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SENATE  
S. No. **1819**

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Introduced by Senator Miriam Defensor Santiago

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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.

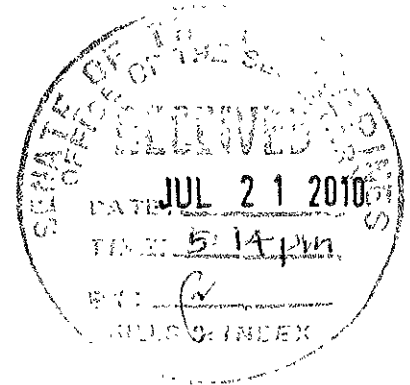
This proposed bill will support the establishment of a central adoption office under the DSWD which will handle both domestic and inter-country adoption applications. This is expected to cut down the adoption process specially the referral procedures every time domestic adoption is not possible and inter-country adoption is an option.<sup>1</sup>

  
MIRIAM DEFENSOR SANTIAGO

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<sup>1</sup> This bill was originally filed during 14<sup>th</sup> Congress, 1<sup>st</sup> Regular Session.

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



SENATE  
S. No. **1819**

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Introduced by Senator Miriam Defensor Santiago

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

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

4 SECTION 1. *Short Title.* - This Act shall be known as the "Philippine Adoption Act."

5 SECTION 2. *Declaration of Policies.* -

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

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

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

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

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

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

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

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

15 SECTION 3. *Definition of Terms.* -As used in this Act, the following terms shall mean:

16 a) "Abandoned child" - shall refer to one who has no proper parental care or guardianship  
17 or whose parent(s) has deserted his/her for a period of at least three (3) continuous months and  
18 has been judicially declared as such;

19 h) "Act" - shall refer to this Act.

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

24 d) "Adoption" - shall refer to a socio-legal process of providing a permanent family to a  
25 child whose parents have voluntarily or involuntarily relinquished parental authority over the  
26 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 adoptive  
3 families go through the process from application to finalization of the child's adoption under the  
4 auspices of the Department of Social Welfare and Development or a licensed child-placing  
5 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 implemented by  
8 a social welfare and development agency in compliance with appropriate standards evidenced by  
9 a certificate of accreditation issued by the Department of Social Welfare and Development

10 g) "Applicant" - shall refer to a married couple or a single person who files an  
11 application;

12 h) "Application" - shall refer to the duly accomplished application form, home study  
13 report including its supporting documents.

14 i) "Biological Parents" - shall refer to the child's mother and father by nature or the  
15 mother alone if the child is unacknowledged illegitimate child.

16 j) "Child" - shall refer to a person below eighteen (18) years of age;

17 k) "Child-caring agency" - shall refers to a duly licensed and accredited agency by the  
18 Department that provides twenty four (24) hour residential care services for abandoned,  
19 orphaned, neglected, or voluntarily committed children;

20 l) "Child-placing agency" - shall refers to a duly licensed and accredited agency by the  
21 Department to provide comprehensive child welfare services including, but not limited to,  
22 receiving applications for adoption, evaluating the prospective adoptive parents, and preparing  
23 the adoption home study;

1 m) "Child Study Report" - shall refer to a study of a child's legal status, placement  
2 history, psychological, social, spiritual, medical, ethno-cultural background, and that of his/her  
3 biological family as basis in determining the most desirable placement for him/her.

4 n) "Child with Special Needs" - shall refer to any child who is difficult to place in view  
5 of some physical, psychological, and/or social limitations including but not limited to being an  
6 older child, belonging to a sibling group or those who may be under such analogous  
7 circumstances;

8 o) "Competent Authority" - shall refer to any State entity which performs all or most of  
9 the functions of Chapter II of the Convention;

10 p) "Contracting State" - shall refer to any State Party to the Convention;

11 q) "Convention" - shall refer to The Hague Convention on Protection of Children and Co-  
12 operation in Respect of Inter-Country Adoption;

13 r) "Certificate of Abandonment" - shall refer to the final written administrative order  
14 declaring a child to be dependent, abandoned, and neglected and committing such child to the  
15 care of the Department through a person or duly licensed child caring/placing agency or  
16 institution. The rights of the biological parents, guardian or other custodian to exercise authority  
17 over the child shall cease;

