

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

Office of the Secretary
15 JUL 15 P2:46

SENATE
S. No. 2857

RECEIVED BY: *Jr*

Introduced by Senator Miriam Defensor Santiago

AN ACT
MERGING THE DOMESTIC AND INTER-COUNTRY ADOPTION LAWS

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.¹


MIRIAM DEFENSOR SANTIAGO
RP

¹ This bill was originally filed in the Fourteenth Congress, First Regular Session, and re-filed in the Fifteenth Congress, First Regular Session

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

1 ARTICLE I

2 GENERAL PROVISIONS

3 SECTION 1. *Short Title.* – This Act shall be known as the “Philippine Adoption
4 Act”.

5 SECTION 2. *Declaration of Policies.* –

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

13 B. In all matters relating to the care, custody and adoption of a child,
14 his/her interest shall be the paramount consideration in accordance with
15 the tenets set forth in the United Nations (UN) Convention on the
16 Rights of the Child; UN Declaration on Social and Legal Principles
17 Relating to the Protection and Welfare of Children with Special

1 Reference to Foster Placement and Adoption, Nationally and
2 Internationally; and the Hague Convention on the Protection of
3 Children and Cooperation in Respect of Inter-country Adoption.
4 Toward this end, the State shall provide alternative protection and
5 assistance through foster care or adoption for every child who is
6 neglected, orphaned, or abandoned;

7 C. It shall also be a State policy to:

- 8 1. Safeguard the biological parent(s) from making hurried decisions
9 to relinquish his/her parental authority over his/her child;
- 10 2. Prevent the child from unnecessary separation from his/her
11 biological parent(s);
- 12 3. Protect adoptive parent(s) from attempts to disturb his/her
13 parental authority and custody over his/her adopted child;

14 D. It is the policy of the State that efforts shall be exerted to place every
15 child who is legally free for adoption with an adoptive family in the
16 Philippines. The State shall take measures and safeguards to ensure that
17 inter-country adoption is allowed when the same shall prove beneficial
18 to the child's interests and shall serve and protect his/her fundamental
19 rights;

20 E. The State shall establish a system of cooperation with the other States,
21 through their respective Central/Competent Authorities and accredited
22 bodies to prevent the sale, trafficking and abduction of children.

23 SECTION 3. *Definition of Terms.* – As used in this Act, the following terms:

24 A. "Abandoned child" shall refer to one who has no proper parental care
25 or guardianship or whose parent(s) has deserted his/her for a period of

1 at least three (3) continuous months and has been judicially declared as
2 such;

3 B. "Act" shall refer to this Act;

4 C. "A child legally available for adoption" shall refer to a child who has
5 been voluntarily or involuntarily committed to the Department or to a
6 duly licensed and accredited child-placing or child-caring agency, freed
7 of the parental authority of his/her biological parent(s) or guardian or
8 adopters in case of rescission of adoption;

9 D. "Adoption" shall refer to a socio-legal process of providing a
10 permanent family to a child whose parents have voluntarily or
11 involuntarily relinquished parental authority over the child;

12 E. "Agency Adoption" shall refer to a licensed adoption agency finds and
13 develops adoptive families for children who are voluntarily or
14 involuntarily committed. The adoptive families go through the process
15 from application to finalization of the child's adoption under the
16 auspices of the Department of Social Welfare and Development or a
17 licensed child-placing agency;

18 F. "Accreditation of Local Child Caring Agency/ Child Placing Agency"
19 shall refer to the recognition of a social welfare development program
20 or service that such is implemented by a social welfare and
21 development agency in compliance with appropriate standards
22 evidenced by a certificate of accreditation issued by the Department of
23 Social Welfare and Development;

