

FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 SEP 20 PG 15

SENATE
S. No. 1630

RECEIVED BY: [Signature]

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

In the Philippines, there are two laws governing adoption proceedings. These are: Republic Act No. 8552 also known as the "Domestic Adoption Act of 1998" and Republic Act No. 8043 or the "Inter-Country Adoption Act of 1995." Because of the already more than 10 years of experience of the Department of Social Welfare and Development (DSWD), in implementing both laws, they are now very familiar with the laws' advantages and disadvantages. To remedy the defects of the law, the DSWD crafted a Priority Legislative Agenda covering various issues, including adoption proceedings.

According to the Priority Legislative Agenda of the DSWD, there is a need to facilitate the transfer of an abandoned child to a family-based care which is more responsive to his/her developmental needs. They further argued that the placement then of abandoned, neglected and children with special needs to adoptive families, whether in the country or a foreign country, should be fast tracked.

This proposed bill will support the establishment of a central adoption office under the DSWD which will handle both domestic and inter-country adoption applications. This is expected to cut down the adoption process specially the referral procedures every time domestic adoption is not possible and inter-country adoption is an option.

[Signature]
MIRIAM DEFENSOR SANTIAGO

FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 SEP 20 PG: 5

SENATE
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1 AN ACT
2 MERGING THE DOMESTIC AND INTER-COUNTRY ADOPTION LAWS
3 OF THE PHILIPPINES

4 ARTICLE I
5 GENERAL PROVISIONS

6 SECTION 1. *Short Title.* – This Act shall be known as the Philippine Adoption Act of
7 2007.”

8 SECTION 2. *Declaration of Policies.* –

9 a) It is hereby declared the policy of the State to ensure that every child remains under
10 the care and custody of his/her parent(s) and be provided with love, care,
11 understanding and security towards the full and harmonious development of his/her
12 personality. Only when such efforts prove insufficient and no appropriate placement
13 or adoption within the child’s extended family is available shall adoption by an
14 unrelated person be considered.

15 b) In all matters relating to the care, custody and adoption of a child, his/her interest
16 shall be the paramount consideration in accordance with the tenets set forth in the
17 United Nations (UN) Convention on the Rights of the Child; UN Declaration on
18 Social and Legal Principles Relating to the Protection and Welfare of Children with
19 Special Reference to Foster Placement and Adoption, Nationally and Internationally;
20 and the Hague Convention on the Protection of Children and Cooperation in Respect
21 of Intercountry Adoption. Toward this end, the State shall provide alternative
22 protection and assistance through foster care or adoption for every child who is
23 neglected, orphaned, or abandoned.

1 c) It shall also be a State policy to:

2 (i) Safeguard the biological parent(s) from making hurried decisions to relinquish
3 his/her parental authority over his/her child;

4 (ii) Prevent the child from unnecessary separation from his/her biological
5 parent(s);

6 (iii) Protect adoptive parent(s) from attempts to disturb his/her parental authority
7 and custody over his/her adopted child.

8 d) It is the policy of the State that efforts shall be exerted to place every child who is
9 legally free for adoption with an adoptive family in the Philippines. The State shall
10 take measures and safeguards to ensure that inter-country adoption is allowed when
11 the same shall prove beneficial to the child's interests and shall serve and protect
12 his/her fundamental rights.

13 e) The State shall establish a system of cooperation with the other States, through their
14 respective Central/Competent Authorities and accredited bodies to prevent the sale,
15 trafficking and abduction of children.

16 SECTION 3. *Definition of Terms.* – As used in this Act, the following terms shall mean:
17

18 a) “Abandoned child” – shall refer to one who has no proper parental care or
19 guardianship or whose parent(s) has deserted him/her for a period of at least three (3)
20 continuous months and has been judicially declared as such;

21 b) “Act” – shall refer to this Act.

22 c) “A child legally available for adoption” – shall refer to a child who has been
23 voluntarily or involuntarily committed to the Department or to a duly licensed and
24 accredited child-placing or child-caring agency, freed of the parental authority of
25 his/her biological parent(s) or guardian or adopters in case of rescission of adoption;

26 d) “Adoption” – shall refer to a socio-legal process of providing a permanent family to a
27 child whose parents have voluntarily or involuntarily relinquished parental authority
28 over the child;

- 1 e) “Agency Adoption” – shall refer to a licensed adoption agency finds and develops
2 adoptive families for children who are voluntarily or involuntarily committed. The
3 adoptive families go through the process from application to finalization of the child’s
4 adoption under the auspices of the Department of Social Welfare and Development or
5 a licensed child-placing agency.
- 6 f) “Accreditation of Local Child Caring Agency/ Child Placing Agency” – shall refer to
7 the recognition of a social welfare development program or service that such is
8 implemented by a social welfare and development agency in compliance with
9 appropriate standards evidenced by a certificate of accreditation issued by the
10 Department of Social Welfare and Development
- 11 g) “Applicant” – shall refer to a married couple or a single person who files an
12 applicant;
- 13 h) “Application” – shall refer to the duly accomplished application form, home study
14 report including its supporting documents.
- 15 i) “Biological Parents” – shall refer to the child’s mother and father by nature or the
16 mother alone if the child is unacknowledged illegitimate child.
- 17 j) “Child” – shall refer to a person below eighteen (18) years of age;
- 18 k) “Child-caring agency” – shall refers to a duly licensed and accredited agency by the
19 Department that provides twenty four (24) hour residential care services for
20 abandoned, orphaned, neglected, or voluntarily committed children;
- 21 l) “Child-placing agency” – shall refers to a duly licensed and accredited agency by the
22 Department to provide comprehensive child welfare services including, but not
23 limited to, receiving applications for adoption, evaluating the prospective adoptive
24 parents, and preparing the adoption home study;
- 25 m) “Child Study Report” – shall refer to a study of a child’s legal status, placement
26 history, psychological, social, spiritual, medical, ethno-cultural background, and that
27 of his/her biological family as basis in determining the most desirable placement for
28 him/her.