18 s) "Deed of Voluntary Commitment" - shall refer to the notarized instrument  
19 relinquishing parental authority and committing the child to the care and custody of the  
20 Department executed by the child's biological parent(s) or by the child's legal guardian in their  
21 absence, mental incapacity or death, to be signed in the presence of an authorized representative  
22 of the Department, after counseling and other services have been made available to encourage  
23 the child's biological parent(s) to keep the child;

24 t) "Department" - shall refer to the Department of Social Welfare and Development;

1           u) “Direct/Indirect Placement Adoption” - shall refer to the biological parents make a  
2 direct placement of the child either to a relative, a member of their family, or a friend/non-  
3 relative with whom they relinquish their child.

4           v) “Extended Family” - shall refer to a relative of a child both at the paternal and  
5 maternal side within the fourth degree of consanguinity.

6           w) “Foundling” - shall refer to a deserted or abandoned infant or a child found, with  
7 parents, guardian, or relatives being unknown, or a child committee in an orphanage or charitable  
8 or similar institution with unknown facts of birth and parentage and registered in the Civil  
9 Register as a “foundling”.

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

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

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

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

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

1 cc) "Voluntarily committed child" - shall refer to the one whose parent(s), knowingly and  
2 willingly relinquishes parental authority to the Department;

3 dd) "Involuntarily committed child" - shall refer to the one whose parent(s), known or  
4 unknown, has been permanently and judicially deprived of parental authority due to  
5 abandonment, substantial, continuous, or repeated neglect, abuse; or incompetence to discharge  
6 parental responsibilities;

7 ee) "Liaison Service" - shall refer to the effective delivery of facilitating social services  
8 provided by a licensed and accredited Child Caring or Child Placing Agency (CCNCPA) to  
9 represent a Foreign Adoption Agency (FAA) in the Philippines;

10 ff) "Licensing" - shall refer to the process conducted by DSWD in assessing qualification  
11 and authorizing a registered social welfare and development (SWD) agency to operate as a social  
12 work agency.

13 gg) "Licensed Social Worker" - shall refer to one who possesses a bachelor of science in  
14 social work degree as a minimum education requirement and must have passed the government  
15 licensure examination for social workers as required by Republic Act 4373.

16 hh) "Matching" - shall refer to the judicious pairing of the applicant and the child to  
17 promote a mutually satisfying parent-child relationship;

18 ii) "Non-Contracting State" - shall refer to any State not party to the Convention which  
19 the Board has established working relations;

20 jj) "Pre-Adoption Services" - shall refer to psycho-social services provided by  
21 professionally trained social workers of the Department, the social services units of local  
22 government, private and government health facilities, Family Courts, licensed and accredited  
23 child-caring and child-placing agency and such other individuals or entities involved in adoption  
24 as may be authorized by the Department.

1 kk) "Post-Adoption Services" - shall refer to psycho-social services and support services  
2 provided by professionally trained social workers from offices above-mentioned after the  
3 issuance of the Decree of Adoption.

4 ll) "Residence" - shall refer to a person's actual and legal stay in the Philippines for two  
5 (2) continuous years immediately prior to the filing of application for adoption decree is entered;  
6 Provided, that temporary absences for professional, business or emergency reasons not  
7 exceeding sixty (60) day in one (1) year shall not be considered as breaking the continuity  
8 requirement; Provided, further that the Department may extend this period in meritorious cases.

9 mm) "Secretary" - shall refer to the Secretary of the Department;

10 nn) "Special Home Finding" - shall refer to the process of recruiting or identifying  
11 suitable adoptive parents for children with special needs through the Central

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

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

17 ARTICLE II

18 ADOPTION BUREAU

19 SECTION 4. *Adoption Bureau.* -There shall be established a Bureau of Adoption directly  
20 under the supervision of the office of the Secretary. The Bureau shall consist of two (2)  
21 divisions, local and Inter-country Adoption and will be manned by the Director and the common  
22 staff support system.

