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Prepared by the Committee on Youth, Women and Family Relations with
Senators Pimentel, Jr., Defensor-Santiago, and Legarda as authors thereof

5
6 AN ACT

7 REQUIRING THE CERTIFICATION OF THE DEPARTMENT OF
8 SOCIAL WELFARE AND DEVELOPMENT (DSWD) TO DECLARE A
9 "CHILD LEGALLY AVAILABLE FOR ADOPTION" AS A PREREQUISITE
10 FOR ADOPTION PROCEEDINGS, AMENDING FOR THIS PURPOSE
11 CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8552, OTHERWISE
12 KNOWN AS THE DOMESTIC ADOPTION ACT OF 1998, REPUBLIC ACT
13 NO. 8043, OTHERWISE KNOWN AS THE INTER-COUNTRY ADOPTION
14 ACT OF 1995, PRESIDENTIAL DECREE NO. 603, OTHERWISE KNOWN AS
15 THE CHILD AND YOUTH WELFARE CODE,
16 AND FOR OTHER PURPOSES
17

18 Be it enacted by the Senate and House of Representatives of the
19 Philippines in Congress assembled.
20

21 SECTION 1. Declaration of Policy. – It is hereby declared the policy of the
22 State that alternative protection and assistance shall be afforded to every child
23 who is abandoned, surrendered, or neglected. In this regard, the State shall
24 extend such assistance in the most expeditious manner in the interest of full
25 emotional and social development of the abandoned, surrendered, or neglected
26 child.
27

28 SECTION 2. Definition of Terms. – As used in this Act, the following
29 terms shall mean:

1 (1) Department of Social Welfare and Development (DSWD) is the agency
2 charged to implement the provisions of this Act and shall have the sole authority
3 to issue the certification declaring a child legally available for adoption.
4

5 (2) Child refers to a person below eighteen (18) years of age or over but is
6 unable to fully take care of him/herself or protect him/herself from abuse,
7 neglect, cruelty, exploitation, or discrimination because of physical or mental
8 disability or condition.
9

10 (3) Abandoned Child refers to a child who has no proper parental care or
11 guardianship, or whose parent(s) have deserted him/her for a period of at least
12 three (3) continuous months.
13

14 (4) Neglected Child refers to a child whose basic needs have been
15 deliberately unattended or inadequately attended within a period of three (3)
16 continuous months. Neglect may occur in two (2) ways:
17

18 (a) There is physical neglect when the child is malnourished, ill-
19 clad, and without proper shelter. A child is unattended when left by him/herself
20 without proper provisions and/or without proper supervision.
21

22 (b) There is emotional neglect when the child is maltreated, raped,
23 seduced, exploited, overworked, or made to work under conditions not
24 conducive to good health; or are made to beg in the streets or public places; or
25 when children are in moral danger, or exposed to gambling, prostitution, and
26 other vices.
27

28 (5) Child Legally Available for Adoption refers to a child in whose favor a
29 certification was issued by the DSWD that he/she is legally available for adoption
30 after the fact of abandonment or neglect has been proven through the submission
31 of pertinent documents.
32

33 (6) Voluntarily Committed Child is one whose parent(s) or legal guardian
34 knowingly and willingly relinquished parental authority to the DSWD or any
35 duly accredited child-placement or child-caring agency or institution.
36

37 (7) Child-caring agency or institution refers to a private non-profit or
38 government agency duly accredited by the DSWD that provides twenty-four (24)
39 hour residential care services for abandoned, neglected, or voluntarily
40 committed children.

1 (8) Child-placing agency or institution refers to a private non-profit
2 institution or government agency duly accredited by the DWSD to receive and
3 process applicants to become foster or adoptive parents and facilitate placement
4 of children eligible for foster care or adoption.
5

6 (9) Petitioner refers to the head or executive director of a licensed or
7 accredited child-caring or child-placing agency or institution managed by the
8 government, local government unit, non-governmental organization, or
9 provincial, city, or municipal Social Welfare Development Officer who has actual
10 custody of the minor and who files a certification to declare such child legally
11 available for adoption, or, if the child is under the custody of any other
12 individual, the agency or institution does so with the consent of the child's
13 custodian.
14

15 (10) Secretary refers to the Secretary of the DSWD or his duly authorized
16 representative.
17

18 SECTION 3. Petition. – The Petition shall be in the form of an affidavit,
19 subscribed and sworn to before any person authorized by law to administer
20 oaths. It shall contain facts necessary to establish the merits of the petition and
21 shall state the circumstances surrounding the abandonment or neglect of the
22 child.
23