- 1 n) "Child with Special Needs" – shall refer to any child who is difficult to place in view
2 of some physical, psychological, and/or social limitations including but not limited to
3 being an older child, belonging to a sibling group or those who may be under such
4 analogous circumstances;
- 5 o) "Competent Authority" – shall refer to any State entity which performs all or most of
6 the functions of Chapter II of the Convention;
- 7 p) "Contracting State" – shall refer to any State Party to the Convention;
- 8 q) "Convention" – shall refer to The Hague Convention on Protection of Children and
9 Co-operation in Respect of Inter-Country Adoption;
- 10 r) "Certificate of Abandonment" – shall refer to the final written administrative order
11 declaring a child to be dependent, abandoned, and neglected and committing such
12 child to the care of the Department through a person or duly licensed child
13 caring/placing agency or institution. The rights of the biological parents, guardian or
14 other custodian to exercise authority over the child shall cease;
- 15 s) "Deed of Voluntary Commitment" – shall refer to the notarized instrument
16 relinquishing parental authority and committing the child to the care and custody of
17 the Department executed by the child's biological parent(s) or by the child's legal
18 guardian in their absence, mental incapacity or death, to be signed in the presence of
19 an authorized representative of the Department, after counseling and other services
20 have been made available to encourage the child's biological parent(s) to keep the
21 child;
- 22 t) "Department" – shall refer to the Department of Social Welfare and Development;
- 23 u) "Direct/Indirect Placement Adoption" – shall refer to the biological parents make a
24 direct placement of the child either to a relative, a member of their family, or a
25 friend/non-relative with whom they relinquish their child.
- 26 v) "Extended Family" – shall refer to a relative of a child both at the paternal and
27 maternal side within the fourth degree of consanguinity.
- 28 w) "Foundling" – shall refer to a deserted or abandoned infant or a child found, with
29 parents, guardian, or relatives being unknown, or a child committee in an orphanage

1 or charitable or similar institution with unknown facts of birth and parentage and
2 registered in the Civil Register as a “foundling”.

3 x) “Foreign Adoption Agency” – shall refer to the State Welfare Agency or the licensed
4 and accredited agency in the country of the foreign adoptive parents that provides
5 comprehensive social services and is duly recognized by the Board;

6 y) “Foreign National” – shall refer to any person, not a Filipino citizen, who enters and
7 remains in the Philippines and in possession of a valid passport or travel documents
8 and visa.

9 z) “Home Study Report” – shall refer to a study of the motivation and capacity of the
10 prospective adoptive parents to provide a home that meets the needs of a child.

11 aa) “Illegal Adoption” – shall refer to an adoption that is effected in any manner contrary
12 to the provisions of Act, these Rules, established Stated policies, Executive
13 Agreements and other laws pertaining to adoption;

14 bb) “Inter-country Adoption” – shall refer to the socio-legal process of adopting a child
15 by a foreign national or a Filipino citizen permanently residing abroad where the
16 petition for adoption is filed, the supervised trial custody is undertaken, and the
17 decree of adoption is issued in the foreign country where the applicant resides thereby
18 creating a permanent parent-child relationship between the child and the adoptive
19 parents;

20 cc) “Voluntarily committed child” – shall refer to the one whose parent(s), knowingly
21 and willingly relinquishes parental authority to the Department;

22 dd) “Involuntarily committed child” – shall refer to the one whose parent(s), known or
23 unknown, has been permanently and judicially deprived of parental authority due to
24 *abandonment, substantial, continuous, or repeated neglect, abuse; or incompetence to*
25 *discharge parental responsibilities;*

26 ee) “Liaison Service” – shall refer to the effective delivery of facilitating social services
27 provided by a licensed and accredited Child Caring or Child Placing Agency
28 (CCA/CPA) to represent a Foreign Adoption Agency (FAA) in the Philippines;

- 1 ff) "Licensing" – shall refer to the process conducted by DSWD in assessing
2 qualification and authorizing a registered social welfare and development (SWD)
3 agency to operate as a social work agency.
- 4 gg) "Licensed Social Worker" – shall refer to one who possesses a bachelor of science in
5 social work degree as a minimum education requirement and must have passed the
6 government licensure examination for social workers as required by Republic Act
7 4373.
- 8 hh) "Matching" – shall refer to the judicious pairing of the applicant and the child to
9 promote a mutually satisfying parent-child relationship;
- 10 ii) "Non-Contracting State" – shall refer to any State not party to the Convention which
11 the Board has established working relations;
- 12 jj) "Pre-Adoption Services" – shall refer to psycho-social services provided by
13 professionally trained social workers of the Department, the social services units of
14 local government, private and government health facilities, Family Courts, licensed
15 and accredited child-caring and child-placing agency and such other individuals or
16 entities involved in adoption as may be authorized by the Department.
- 17 kk) "Post-Adoption Services" – shall refer to psycho-social services and support services
18 provided by professionally trained social workers from offices above-mentioned after
19 the issuance of the Decree of Adoption.
- 20 ll) "Residence" – shall refer to a person's actual and legal stay in the Philippines for two
21 (2) continuous years immediately prior to the filing of application for adoption decree
22 is entered; Provided, that temporary absences for professional, business or emergency
23 reasons not exceeding sixty (60) day in one (1) year shall not be considered as
24 breaking the continuity requirement; Provided, further that the Department may
25 extend this period in meritorious cases.
- 26 mm) "Secretary" – shall refer to the Secretary of the Department;
- 27 nn) "Special Home Finding" – shall refer to the process of recruiting or identifying
28 suitable adoptive parents for children with special needs through the Central