23 SECTION 5. *Functions.* - The functions of the Bureau of Adoption shall include the  
24 following:



1 1. Formulate and develop programs and services that will protect the Filipino child from  
2 abuse, exploitation, trafficking and adoption practice that is harmful, detrimental and prejudicial  
3 to the best interests of the child;

4 2. Set standard and guidelines on adoption including pre and post legal adoption services.  
5 Accredited and authorize foreign private adoption agencies which have demonstrated  
6 professionalism and have consistently pursued non-profit objectives to engage in the placement  
7 of Filipino children in their own country.

8 3. Monitor and assess compliance of all agencies/stakeholders (both local and foreign  
9 involved in adoption. Gauge the progress and identify gaps in the implementation of the law and  
10 come up with policy recommendation.

11 4. Conduct national information dissemination and advocacy campaign on adoption.

12 5. Keep records of all adoption cases and provide periodic information and reports on the  
13 performance of the Office;

14 6. Conduct researches on adoption or in related fields to further improve and strengthen  
15 the Office programs and services and for policy formulation and development;

16 7. Provide technical assistance and conduct capability building activities to all concerned  
17 agencies and stakeholders.

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

20 A. Common Functions:

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

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

- 1                   3. To keep records of all adoption proceedings
- 2                   4. To maintain a national information and educational campaign on domestic and
- 3                   intercountry adoption.
- 4                   5. To conduct researches on adoption and other related fields.
- 5                   6. To provide secretariat, records keeping and other services to the Child
- 6                   Placement Committee
- 7                   7. To submit periodic accomplishment/performance and recommendation for the
- 8                   improvement of the office.
- 9                   8. To attend regular/periodic meeting as maybe called by the Director.
- 10                  9. Conduct training needs assessment and provide technical assistance to stake
- 11                  holders involved on local and Inter-country Adoption.

12                  B. Distinct functions:

13                  LOCAL ADOPTION

- 14                  1. Monitor the existence, number and flow of children legally available for
- 15                  adoption and prospective adopter(s), so as to facilitate their matching.
- 16                  2. Maintain regular communications, linkages with CCA, CPA, Court Social
- 17                  Workers and LGUs involved on adoption. Provide technical assistance to stakeholders
- 18                  along case management.
- 19                  3. Review/assess/recommend accreditation of CCAs/CPAs. (Note: Part of the
- 20                  function of Standards Bureau).
- 21                  4. Generate resources to help child caring and child placing agencies to ensure
- 22                  viability.
- 23                  5. To organize and assist adoption support group.

1                   6. To provide parent and family life education sessions and referral for specialized  
2 services.

3                   7. Conduct researches in collaboration with CCAs/CPAs.

4 C. INTER-COUNTRY ADOPTION

5                   1. Establish and maintain a Roster of Children Available for Inter-country  
6 Adoption and Approved Applicants to be updated on a monthly basis.

7                   2. Review and process ICA applications, matching proposals, placements, and all  
8 documents requiring action by the Director.

9                   3. Implement the guidelines for the manner by which selection/matching of  
10 prospective adoptive parents can be made.

11                   4. To maintain and facilitate communication with the Child Placement Committee  
12 for Inter-country and the different government offices, non-governmental agencies,  
13 Central Authorities, Foreign Adoption Agencies in proper cases through the Department  
14 of Foreign Affairs or the Philippine Foreign Service Post and the general public.

15                   5. Review and process accreditation and authorization applications and status of  
16 agencies for action by the Director.

17                   6. To manage the operations and implementation of ICA programs, services,  
18 procedures, special projects & events relative to inter-country adoption.

19                   7. Promote and ensure enforcement/compliance of law, policies and procedures  
20 pertaining to ICA.

21                   8. Monitor, follow-up and facilitate completion of adoption of the child through  
22 authorized and accredited agency.

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

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

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

8 SECTION 8. *Functions of the Committee.* - The Committee shall have the following  
9 functions:

10 a) Carry-out an integrated system and network of selection and matching of applicants  
11 and children;

12 b) Recommend to the Director approval of applications and matching proposals;

13 c) Act as consultants to the Director in their area/field of expertise;

14 d) Initiate, review and recommend changes in policies concerning selection, matching  
15 and placement and other matters related to child welfare.