24 G. "Applicant" shall refer to a married couple or a single person who files
25 an application;

- 1 H. "Application" shall refer to the duly accomplished application form,
2 home study report including its supporting documents;
- 3 I. "Biological Parents" shall refer to the child's mother and father by
4 nature or the mother alone if the child is unacknowledged illegitimate
5 child;
- 6 J. "Child" shall refer to a person below eighteen (18) years of age;
- 7 K. "Child-caring agency (CCA)" shall refer to a duly licensed and
8 accredited agency by the Department that provides twenty four (24)
9 hour residential care services for abandoned, orphaned, neglected, or
10 voluntarily committed children;
- 11 L. "Child Placement Committee (CPC)" shall refer to the official
12 committee tasked to match adoptive children to approved adoptive
13 parent/s;
- 14 M. "Child-placing agency (CPA)" shall refer to a duly licensed and
15 accredited agency by the Department to provide comprehensive child
16 welfare services including, but not limited to, receiving applications for
17 adoption, evaluating the prospective adoptive parents, and preparing
18 the adoption home study;
- 19 N. "Child Study Report" shall refer to a study of a child's legal status,
20 placement history, psychological, social, spiritual, medical, ethno-
21 cultural background, and that of his/her biological family as basis in
22 determining the most desirable placement for him/her;
- 23 O. "Child with Special Needs" shall refer to any child who is difficult to
24 place in view of some physical, psychological, and/or social limitations
25 including but not limited to being an older child, belonging to a sibling
26 group or those who may be under such analogous circumstances;

- 1 P. "Competent Authority" shall refer to any State entity which performs
2 all or most of the functions of Chapter II of the Convention;
- 3 Q. "Contracting State" shall refer to any State Party to the Convention;
- 4 R. "Convention" shall refer to The Hague Convention on Protection of
5 Children and Co-operation in Respect of Inter-Country Adoption;
- 6 S. "Certificate of Abandonment" shall refer to the final written
7 administrative order declaring a child to be dependent, abandoned, and
8 neglected and committing such child to the care of the Department
9 through a person or duly licensed child caring/placing agency or
10 institution. The rights of the biological parents, guardian or other
11 custodian to exercise authority over the child shall cease;
- 12 T. "Deed of Voluntary Commitment" shall refer to the notarized
13 instrument relinquishing parental authority and committing the child to
14 the care and custody of the Department executed by the child's
15 biological parent(s) or by the child's legal guardian in their absence,
16 mental incapacity or death, to be signed in the presence of an
17 authorized representative of the Department, after counseling and other
18 services have been made available to encourage the child's biological
19 parent(s) to keep the child;
- 20 U. "Department" shall refer to the Department of Social Welfare and
21 Development;
- 22 V. "Direct/Indirect Placement Adoption" shall refer to the biological
23 parents make a direct placement of the child either to a relative, a
24 member of their family, or a friend/non-relative with whom they
25 relinquish their child;

- 1 W. "Extended Family" shall refer to a relative of a child both at the
2 paternal and maternal side within the fourth degree of consanguinity;
- 3 X. "Foundling" shall refer to a deserted or abandoned infant or a child
4 found, with parents, guardian, or relatives being unknown, or a child
5 committee in an orphanage or charitable or similar institution with
6 unknown facts of birth and parentage and registered in the Civil
7 Register as a "foundling";
- 8 Y. "Foreign Adoption Agency" shall refer to the State Welfare Agency or
9 the licensed and accredited agency in the country of the foreign
10 adoptive parents that provides comprehensive social services and is
11 duly recognized by the Board;
- 12 Z. "Foreign National" shall refer to any person, not a Filipino citizen, who
13 enters and remains in the Philippines and in possession of a valid
14 passport or travel documents and visa;
- 15 AA. "Home Study Report" shall refer to a study of the motivation and
16 capacity of the prospective adoptive parents to provide a home that
17 meets the needs of a child;
- 18 BB. "Illegal Adoption" shall refer to an adoption that is effected in any
19 manner contrary to the provisions of Act, these Rules, established
20 Stated policies, Executive Agreements and other laws pertaining to
21 adoption;
- 22 CC. "Inter-country Adoption (ICA)" shall refer to the socio-legal process of
23 adopting a child by a foreign national or a Filipino citizen permanently
24 residing abroad where the petition for adoption is filed, the supervised
25 trial custody is undertaken, and the decree of adoption is issued in the
26 foreign country where the applicant resides thereby creating a