1 Authority or a Foreign Adoption Agency of the State if there is no available family in
2 the Roster of Approved Families;

3 oo) "Supervised trial custody" – shall refers to a period of time within which a social
4 worker oversees the adjustment and emotional readiness of both adopter(s) and
5 adoptee in stabilizing their filial relationship;

6 ARTICLE II

7 ADOPTION BUREAU

8 SECTION 4. *Adoption Bureau.* – There shall be established a Bureau of Adoption
9 directly under the supervision of the office of the Secretary. The Bureau shall consist of two (2)
10 divisions , local & Inter-country Adoption and will be manned by the Director and the common
11 staff support system.

12 SECTION 5. *Functions.* – The functions of the Bureau of Adoption shall include the
13 following:

- 14 1. Formulate and develop programs and services that will protect the Filipino child from
15 abuse, exploitation, trafficking and adoption practice that is harmful, detrimental and
16 prejudicial to the best interests of the child;
- 17 2. Set standard and guidelines on adoption including pre and post legal adoption
18 services. Accredite and authorize foreign private adoption agencies which have
19 demonstrated professionalism and have consistently pursued non-profit objectives to
20 engage in the placement of Filipino children in their own country.
- 21 3. Monitor and assess compliance of all agencies/stakeholders (both local and foreign
22 involved in adoption. Gauge the progress and identify gaps in the implementation of
23 the law and come up with policy recommendation.
- 24 4. Conduct national information dissemination and advocacy campaign on adoption.
- 25 5. Keep records of all adoption cases and provide periodic information and reports on
26 the performance of the Office;

1 6. Conduct researches on adoption or in related fields to further improve and strengthen
2 the Office programs and services and for policy formulation and development'

3 7. Provide technical assistance and conduct capability building activities to all
4 concerned agencies and stakeholders.

5 SECTION 6. *Functions of Local and Inter-country Adoption Divisions.* – *The two*
6 *division shall have common and distinct functions.*

7 A. Common Functions:

8 1. To develop and promote local and inter-country adoption services, including pre and
9 post legal adoption services.

10 2. To establish and maintain database of children available for local and inter-country
11 adoption and prospective adoptive parents.

12 3. To keep records of all adoption proceedings

13 4. To maintain a national information and educational campaign on domestic and inter-
14 country adoption.

15 5. To conduct researches on adoption and other related fields.

16 6. To provide secretariat, records keeping and other services to the Child Placement
17 Committee

18 7. To submit periodic accomplishment/performance and recommendation for the
19 improvement of the office.

20 8. To attend regular/periodic meeting as maybe called by the Director.

21 9. Conduct training needs assessment and provide technical assistance to stake holders
22 involved on local & Inter-country Adoption.

23 B. Distinct functions:

24 LOCAL ADOPTION

25 1. Monitor the existence, number and flow of children legally available for adoption and
26 prospective adopter(s), so as to facilitate their matching.

- 1 2. Maintain regular communications, linkages with CCA, CPA, Court Social Workers
2 and LGUs involved on adoption. Provide technical assistance to stakeholders along
3 case management.
- 4 3. Review/assess/recommend accreditation of CCAs/CPAs. (Note: Part of the function
5 of Standards Bureau).
- 6 4. Generate resources to help child caring and child placing agencies to ensure viability.
- 7 5. To organize and assist adoption support group.
- 8 6. To provide parent and family life education sessions and referral for specialized
9 services.
- 10 7. Conduct researches in collaboration with CCAs/CPAs.

11 B. INTER-COUNTRY ADOPTION

- 12 1. Establish and maintain a Roster of Children Available for Inter-country Adoption and
13 Approved Applicants to be updated on a monthly basis.
- 14 2. Review and process ICA applications, matching proposals, placements, and all
15 documents requiring action by the Director.
- 16 3. Implement the guidelines for the manner by which selection/matching of prospective
17 adoptive parents can be made.
- 18 4. To maintain and facilitate communication with the Child Placement Committee for
19 Inter-country and the different government offices, non-governmental agencies, Central
20 Authorities, Foreign Adoption Agencies in proper cases through the Department of
21 Foreign Affairs or the Philippine Foreign Service Post and the general public.
- 22 5. Review and process accreditation and authorization applications and status of agencies
23 for action by the Director.
- 24 6. To manage the operations and implementation of ICA programs, services, procedures,
25 special projects & events relative to inter-country adoption.
- 26 7. Promote and ensure enforcement /compliance of law, policies and procedures pertaining
27 to ICA.
- 28 8. Monitor, follow-up and facilitate completion of adoption of the child through authorized
29 and accredited agency.

1 9. Coordinate the formulation of policies to enhance the ICA programs and services.

2
3 SECTION 7. *Composition of Child Placement Committee.* – The Committee shall be
4 composed of consultants consisting of the following representations: a child psychiatrist or
5 clinical psychologist, a medical doctor, a lawyer, a registered social worker, and a representative
6 of a non-governmental organization engaged in child welfare. *Provided,* that in every matching
7 conference, there must be a quorum.

8 The Department shall appoint qualified persons who shall serve in the Committee for a
9 term of two (2) years and may be renewed at the discretion of the Department.