16 e) Perform such other functions and duties as may be determined by the Board,

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

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

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

24 ARTICLE III

1 PROCEDURE

2 A. LOCAL ADOPTION

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

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

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

13 (b) *Prospective Adoptive Parents* - Counseling sessions, adoption forums and seminars,  
14 among others shall be provided to prospective adoptive parent(s) to resolve possible adoption  
15 issues and to prepare him/her for effective parenting.

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

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

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

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

17 SECTION 14. *Who May Adopt.* -The following may adopt:

18 (a) Any Filipino citizen of legal age, in possession's of full civil capacity and legal rights,  
19 of good moral character, has not been convicted of any crime involving moral turpitude,  
20 emotionally and psychologically capable of caring for children at lest sixteen (16) years older  
21 than the adoptee, who is in a position to support and care for his/her children in keeping with the  
22 means of the family. The requirement of sixteen (16) year difference between the age of the  
23 adopter and the adoptee maybe waived when the adopter is the biological parent of the adoptee,  
24 or is the spouse of the adoptee's parent;

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

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

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

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

- 21 (i) if one spouse seeks to adopt the legitimate son/daughter of the other, or  
22 (ii) if one spouse seeks to adopt his/her own illegitimate son/daughter:  
23 Provide, However, that the other spouse has signified his/her consent thereto: or  
24 (iii) if the spouses are legally separated from each other.

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

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

4 (a) The adoptee, if ten (10) years of age or over;

5 (b) The biological parent(s) of the child, if known, or the legal guardian, or the proper  
6 government instrumentally which has legal custody of the child;

7 (c) The legitimate and adopted sons/daughters, ten (10) of age or over, of the adopters(s)  
8 and adoptee, if any;

9 (d) The illegitimate sons/daughters, ten (10) years of age or over of the adopter if living  
10 with said adopter and latter's spouse, if any; and

11 (e) The spouse, if any, of the person adopting or to be adopted.

12 SECTION 16. *Where to File Application.* - A person eligible to adopt under Article III,  
13 Section 14 of this Act who desires to adopt a child in the Philippines has attended adoption  
14 forums and seminar, shall file their application for adoption with the Department or with any  
15 licensed accredited child placing agencies.

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

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

23 At the time of preparation of the adoptee's case study, the concerned social worker shall  
24 confirm with the Civil Registry the real identity and registered name of the adoptee. If the birth



1 of the adoptee was not registered with the Civil Registry, it shall be responsibility of the  
2 concerned social worker to ensure that the adoptee is registered.

3 The case study on the adoptee shall establish that he/she is legally available for the  
4 adoption and that the documents to support this fact are valid and authentic. Further, the case  
5 study of the adopter shall ascertain his/her genuine intentions and that the adoption is in the best  
6 interest of the child.

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

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

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

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

23 SECTION 20. *Supervised Trial Custody.* - No petition for adoption shall be finally  
24 granted until the adopter(s) has been given by the court a supervised trial custody period for at  
25 least six (6) months within which the parties are expected to adjust psychologically and  
26 emotionally during said period, temporary parental authority shall be vested in the adopter(s).

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

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

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

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

23 B. INTER-COUNTRY ADOPTION:

24 SECTION 23. *Inter-country Adoption as the Last Resort.* - The Adoption Bureau shall  
25 ensure all possibilities for adoption of the child under the Family Code have been exhausted and  
26 that inter-country adoption is in the best interest of the child. Towards this end, the Bureau shall  
27 set up the guideline to ensure that steps will be taken to place the child in the Philippines before

1 the child is placed for inter-country adoption: provided, however, that the maximum number that  
2 may be allowed for foreign adoption shall not exceed six hundred (600) a year for the first five  
3 (5) years.