- 1 permanent parent-child relationship between the child and the adoptive
2 parents;
- 3 DD. “Voluntarily committed child” shall refer to the one whose parent(s),
4 knowingly and willingly relinquishes parental authority to the
5 Department;
- 6 EE. “Involuntarily committed child” shall refer to the one whose parent(s),
7 known or unknown, has been permanently and judicially deprived of
8 parental authority due to abandonment, substantial, continuous, or
9 repeated neglect, abuse; or incompetence to discharge parental
10 responsibilities;
- 11 FF. “Liaison Service” shall refer to the effective delivery of facilitating
12 social services provided by a licensed and accredited Child Caring or
13 Child Placing Agency (CCNCPA) to represent a Foreign Adoption
14 Agency (FAA) in the Philippines;
- 15 GG. “Licensing” shall refer to the process conducted by DSWD in assessing
16 qualification and authorizing a registered social welfare and
17 development (SWD) agency to operate as a social work agency;
- 18 HH. “Licensed Social Worker” shall refer to one who possesses a bachelor
19 of science in social work degree as a minimum education requirement
20 and must have passed the government licensure examination for social
21 workers as required by Republic Act 4373;
- 22 II. “Matching” shall refer to the judicious pairing of the applicant and the
23 child to promote a mutually satisfying parent-child relationship;
- 24 JJ. “Non-Contracting State” - shall refer to any State not party to the
25 Convention which the Board has established working relations;

1 KK. "Pre-Adoption Services" shall refer to psycho-social services provided
2 by professionally trained social workers of the Department, the social
3 services units of local government, private and government health
4 facilities, Family Courts, licensed and accredited child-caring and
5 child-placing agency and such other individuals or entities involved in
6 adoption as may be authorized by the Department;

7 LL. "Post-Adoption Services" shall refer to psycho-social services and
8 support services provided by professionally trained social workers
9 from offices above-mentioned after the issuance of the Decree of
10 Adoption;

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

18 NN. "Secretary" shall refer to the Secretary of the Department;

19 OO. "Special Home Finding" shall refer to the process of recruiting or
20 identifying suitable adoptive parents for children with special needs
21 through the Central Authority or a Foreign Adoption Agency of the
22 State if there is no available family in the Roster of Approved Families;

23 PP. "Supervised trial custody" shall refer to a period of time within which
24 a social worker oversees the adjustment and emotional readiness of
25 both adopter(s) and adoptee in stabilizing their filial relationship.

26 ARTICLE II

1 ADOPTION BUREAU

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

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

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

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

4 G. Provide technical assistance and conduct capability building activities
5 to all concerned agencies and stakeholders.
6

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

9 A. Common Functions:

- 10 1. To develop and promote local and inter-country adoption
11 services, including pre and post legal adoption services;
- 12 2. To establish and maintain database of children available for local
13 and inter-country adoption and prospective adoptive parents;
- 14 3. To keep records of all adoption proceedings;
- 15 4. To maintain a national information and educational campaign on
16 domestic and inter-country adoption;
- 17 5. To conduct researches on adoption and other related fields;
- 18 6. To provide secretariat, records keeping and other services to the
19 Child Placement Committee;
- 20 7. To submit periodic accomplishment/performance and
21 recommendation for the improvement of the office;
- 22 8. To attend regular/periodic meeting as maybe called by the
23 Director;
- 24 9. Conduct training needs assessment and provide technical
25 assistance to stake holders involved on local and Inter-country
26 Adoption.

1 B. Distinct functions:

2 LOCAL ADOPTION

- 3 1. Monitor the existence, number and flow of children legally
4 available for adoption and prospective adopter(s), so as to
5 facilitate their matching;
- 6 2. Maintain regular communications, linkages with CCA, CPA,
7 Court Social Workers and LGUs involved on adoption. Provide
8 technical assistance to stakeholders along case management;
- 9 3. Review/assess/recommend accreditation of CCAs/CPAs. (Note:
10 Part of the function of Standards Bureau);
- 11 4. Generate resources to help child caring and child placing
12 agencies to ensure viability;
- 13 5. To organize and assist adoption support group;
- 14 6. To provide parent and family life education sessions and referral
15 for specialized services;
- 16 7. Conduct researches in collaboration with CCAs/CPAs.

17 INTER-COUNTRY ADOPTION

- 18 1. Establish and maintain a Roster of Children Available for Inter-
19 country Adoption and Approved Applicants to be updated on a
20 monthly basis;
- 21 2. Review and process ICA applications, matching proposals,
22 placements, and all documents requiring action by the Director;
- 23 3. Implement the guidelines for the manner by which
24 selection/matching of prospective adoptive parents can be made;
- 25 4. To maintain and facilitate communication with the Child
26 Placement Committee for Inter-country and the different

1 government offices, non-governmental agencies, Central
2 Authorities, Foreign Adoption Agencies in proper cases through
3 the Department of Foreign Affairs or the Philippine Foreign
4 Service Post and the general public;

- 5 5. Review and process accreditation and authorization applications
6 and status of agencies for action by the Director;
- 7 6. To manage the operations and implementation of ICA programs,
8 services, procedures, special projects & events relative to inter-
9 country adoption;
- 10 7. Promote and ensure enforcement/compliance of law, policies and
11 procedures pertaining to ICA;
- 12 8. Monitor, follow-up and facilitate completion of adoption of the
13 child through authorized and accredited agency;
- 14 9. Coordinate the formulation of policies to enhance the ICA
15 programs and services.