10 SECTION 8. *Functions of the Committee.* – The Committee shall have the following
11 functions:
12

- 13 a) Carry-out an integrated system and network of selection and matching of applicants
14 and children;
- 15 b) Recommend to the Director approval of applications and matching proposals;
- 16 c) Act as consultants to the Director in their area/field of expertise;
- 17 d) Initiate, review and recommend changes in policies concerning selection, matching
18 and placement and other matters related to child welfare.
- 19 e) Perform such other functions and duties as may be determined by the Board.

20 SECTION 9. *Allowances of Committee Members.* – A Committee member shall receive a
21 per diem each meeting actually attended and remuneration for other functions as may be
22 determined by the Department subject to the usual accounting and auditing rules and regulations.

23 SECTION 10. *Rules and Procedures.* – The Committee shall submit, for the approval of
24 the Director, its internal rules and procedures and any amendments thereafter.

25 SECTION 11. *Meetings.* The Committee shall meet regularly or upon the call of the
26 Director.

1 ARTICLE III

2 PROCEDURE

3 A. LOCAL ADOPTION

4 SECTION 12. *Pre-Adoption Program.* – The Department shall provide the services of
5 licensed social workers to the following:

6 (a) *Biological Parent(s)* – Counseling shall be provided to the parent(s) before and
7 after birth of his/her child. No binding commitment to an adoption plan shall be
8 permitted before the birth of his/her child. A period of three months shall be allowed
9 for the biological parent(s) to reconsider any decision to relinquish his/her child for
10 adoption before the decision become irrevocable. Counseling and rehabilitation
11 services shall also be offered to the biological parent(s) after he/she has relinquished
12 his/her child for adoption.

13 Steps shall be taken by the Department to ensure that no hurried decisions are
14 made and all alternatives for the child’s future and the implications of each alternative
15 have been provided.

16 (b) *Prospective Adoptive Parent(s)* – Counseling sessions, adoption fora and seminars,
17 among others shall be provided to prospective adoptive parent(s) to resolve possible
18 adoption issues and to prepare him/her for effective parenting.

19 (c) *Prospective Adoptee* – Counseling sessions shall be provided to ensure that he/she
20 understands the nature and effects of adoption and is able to express his/her views on
21 adoption in accordance with his/her age level of maturity.

22 It shall be the duty of the Department or the child-placing or child-caring
23 agency which has custody of the child to exert all efforts to locate his/her unknown
24 biological parent(s). If such efforts fail the child shall be registered as a founding and
25 subsequently be the subject of legal proceedings where he/she shall be declared
26 abandoned.

27 The Department shall develop a pre-adoption program which shall include,
28 among other, the above-mentioned services.

1 In all proceeding for adoption, the court shall require proof that the biological
2 parent(s) has been properly counseled to prevent him/her from making hurried
3 decision caused by strain or anxiety to give up the child and to sustain that all
4 measures to strengthen the family have been exhausted and that any prolonged stay of
5 the child in his/her own home will be inimical to his/her welfare and interest.

6 SECTION 13. *Who May Be Adopted.* – The following may be adopted:

- 7 (a) Any person below eighteen (18) years of age who has been administratively or
8 judicially declared available for adoption;
- 9 (b) The legitimate son/daughter of one spouse by the other spouse;
- 10 (c) An illegitimate son/daughter by a qualified adopter to improve his/her status to that of
11 legitimacy;
- 12 (d) A person of legal age if, prior to the adoption, said person has been consistently
13 considered and treated by the adopter(s) as his/her own child since minority;
- 14 (e) A child whose adoption ha been previously rescinded; or
- 15 (f) A child whose biological or adoptive parent(s) has died: Provided, That no
16 proceedings shall be initiated within six (6) months from the time of death of said
17 parent(s).

18 SECTION 14. *Who May Adopt.* – The following may adopt:

- 19 (a) Any Filipino citizen of legal age, in possession's of full civil capacity and legal rights,
20 of good moral character, has not been convicted of any crime involving moral
21 turpitude, emotionally and psychologically capable of caring for children at lest
22 sixteen (16) years older than the adoptee, who is in a position to support and care for
23 his/her children in keeping with the means of the family. The requirement of sixteen
24 (16) year difference between the age of the adopter and the adoptee maybe waived
25 when the adopter is the biological parent of the adoptee, or is the spouse of the
26 adoptee's parent;
- 27 (b) Any foreign national possessing the same qualifications as above stated for Filipino
28 nationals: Provided, That his/her country has diplomatic relations with the Republic

1 of the Philippines, that he/she has been living in the Philippines at least two (2)
2 continuous years prior to the filing of the application for adoption and maintains such
3 residence until the adoption decree is entered, that he/she has been certified by
4 authorized appropriate government agency or Philippine accredited adoption
5 agency in his/her country that he/she has the legal capacity to adopt in his/her
6 country, and that his/her government allows the adoptee to enter his/her country as
7 his/her adopted son/daughter: Provided, Further, That the requirements on residency
8 and certification of the foreign national's qualification to adopt in his/her country
9 may be waived for the following:

- 10 i. a former Filipino citizen who seeks to adopt a relative within the
11 fourth (4th) degree of consanguinity or affinity; or
- 12 ii. one who seeks to adopt the legitimate son/daughter of his/her Filipino
13 spouse: or
- 14 iii. one who is married to a Filipino citizen and seeks to adopt jointly with
15 his/her spouse a relative within the fourth (4th) degree of consanguinity
16 or affinity of the Filipino spouse: or

17 (c) The guardian with respect to the ward after the termination of the guardianship and
18 clearance of his/her financial accountabilities.

