Section 6. *Payment of Fees.* -- The DSWD shall be authorized to collect reasonable fees as a condition for accepting the petition. An indigent petitioner shall be exempt from the payment of the said fee.

Section 7. *Implementing Rules and Regulations.* – The DSWD, together with the Council for the Welfare of Children, National Statistics Office, and two private individuals representing child placing and child caring agencies and institutions, is hereby tasked to draft the implementing rules and regulations of this Act within sixty (60) days following its complete publication.

Section 7. *Penalty.* – The penalty of one hundred thousand pesos (P100,000.00) shall be imposed on any person, institution or agency who shall place out a child for adoption or any form of alternative home placement without the certification that the child is legally available for adoption issued by the DSWD.

Section 8. *Repealing Clause.* – Sections 2(c)(iii), 3(b),(d),(e) and 8(a) of Republic Act No. 8552, Section 3(f) of Republic Act No. 8043, Title VII, Chapter 1 of Presidential Decree No. 603 and any law, presidential decree, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

Section 9. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 11. *Effectivity.* – This Act shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation or in the Official Gazette.

Approved.