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

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

23 SECTION 8. *Functions of the Committee.* – The Committee shall have the
24 following functions:

- 1 A. Carry-out an integrated system and network of selection and matching
2 of applicants and children;
- 3 B. Recommend to the Director approval of applications and matching
4 proposals;
- 5 C. Act as consultants to the Director in their area/field of expertise;
- 6 D. Initiate, review and recommend changes in policies concerning
7 selection, matching and placement and other matters related to child
8 welfare;
- 9 E. Perform such other functions and duties as may be determined by the
10 Board.

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

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

17 SECTION 11. *Meetings.* – The Committee shall meet regularly or upon the call of
18 the Director.

19 ARTICLE III

20 PROCEDURE

21 A. LOCAL ADOPTION

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

- 24 A. *Biological Parent(s)* – Counseling shall be provided to the parent(s)
25 before and after birth of his/her child. No binding commitment to an

1 adoption plan shall be permitted before the birth of his/her child. A
2 period of three months shall be allowed for the biological parent(s) to
3 reconsider any decision to relinquish his/her child for adoption before
4 the decision become irrevocable. Counseling and rehabilitation
5 services shall also be offered to the biological parent(s) after he/she has
6 relinquished his/her child for adoption.

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

10 B. *Prospective Adoptive Parents* – Counseling sessions, adoption forums
11 and seminars, among others shall be provided to prospective adoptive
12 parent(s) to resolve possible adoption issues and to prepare him/her for
13 effective parenting;

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

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

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

25 In all proceeding for adoption, the court shall require proof that
26 the biological parent(s) has been properly counseled to prevent him/her

1 from making hurried decision caused by strain or anxiety to give up the
2 child and to sustain that all measures to strengthen the family have
3 been exhausted and that any prolonged stay of the child in his/her own
4 home will be inimical to his/her welfare and interest.

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

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

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

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

1 waived when the adopter is the biological parent of the adoptee, or is
2 the spouse of the adoptee's parent;

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

- 16 1. A former Filipino citizen who seeks to adopt a relative within the
17 fourth (4th) degree of consanguinity or affinity;
- 18 2. One who seeks to adopt the legitimate son/daughter of his/her
19 Filipino spouse:
- 20 3. One who is married to a Filipino citizen and seeks to adopt
21 jointly with his/her spouse a relative within the fourth (4th)
22 degree of consanguinity or affinity of the Filipino spouse; or

23 C. The guardian with respect to the ward after the termination of the
24 guardianship and clearance of his/her financial accountabilities.

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

- 1 1. If one spouse seeks to adopt the legitimate son/daughter of the
- 2 other;
- 3 2. If one spouse seeks to adopt his/her own illegitimate
- 4 son/daughter, provided, however, that the other spouse has
- 5 signified his/her consent thereto; or
- 6 3. If the spouses are legally separated from each other.

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

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

- 13 A. The adoptee, if ten (10) years of age or over;
- 14 B. The biological parent(s) of the child, if known, or the legal guardian,
15 or the proper government instrumentally which has legal custody of the
16 child;
- 17 C. The legitimate and adopted sons/daughters, ten (10) of age or over, of
18 the adopters(s) and adoptee, if any;
- 19 D. The illegitimate sons/daughters, ten (10) years of age or over of the
20 adopter if living with said adopter and latter's spouse, if any; and
21 E. The spouse, if any, of the person adopting or to be adopted.

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

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

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

9 At the time of preparation of the adoptee’s case study, the concerned social worker
10 shall confirm with the Civil Registry the real identity and registered name of the adoptee.
11 If the birth of the adoptee was not registered with the Civil Registry, it shall be
12 responsibility of the concerned social worker to ensure that the adoptee is registered.

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

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

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

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

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

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

17 The court may, *motu proprio* or upon motion of any party, reduce the trial period if
18 it finds the same to be in the best interest of the adoptee, stating the reasons for the
19 reduction of the period. However, for alien adopter(s), he/she must complete the six (6)
20 month trial custody except for those enumerated in Sec. 14, (B) (1) (2) (3).