19 Husband and wife shall jointly adopt, except in the following cases:

- 20 (i) if one spouse seeks to adopt the legitimate son/daughter of the other, or
- 21 (ii) if one spouse seeks to adopt his/her own illegitimate son/daughter:

22 Provide, However, that the other spouse has signified his/her consent thereto: or

- 23 (iii) if the spouses are legally separated from each other.

24 In case husband and wife jointly adopt or one spouse adopts the illegitimate son/daughter
25 of the other, joint parental authority shall be exercised by the spouses.

26 SECTION 15. *Whose Consent is Necessary to the Adoption.* – After being properly
27 counseled and informed of his/ her right to give or withhold his/her approval of the adoption, the
28 written consent of the following to the adoption is hereby required:

- 1 (a) The adoptee, if ten (10) years of age or over;
- 2 (b) The biological parent(s) of the child, if known, or the legal guardian, or the proper
3 government instrumentally which has legal custody of the child;
- 4 (c) The legitimate and adopted sons/daughters, ten (10) of age or over, of the adopters(s)
5 and adoptee, if any;
- 6 (d) The illegitimate sons/daughters, ten (10) years of age or over of the adopter if living
7 with said adopter and latter's spouse, if any; and
- 8 (e) The spouse, if any, of the person adopting or to be adopted.

9 SECTION 16. *Where to File Application.* – A person eligible to adopt under article III,
10 Section 14 of this Act who desires to adopt a child in the Philippines has attended adoption fora
11 and seminar, shall file their application for adoption with the Department or with any licensed
12 accredited child placing agency/s.

13 In cases of relative adoption, shall file their petition for adoption directly to the Regional
14 Trial Court with has jurisdiction over their residence. Spouses shall file their application jointly.

15 SECTION 17. *Case Study.* – No petition for adoption shall be set for hearing unless a
16 licensed social worker of the Department, the social service office of the local government unit,
17 or any child-placing or child-caring agency has made a case study of the adoptee, his/her
18 biological parent(s) as well as the adopter(s) and has submitted the report and recommendations
19 on the matter the court hearing such petition.

20 At the time of preparation of the adoptee's case study, the concerned social worker shall
21 confirm with the Civil Registry the real identity and registered name of the adoptee. If the birth
22 of the adoptee was not registered with the Civil Registry, it shall be responsibility of the
23 concerned social worker to ensure that the adoptee is registered.

24 The case study on the adoptee shall establish that he/she is legally available for the
25 adoption and that the documents to support this fact are valid and authentic. Further, the case
26 study of the adopter(s) shall ascertain his/her genuine intentions and that the adoption is in the
27 best interest of the child.

1 The Department shall intervene on behalf of adoptee if it finds, after the conduct of the
2 case studies, that the petition should be denied. The case studies and other relevant documents
3 and records pertaining to the adoptee and the adoption shall be preserved by the Department.

4 SECTION 18. *Fees and Charges.* – Child Caring Agency and Child Placement Agency
5 may charge reasonable fees as determined by the Department to cover expenses in providing
6 adoption services. The applicant(s) shall be apprised of the fees at the start.

7 SECTION 19. *Family Selection/Matching* – The matching of the child to an approved
8 adoptive parent/s shall be carried out during the regular matching conference by the matching
9 Committee otherwise called the Child Placement Committee (CPC) in the regional level where
10 the social workers of the child and family are present. Subject to the approval of the
11 Department, the CPC shall fix its own internal rules and procedures in accordance with the rules
12 of Court; provided, however, that records of children and approved adoptive parent/s not
13 matched within thirty (30) days in the regional level shall be forwarded to the Department’s
14 Central office for inter-country matching; Provided further that the children with Special needs
15 shall be immediately forwarded if not matched in the first meeting, except under special
16 circumstances.

17 The matching proposal made by CPC shall be approved by the Department.

18
19 SECTION 20. *Supervised Trial Custody.* – No petition for adoption shall be finally
20 granted until the adopter(s) has been given by the court a supervised trial custody period for at
21 least six (6) months within which the parties are expected to adjust psychologically and
22 emotionally to each other and established a bonding relationship. During said period,
23 temporary parental authority shall be vested in the adopter(s).

24 The court may motu proprio or upon motion of any party reduce the trial period if it finds
25 the same to be in the best interest of the adoptee, stating the reasons for the reduction of the
26 period. However, for alien adopter(s), he/she must complete the six (6) month trial custody
27 except for those enumerated in Sec. 7 (b) (i) (ii) (iii).

1 If the child is below seven (7) years of age and is placed with prospective adopter(s)
2 through a pre-adoption placement authority issued by the Department, the prospective adopter(s)
3 shall enjoy all the benefits to which biological parent(s) is entitled from the date the adoptee is
4 placed with the prospective adopter(s).

5 SECTION 21. *Decree of Adoption.* – If, after the publication of the order of hearing has
6 been complied with, and no opposition has been interposed to the petition, and after
7 consideration of the case studies, the qualifications of the adopter(s), trial custody report and the
8 evidence submitted, the court is convinced that the petitioners are qualified to adopt, and that the
9 adoption would redound to the best interest of the adoptee, a decree of adoption shall be entered
10 which shall be effective as of the date the original petition was filed. This provision shall also
11 apply in case he petitioner(s) dies before the issuance of the decree of adoption to protect the
12 interest of the adoptee. The decree shall state the name by which the child is to be known.

13 SECTION 22. *Civil Registry Act.* – An amended certificate of Birth shall be issued by
14 the Civil Registry, as required by the Rules of Court, attesting to the fact that the adoptee is the
15 child of the adopter(s) by being registered with his/her surname. The original certificate of birth
16 shall be stamped “cancelled” with the annotation of the issuance of the amended birth certificate
17 in its place and shall be sealed in the civil registry records. The new birth certificate to be issued
18 to the adoptee shall not bear any notation that it is an amended issue.