4 SECTION 24. *Who Maybe Adopted.* - The following may be adopted;

5 a) Any person below eighteen (18) years of age who has been administratively or  
6 judicially declared available for adoption; Provided that in the case of a child who is voluntarily  
7 committed, the physical transfer of said child shall be made not earlier than three (3) months  
8 from the date of execution of the Deed of Voluntarily Commitment by the child's biological  
9 parent/s or guardian/s. Provided further, however, that this prohibition against physical transfer  
10 shall not apply to all children being adopted by a relative or children with special medical  
11 conditions;

12 b) The legitimate son/daughter of one spouse by the other spouse;

13 c) An illegitimate son/daughter by a qualified adopter to improve his/her status to that of  
14 legitimacy;

15 d) A person of legal age if, prior to the adoption, said person has been consistently  
16 considered and treated by the adopter(s) as his/her own child since minority;

17 e) A child whose adoption ha been previously rescinded; or

18 f) A child whose biological or adoptive parent(s) has died Provided, That no proceedings  
19 shall be initiated within six (6) months from the time of death of said parent(s).

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

23 a) Child Study

24 b) Security Paper (SECPA) Birth certificate/foundling certificate

1 c) Certified True Copy of the Decree of Abandonment and Certificate of Finality or  
2 Notarized Deed of Voluntary Commitment

3 d) Medical evaluation/history including available, and update medical abstract;

4 e) Certified True Copy of the Death Certificate of child's birthparent/s, if applicable.

5 f) Psychological evaluation as necessary; and that of the child's biological parent/s, if

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

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

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

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

16 b) Has the capacity to act and assume all rights and responsibilities of parental authority  
17 under his laws, and has undergone the appropriate counseling from an accredited counselor in  
18 his/her country;

19 c) Has undergone appropriate counseling from an accredited counselor in his/her country;

20 d) Has not been convicted of a crime involving moral turpitude;

21 e) Is eligible to adopt under his/her national law;

22 f) Is in a position to provide the proper care and support and to give the necessary moral  
23 values and example to all his children, including the child to be adopted;

1 g) Comes from a country;

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

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

4 (iii) Whose laws allow adoption; and

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

7 SECTION 27. *Where to File Application.* - The application for inter- country shall be  
8 filed either with the Philippine Regional Trial Court having jurisdiction over the child, or with  
9 the Department through an authorized and accredited agency in the country of the prospective  
10 adoptive parents, which application shall be in accordance with the requirements as set forth in  
11 the implementing rules and regulations to be promulgated by the Department.

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

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

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

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

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

21 e) Psychological evaluation by a psychologist

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

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

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

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

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

10 SECTION 29. *Family Selection/matching.* - No child shall be matched to a foreign  
11 adoptive family unless it is satisfactorily shown that the child cannot be adopted locally. The  
12 clearance, as issued by the Department with the copy of the minutes of the meetings shall form  
13 part of the records of the child to be adopted. When the office is ready to transmit the Placement  
14 Authority to the authorized and accredited inter-country adoption agency and all the travel  
15 documents of the child are ready, the adoptive parents or any one of them shall personally fetch  
16 the child in the Philippines.

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

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

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

23 SECTION 31. *Supervision of Trial Assessments.* - The government agency or the  
24 authorized and accredited agency in the country of the adoptive parents which filed the  
25 application for inter-country adoption shall be responsible for the trial custody and the care of the

1 child. It shall also provide family counseling and other related cases. The trial custody shall be a  
2 period of six (6) months from the time of placement. Only after the lapse of the period of trial  
3 custody shall a decree of adoption be issued in the said country, a copy of which shall be sent to  
4 the Department to form part of the records of the child.

5 During the trial custody, the adopting parent/s shall submit to the governmental agency or  
6 the authorized and accredited agency, which shall in turn transmit a copy to the Department, a  
7 progress report of the child's adjustment. The progress report shall be taken into consideration in  
8 deciding whether or not to issue the decree of adoption.

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

13 SECTION 32. *Executive Agreements.* - The Department of Foreign Affairs, upon  
14 representation of the Department, shall cause the preparation do Executive agreements with  
15 countries of the foreign adoption agencies to ensure the legitimate concurrence of said countries  
16 in upholding the safeguards provided by this act.

