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SENATE

COMMITTEE REPORT NO. 72

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Submitted by the Committee on Youth, Women and Family Relations JUN 10 2008

Re: Senate Bill No. 2391

Recommending its approval in substitution of Senate Bill Nos. 113, 1634 and 2012

Sponsors: Senators Madrigal, Pimentel, Jr., Defensor-Santiago and Legarda

**MR. PRESIDENT:**

The Committee on Youth, Women and Family Relations to which were referred Senate Bill No. 113, introduced by Senator Pimentel, Jr., entitled:

**“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”**

Senate Bill No. 1634, introduced by Senator Defensor- Santiago, entitled:

**“AN ACT  
REQUIRING CERTIFICATION OF THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT 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, ALSO KNOWN AS THE DOMESTIC ADOPTION LAW, REPUBLIC ACT NO. 8043, ALSO KNOWN AS THE INTER-COUNTRY ADOPTION ACT AND PRESIDENTIAL DECREE NO. 603, ALSO KNOWN AS THE CHILD AND YOUTH WELFARE CODE “**

Senate Bill No. 2012, introduced by Senator Legarda, entitled:


**“AN ACT  
REQUIRING CERTIFICATION OF THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT 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, ALSO KNOWN AS THE DOMESTIC ADOPTION LAW, REPUBLIC ACT NO. 8043, ALSO KNOWN AS THE INTER-COUNTRY ADOPTION ACT AND PRESIDENTIAL DECREE NO. 603, ALSO KNOWN AS THE CHILD AND YOUTH WELFARE CODE “**

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached bill, Senate Bill No. 2391, prepared by the Committee, entitled:

**"AN ACT  
REQUIRING THE 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 ACT OF 1995, PRESIDENTIAL DECREE  
NO. 603, OTHERWISE KNOWN AS THE CHILD AND YOUTH  
WELFARE CODE, AND FOR OTHER PURPOSES"**

104 be approved in substitution of Senate Bill Nos. 113, 1634 and 2012 with Senators Pimentel, Jr., Defensor-Santiago, and Legarda as authors thereof.

Respectfully submitted:

  
**M.A. MADRIGAL**  
Chairperson  
Committee on Youth, Women and Family Relations

Members:

*via J. Cayetano w/ interpellation & may propose amendments*  
**PIA "COMPAÑERA" S. CAYETANO**

*with interpellation & possible amendment*  
**ALLAN PETER "CAMPANERO" S. CAYETANO**


*as amended*  
**FRANCIS G. ESCUDERO**

**JUAN PONCE ENRILE**

*as amended*  
**RICHARD J. GORDON**

**GREGORIO B. HONASAN II**


  
**LOREN B. LEGARDA**

*interpellation and possible consequent amendment*  
  
**RODOLFO G. BIAZON**

Ex-Officio Members:

**JINGGOY EJERCITO-ESTRADA**  
*President Pro-Tempore*

**FRANCIS N. PANGILINAN**  
*Majority Leader*


  
**AQUILINO Q. PIMENTEL JR.**  
*Minority Leader*

**Hon. MANNY VILLAR**  
*Senate President*  
*Senate of the Philippines*  
*Pasay City*

1 FOURTEENTH CONGRESS )  
2 REPUBLIC OF THE PHILIPPINES )  
3 First Regular Session  
4

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SENATE

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S. No. 2391

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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

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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,  
[Signature]