19 B. INTER-COUNTRY ADOPTION:

20 SECTION 23. *Inter-country Adoption as the Last Resort.* – The Adoption Bureau shall
21 ensure all possibilities for adoption of the child under the Family Code have been exhausted and
22 that inter-country adoption is in the best interest of the child. Towards this end, the Bureau
23 shall set up the guideline to ensure that steps will be taken to place the child in the Philippines
24 before the child is placed for inter-country adoption: provided, however, that the maximum
25 number that may be allowed for foreign adoption shall not exceed six hundred (600) a year for
26 the first five (5) years.

1 SECTION 24. *Who maybe Adopted.* - The following may be adopted;

- 2 a) Any person below eighteen (18) years of age who has been administratively or
3 judicially declared available for adoption; Provided that in the case of a child who is
4 voluntarily committed, the physical transfer of said child shall be made not earlier
5 than three (3) months from the date of execution of the Deed of Voluntarily
6 Commitment by the child's biological parent/s or guardian. Provided further,
7 however, that this prohibition against physical transfer shall not apply to all children
8 being adopted by a relative or children with special medical conditions;
- 9 b) The legitimate son/daughter of one spouse by the other spouse;
- 10 c) An illegitimate son/daughter by a qualified adopter to improve his/her status to that of
11 legitimacy;
- 12 d) A person of legal age if, prior to the adoption, said person has been consistently
13 considered and treated by the adopter(s) as his/her own child since minority;
- 14 e) A child whose adoption ha been previously rescinded; or
- 15 f) A child whose biological or adoptive parent(s) has died: Provided, That no
16 proceedings shall be initiated within six (6) months from the time of death of said
17 parent(s).

18 SECTION 25. – *Documents of Prospective Adoptive Child.* – Only a legally free child
19 may be the subject of inter-country adoption. In order that such child may be considered for
20 placement. The following documents must be submitted to the Adoption Bureau:

- 21 a) Child Study
- 22 b) Security Paper (SECPA) Birth certificate/foundling certificate
- 23 c) Certified True Copy of the Decree of Abandonment and Certificate of Finality or
24 Notarized Deed of Voluntary Commitment
- 25 d) Medical evaluation/history including that of the child's biological parent/s, if
26 available, and update medical abstract;
- 27 e) Certified True Copy of the Death Certificate of child's birthparent/s, if applicable.
- 28 f) Psychological evaluation as necessary; and

1 g) Child's own written consent to adoption, if he/she is ten (10) years or older witnessed
2 by a social worker of the department or Child Caring/Placing Agency and after proper
3 counseling.

4 h) Most recent whole body size picture of the child. If applicable, any physical
5 impairment of the child should be visible in the picture.

6 SECTION 26 – *Who may adopt.* – Any foreign national or a Filipino citizen permanently
7 residing abroad may file an application for inter-country adoption of a Filipino child if he/she:

8 a) is at least twenty-seven (27) years of age and at least sixteen (16) years older
9 than the child to be adopted at the time of application unless the adopter is
10 the parent by nature of the child to be adopted or the spouse of such parent.

11 b) Has the capacity to act and assume all rights and responsibilities of parental
12 authority under his laws, and has undergone the appropriate counselling from
13 an accredited counselor in his/her country.

14 c) Has undergone appropriate counseling from an accredited counselor in his/her
15 country.

16 d) Has not been convicted of a crime involving moral turpitude'

17 e) Is eligible to adopt under his/her national law.

18 f) Is in a position to provide the proper care and support and to give the
19 necessary moral values and example to all his children, including the child to
20 be adopted.

21 g) Comes from a country

22 (i) With whom the Philippine has diplomatic relations;

23 (ii) Whose government maintain a foreign adoption agency; and

24 (iii) Whose laws allow adoption; and

25 h) Files jointly with his/her spouse, if any, who shall have the same qualification
26 and none of the disqualification to adopt as prescribed above.

27 SECTION 27. *Where to File Application.* – The application for inter- country shall be
28 filed either with the Philippine Regional Trial Court having jurisdiction over the child, or with

1 the Department through an authorized and accredited agency in the country of the prospective
2 adoptive parents, which application shall be in accordance with the requirements as set forth in
3 the implementing rules and regulations to be promulgated by the Department.

4 The application shall be supported by the following documents written and officially
5 translated in English.

6 a) Birth certificate of applicant/s and in case of relative adoption, such relevant
7 documents that establish the relationship between the applicants claiming relationship
8 to the child to be adopted.

9 b) Marriage contract, and in the proper case, Decree of Divorce of a previous marriage.

10 c) Written consent in a form of sworn statement by the biological or adopted children
11 who are ten (10) years of age or over.

12 d) Physical and medical evaluation by a duly licensed physician'

13 e) Psychological evaluation by a psychologist

14 f) Latest income tax return or other documents showing the financial capability of the
15 applicant/s;

16 g) Clearances issued by the Police department or other proper government agency of the
17 place where the applicant/s reside.

18 h) Character references from the local/church minister, the applicant's employer and a
19 member of the immediate community who have known the applicant/s for at least
20 five (5) years and

21 i) Recent post card size pictures of the applicant/s and his immediate family.

22 SECTION 28. *Fees, Charges and Assessment.* – Fees, charges and assessments collected
23 by the Department in the exercise of its functions shall be used solely to process applications for
24 inter-country adoption and to support the activities of the Department.