24 The petition shall be supported by the following documents:
25

26 (1) Case study made by the DSWD, licensed or accredited child-
27 caring or child-placement agency or institution charged with the custody of the
28 child;
29

30 (2) Proof that efforts were made to locate the parent(s) or any
31 known relatives of the child. The following shall be considered sufficient:
32

33 (a) Written certification from a radio or television station
34 that the case was aired on three (3) different occasions;
35

36 (b) Publication in one (1) newspaper of general circulation;
37 and

38 (c) Police report or barangay certification from the locality
39 where the child was found;
40

1 (3) Birth certificate or foundling certificate;

2
3 (4) Recent photograph of the child and photograph of the child
4 upon abandonment or admission to the agency or institution.

5
6 The petition shall be filed in the regional office of the DSWD where the
7 child was found or abandoned.

8
9 The Regional Director shall examine the petition and its supporting
10 documents. He/she shall post the petition in conspicuous places in the locality
11 where the child was found for five (5) consecutive days after he/she finds the
12 petition and its supporting documents sufficient in form and substance.

13
14 The Regional Director shall act on the same and shall render a
15 recommendation not later than five (5) working days after the completion of its
16 posting or publication. He/she shall transmit a copy of his/her recommendation
17 and records to the Office of the Secretary within forty-eight (48) hours from the
18 date of the recommendation.

19
20 Upon finding merit in the petition, the Secretary shall issue a certification
21 declaring the child legally available for adoption within seven (7) working days
22 from receipt of the recommendation.

23
24 The decision of the Secretary shall be appealable to the regular courts
25 within five (5) days from receipt of the decision by the petitioner.

26
27 SECTION 4. Declaration of Abandonment. – The certificate declaring a
28 child legally available for adoption in case of an involuntarily committed child
29 under Article 141, paragraph 4(2) and Article 142 of Presidential Decree No. 603
30 shall be issued by the DSWD within three (3) months following such involuntary
31 commitment.

32
33 In the case of a voluntarily committed child, the petition for restoration of
34 parental authority may be filed by the parent(s) or legal guardian within three (3)
35 months after the signing of the Deed of Voluntary Commitment, provided that
36 the DSWD may shorten or lengthen the period in meritorious cases.

37
38 SECTION 5. Certification. – The certification that a child is legally
39 available for adoption shall be issued by the DSWD in lieu of a judicial order,
40 thus making the entire process administrative in nature.

1 The certification, in cases of abandoned or neglected children, shall be, for
2 all intents and purposes, the primary evidence that the child is legally available
3 in a domestic adoption proceeding, as provided in Republic Act No. 8552, and in
4 an inter-country adoption proceeding, as provided in Republic Act No. 8043.

5
6 SECTION 6. Payment of Fees. – The petitioner shall pay a filing fee to be
7 determined by the DSWD in accordance with existing rules and regulations.

8
9 SECTION 7. Implementing Rules and Regulations. – The DSWD, together
10 with the Council for Welfare of Children, Inter-Country Adoption Board, two (2)
11 representatives from licensed or accredited child-placing and child-caring
12 agencies or institutions, and the Committees on Youth, Women, and Family
13 Relations from the Senate and House of Representatives, is hereby tasked to draft
14 the implementing rules and regulations of this Act within sixty (60) days
15 following its complete publication.

16
17 SECTION 8. Penalty. – The penalty of one hundred thousand pesos
18 (P100,000.00) to two hundred thousand pesos (P200,000.00) shall be imposed on
19 any person, institution, or agency who shall place a child for adoption without
20 the certification that the child is legally available for adoption issued by the
21 DSWD. Any agency or institution found violating any provision of this Act shall
22 cause the revocation of its license to operate without prejudice to the criminal
23 prosecution of its officers and employees.

24
25 SECTION 9. Repealing Clause. – Sections 2(c)(iii), 3(b), (d), (e), and 8(a) of
26 Republic Act No. 8552, Section 3(f) of Republic Act No. 8043, Title VII, Chapter 1,
27 of Presidential Decree No. 603, and any law, presidential decree, executive order,
28 letter of instruction, administrative order, rule, or regulation contrary to or
29 inconsistent with the provisions of this Act are hereby repealed, modified, or
30 amended accordingly.

31
32 SECTION 10. Separability Clause. – If any provision of this Act is held
33 invalid or unconstitutional, the other provisions not affected thereby shall
34 remain valid and subsisting.

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

Approved,
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