#### 17 ARTICLE IV

#### 18 EFFECTS OF ADOPTION

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

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

1 SECTION 35. *Succession.* - In legal and intestate succession, the adopter(s) and the  
2 adoptee shall have reciprocal rights of succession without distinction from legitimate filiation.

3 However, if the adoptee and his/her biological parent(s) had left a will the law on  
4 testamentary succession shall govern.

5 SECTION 36. *Benefits.* - The adoptive parents shall, with respect to the adopted child,  
6 enjoy all the benefits to which the biological parents are entitled. Maternity and paternity  
7 benefits and other benefits given to the biological parents upon the birth of a child shall be  
8 enjoyed if the adoptee is below seven (7) years of age as of the date the child is placed with the  
9 adoptive parents through the pre-Adoptive Placement Authority issued by the Department.

## 10 ARTICLE V

### 11 RESCISSION OF ADOPTION

12 SECTION 37. *Grounds for Rescission of Adoption.* - Upon petition of the adoptee, with  
13 the assistance of the Department if a minor or if over eighteen (18) years of age but it is  
14 incapacitated, as guardian/counsel, the adoption may be rescinded on any of the following  
15 grounds committed by the adopter(s); (a) repeated physical and verbal maltreatment by the  
16 adopter(s) despite having undergone counseling; (b) attempt on the life of the adoptee; (c) sexual  
17 assault or violence, or (d) abandonment and failure to comply with parental obligations.

18 Adoption, being in the best interest of the child, shall not be subject to rescission by  
19 adopter(s). However the adopter(s) may disinherit the adoptee for causes provided in Article 919  
20 of the Civil Code.

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

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



1 Succession rights shall revert to its status prior to adoption, but only as of the date of  
2 judgment or judicial rescissions. Vested rights acquired prior to judicial rescission shall be  
3 respected.

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

## 6 ARTICLE VI

### 7 CONFIDENTIAL NATURE OF PROCEEDINGS

8 SECTION 39. *Confidential Nature of Proceedings and Records.* - All hearings in  
9 adoption cases shall be confidential and shall not be open to the public. All records, books and  
10 papers relating to the adoption cases in the files of the court, the Department, or any other agency  
11 or institution participating in the adoption proceedings shall be kept strictly confidential.

12 If the court finds the disclosure of the information to a third person is necessary for  
13 purposes connected with or arising out of the adoption and will be for the best interest of the  
14 adoptee, the court may merit the necessary information to be released, restricting the purposes  
15 for which it may be used.

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

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

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

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

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

3 ARTICLE VII

4 VIOLATIONS AND PENALTIES

5 SECTION 40. *Violations and Penalties.* -

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

12 1. obtaining consent for an adoption through coercion, undue influence, fraud,  
13 improper material inducement, or other similar acts;

14 2. non compliance with the procedures and safeguards provided by law for the  
15 adoption; or

16 3. subjecting or imposing the child to be adapted to danger, abuse or exploitation.

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

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

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

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

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

7 Act punishable under this Article are deemed committed by a syndicate if carried out by a  
8 group of three (3) or more persons conspiring and/or confederating with one another in carrying  
9 out any of the unlawful acts defined under this Article.

10 Penalties are herein provided, shall be in addition to any other penalties which may be  
11 imposed for the same acts punishable under other laws, ordinances, executive orders, and  
12 proclamations.

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

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

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

1 ARTICLE VIII

2 FINAL PROVISSIONS

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

9 SECTION 44. *Appropriations* - Such sum as may be necessary for the implementation of  
10 the provisions of this Act shall be included in the General Appropriations Act of the year  
11 following its enactment into law and thereafter.

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

15 SECTION 46. *Separability Clause.* -- If any provision or part hereof, is held invalid or  
16 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
17 valid and subsisting.

18 SECTION 47. *Repealing Clause.* - Any law, presidential decree or issuance, executive  
19 order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent  
20 with the provision of this Act is hereby repealed, modified, or amended accordingly.

21 SECTION 48. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its  
22 publication in at least two (2) newspapers of general circulation.

Approved.