25 SECTION 29. *Family Selection/matching.* – No child shall be matched to a foreign
26 adoptive family unless it is satisfactorily shown that the child cannot be adopted locally. The
27 clearance, as issued by the Department with the copy of the minutes of the meetings shall form
28 part of the records of the child to be adopted. When the office is ready to transmit the Placement

1 Authority to the authorized and accredited inter-country adoption agency and all the travel
2 documents of the child are ready, the adoptive parents or any one of them shall personally fetch
3 the child in the Philippines.

4 SECTION 30. *Pre-adoptive Placement Costs.* – The applicant(s) shall bear the following
5 costs incidental to the placement of the child.

6 a) The cost bringing the child from the Philippines to the residence of the applicant(s)
7 abroad, including all travel expenses within the Philippines and abroad, and

8 b) The cost of passport, visa, medical examination and psychological evaluation
9 required, and other related expenses.

10 SECTION 31. *Supervision of Trial Assessments.* – The government agency or the
11 authorized and accredited agency in the country of the adoptive parents which filed the
12 application for inter-country adoption shall be responsible for the trial custody and the care of the
13 child. It shall also provide family counseling and other related cases. The trial custody shall be a
14 period of six (6) months from the time of placement. Only after the lapse of the period of trial
15 custody shall a decree of adoption be issued in the said country, a copy of which shall be sent to
16 the Department to form part of the records of the child.

17 During the trial custody, the adopting parent(s) shall submit to the governmental agency
18 or the authorized and accredited agency, which shall in turn transmit a copy to the Department, a
19 progress report of the child's adjustment. The progress report shall be taken into consideration in
20 deciding whether or not to issue the decree of adoption.

21 The department of Foreign Affairs shall set-up a system by which Filipino children sent
22 abroad for trial custody are monitored and checked as reported by the authorized and accredited
23 inter-country adoption agency as well as the repatriation to the Philippines of a Filipino child
24 whose adoption has not been approved.

25 SECTION 32. *Executive Agreements.* – The Department of Foreign Affairs, upon
26 representation of the Department, shall cause the preparation do Executive agreements with

1 countries of the foreign adoption agencies to ensure the legitimate concurrence of said countries
2 in upholding the safeguards provided by this act.

3 ARTICLE IV

4 EFFECTS OF ADOPTION

5 SECTION 33. *Parental Authority.* – Except in cases where the biological parent is the
6 spouse of the adopter, all legal ties between the biological parent(s) and the adoptee shall be
7 severed and the same shall then be vested on the adopter(s).

8 SECTION 34. *Legitimacy.* – The adoptee shall be considered the legitimate son/daughter
9 of the adopter(s) for all intents of the purposes and as such is entitled to all the rights and
10 obligations provided by the law to legitimate sons/daughters born to them without discrimination
11 of any kind. To this end, the adoptee is entitled to love, guidance, and support in keeping with
12 the means of the family.

13 SECTION 35. *Succession.* – In legal and intestate succession, the adopter(s) and the
14 adoptee shall have reciprocal rights of succession without distinction from legitimate filiation.
15 However, if the adoptee and his/her biological parent(s) had left a will the law on testamentary
16 succession shall govern.

17 SECTION 36. *Benefits.* – The adoptive parents shall, with respect tot he adopted child,
18 enjoy all the benefits to which the biological parents are entitled. Maternity and paternity
19 benefits and other benefits given to the biological parents upon the birth of a child shall be
20 enjoyed if the adoptee is below seven (7) years of age as of the date the child is placed with the
21 adoptive parents thru the pre-Adoptive Placement Authority issued by the Department.

22 ARTICLE V

23 RESCISSION OF ADOPTION

24 SECTION 37. *Grounds for Rescission of Adoption.* – Upon petition of the adoptee, with
25 the assistance of the Department if a minor or if over eighteen (18) years of age but it is

1 incapacitated, as guardian/counsel, the adoption may be rescinded on any of the following
2 grounds committed by the adopter(s); (a) repeated physical and verbal maltreatment by the
3 adopter(s) despite having undergone counseling; (b) attempt on the life of the adoptee; (c)
4 sexual assault or violence, or (d) abandonment and failure to comply with parental obligations.

5 Adoption being in the best interest of the child, shall not be subject to recession by
6 adopter(s). However the adopter(s) may disinherit the adoptee for causes provided in Article 919
7 of the Civil Code.

8 SECTION 38. *Effects of the Rescission.* ~ If the petition is granted, the parental authority
9 of the adoptee's biological parent(s), if known, or the legal custody of the Department shall be
10 restored if the adoptee is still a minor or incapacitated. The reciprocal right and obligations of
11 the adopter(s) and the adoptee to each other shall be extinguished.

12 The court shall order the Civil Registrar to cancel the amended certificate of birth of the
13 adoptee and restore his/her original birth certificate.

14 Succession rights shall revert to its status prior to adoption, but only as of the date of
15 judgement or judicial rescissions. Vested rights acquired prior to judicial rescission shall be
16 respected.

17 All the foregoing effects of rescissions of adoption shall be without prejudice to the
18 penalties imposable under the Penal Code if the criminal acts are properly proven.

19 ARTICLE VI

20 CONFIDENTIAL NATURE OF PROCEEDINGS

21 SECTION 39. *Confidential Nature of Proceedings & Records.* – All hearings in
22 adoption cases shall be confidential and shall not be open to the public. All records, books and
23 papers relating to the adoption cases in the files of the court, the Department, or any other agency
24 or institution participating in the adoption proceedings shall be kept strictly confidential.

25 If the court finds the disclosure of the information to a third person is necessary for
26 purposes connected with or arising out of the adoption and will be for the best interest of the

1 adoptee, the court may merit the necessary information to be released, restricting the purposes
2 for which it may be used.

3 No copy thereof as well as any information relating hereto shall be released without
4 written authority from the Department or the written request of any of the following.

5 a) The child/adopted person, with appropriate guidance and counselling, or his/her duly
6 authorized representative, spouse, parent or parents, direct descendants, or guardian
7 or legal institution legally in charge of the adopted person, if minor.

8 b) The court or proper public official whenever necessary in an administrative, judicial
9 or other official proceeding to determine the identity of the parent or parents or of the
10 circumstances surrounding the birth of the child/adopted person; or

11 c) The nearest kin, in case of death of the child/adopted person.

12 The Department shall ensure that information held by them concerning the origin of the
13 child/adopted person, in particular the identity of his /her biological parents, is preserved.

14 ARTICLE VII

15 VIOLATIONS AND PENALTIES

16 SECTION 40. *Violations and Penalties.* –

17 a) Any person who shall knowingly participate in the conduct or carrying out of an
18 illegal adoption , in violation of the provisions of this Act, shall be punished with a penalty of
19 imprisonment ranging from six (6) years and one (1) day to twelve (12) years and/or a fine not
20 less than fifty thousand pesos (P50, 000.00), but not more than two hundred thousand pesos
21 (P200,000.00) at the discretion of the court shall be imposed on any person who shall commit
22 any of the following acts:

- 23 1. obtaining consent for an adoption through coercion, undue influence, fraud,
24 improper material inducement, or other similar acts;
- 25 2. non compliance with the procedures and safeguards provided by law for the
26 adoption; or
- 27 3. subjecting or imposing the child to be adopted to danger, abuse or exploitation.

1 b) Any person who shall cause the fictitious registration of the birth of the child under
2 the name(s) of a person(s) who is not his/her biological parent(s) shall be guilty of
3 simulation of birth, and shall be punished by prison mayor in its medium period and a
4 fine not exceeding fifty thousand pesos (P50,000.00).

5 Any physician or nurse or hospital personnel who, in violation of his/her oath
6 of office, shall cooperate in the execution of the above mentioned crime shall suffer
7 the penalties herein prescribed and also the penalty of permanent disqualification.

8 c) Any person who shall violate established regulations relating the confidentiality and
9 integrity of records, documents, and communications of adoption applications, cases
10 and processes shall suffer the penalty of imprisonment ranging from one (1) year and
11 one (1) day to two (2) years, and/or a fine of not less than five thousand pesos
12 (P5,000.00) but not more than ten thousand pesos (P10,000.00) at the discretion of
13 the court.

14 A penalty lower by two (2) degrees than that prescribed for the consummated
15 offense under this Article shall be imposed upon the principals of the attempt to
16 commit any of the acts herein enumerate.

17 Act punishable under this Article, when committed by a syndicate or where it
18 involves two (2) or more children shall be considered as an offense constituting child
19 trafficking and shall merit the penalty of *reclusion perpetua*.

20 Act punishable under this Article are deemed committed by a syndicate if
21 carried out by a group of three (3) or more persons conspiring and/or confederating
22 with one another in carrying out any of the unlawful acts defined under this Article.
23 Penalties are herein provided, shall be in addition to any other penalties which may be
24 imposed for the same acts punishable under other laws, ordinances, executive orders,
25 and proclamations.

26 When the offender is an alien, he/she shall be deported immediately after
27 service of sentence and perpetually excluded from entry to the country.

1 SECTION 41. *Public Officers as Offender.* – Any government official, employee or
2 functionary who shall be found guilty of violating any provisions of this Act, or who shall
3 conspire with private individual shall, in addition to the above prescribed penalties, be penalized
4 in accordance with existing civil service laws, rules and regulations. Provided, That upon the
5 filing of a case either administrative or criminal, said government official, employee, or
6 functionary concerned shall automatically suffer suspension until the resolution of the case.

7 SECTION 42. *Rectification of Simulated Births.* – A person who has, prior to the
8 effectivity of this Act, simulated the birth of a child shall not be punished for such act; Provided
9 that the simulation of the birth was made for the best interest of the child and that he/she has
10 been consistently considered and treated by that person as his/her own son/daughter. Provided,
11 further that the application for correction of the birth registration and petition for adoption shall
12 be filed within five (5) years from the effectivity of this Act and completed thereafter. Provided,
13 finally, That such person complies with the procedure as specified in Article IV of this Act and
14 other requirements as determined by the department.

15 ARTICLE VIII

16 FINAL PROVISSIONS

17 SECTION 43. *Implementing Rules and Regulation.* – Within six (6) months from the
18 promulgation of this Act, the Department with the Council for the Welfare of the Children, the
19 Office of Civil Registry General, the Department of Justice, Office of the Solicitor General,
20 Department of Foreign Affairs after due consultation with agencies involved in child-care and
21 placement shall promulgate the necessary rules and regulations to implement the provisions of
22 this act within six (6) months after its effectivity.

23 SECTION 44. *Appropriations* – Such sum as may be necessary for the implementation
24 of the provisions of this Act shall be included in the General Appropriations Act of the year
25 following its enactment into law and thereafter.

1 SECTION 45. *Repealing Clause* - Any law, presidential decree or issuance, executive
2 order, letter of instruction, administrative order, rule, or regulation contrary to, or in consistent
3 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

4 SECTION 46. *Separability Clause* - If any provision of this Act is held invalid or
5 unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

6 SECTION 47. *Effectivity Clause* – This Act shall take effect fifteen (15) day following
7 its complete publication in any newspaper of general circulation or in the Official Gazzete.

8 Approved.