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

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

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

17 B. INTER-COUNTRY ADOPTION:

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

25 SECTION 24. *Who May be Adopted.* – The following may be adopted;

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

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

- 24 A. Child Study;
- 25 B. Security Paper (SECPA) Birth certificate/foundling certificate;

- 1 C. Certified True Copy of the Decree of Abandonment and Certificate of
2 Finality or Notarized Deed of Voluntary Commitment;
- 3 D. Medical evaluation/history including available, and update medical
4 abstract;
- 5 E. Certified True Copy of the Death Certificate of child's birthparent/s, if
6 applicable;
- 7 F. Psychological evaluation as necessary; and that of the child's
8 biological parent/s;
- 9 G. Child's own written consent to adoption, if he/she is ten (10) years or
10 older witnessed by a social worker of the department or Child
11 Caring/Placing Agency and after proper counselling;
- 12 H. Most recent whole body size picture of the child. If applicable, any
13 physical impairment of the child should be visible in the picture.

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

- 17 A. Is at least twenty-seven (27) years of age and at least sixteen (16) years
18 older than the child to be adopted at the time of application unless the
19 adopter is the parent by nature of the child to be adopted or the spouse
20 of such parent;
- 21 B. Has the capacity to act and assume all rights and responsibilities of
22 parental authority under his laws, and has undergone the appropriate
23 counselling from an accredited counselor in his/her country;
- 24 C. Has undergone appropriate counseling from an accredited counselor in
25 his/her country;
- 26 D. Has not been convicted of a crime involving moral turpitude;

- 1 E. Is eligible to adopt under his/her national law;
- 2 F. Is in a position to provide the proper care and support and to give the
3 necessary moral values and example to all his children, including the
4 child to be adopted;
- 5 G. Comes from a country:
- 6 1. With whom the Philippine has diplomatic relations;
- 7 2. Whose government maintain a foreign adoption agency; and
- 8 3. Whose laws allow adoption;
- 9 H. Files jointly with his/her spouse, if any, who shall have the same
10 qualification and none of the disqualification to adopt as prescribed
11 above.

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

18 The application shall be supported by the following documents written and
19 officially translated in English:

- 20 A. Birth certificate of applicant/s and in case of relative adoption, such
21 relevant documents that establish the relationship between the
22 applicants claiming relationship to the child to be adopted;
- 23 B. Marriage contract, and in the proper case, Decree of Divorce of a
24 previous marriage;
- 25 C. Written consent in a form of sworn statement by the biological or
26 adopted children who are ten (10) years of age or over;

- 1 D. Physical and medical evaluation by a duly licensed physician;
- 2 E. Psychological evaluation by a psychologist;
- 3 F. Latest income tax return or other documents showing the financial
4 capability of the applicant/s;
- 5 G. Clearances issued by the Police department or other proper government
6 agency of the place where the applicant/s reside;
- 7 H. Character references from the local/church minister, the applicant's
8 employer and a member of the immediate community who have known
9 the applicant/s for at least five (5) years; and
- 10 I. Recent post card size pictures of the applicant/s and his immediate
11 family.

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

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

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

1 A. The cost bringing the child from the Philippines to the residence of the
2 applicant(s) abroad, including all travel expenses within the Philippines
3 and abroad; and

4 B. The cost of passport, visa, medical examination and psychological
5 evaluation required, and other related expenses.

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

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

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

22 SECTION 32. *Executive Agreements.* – The Department of Foreign Affairs, upon
23 representation of the Department, shall cause the preparation do Executive agreements
24 with countries of the foreign adoption agencies to ensure the legitimate concurrence of
25 said countries in upholding the safeguards provided by this act.

1 ARTICLE IV

2 EFFECTS OF ADOPTION

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

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

8 SECTION 35. *Succession.* – In legal and intestate succession, the adopter(s) and
9 the adoptee shall have reciprocal rights of succession without distinction from legitimate
10 filiation.

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

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

19 ARTICLE V

20 RESCISSION OF ADOPTION

21 SECTION 37. *Grounds for Rescission of Adoption.* – Upon petition of the
22 adoptee, with the assistance of the Department if a minor or if over eighteen (18) years of

1 age but it is incapacitated, as guardian/counsel, the adoption may be rescinded on any of
2 the following grounds committed by the adopter(s):

- 3 A. Repeated physical and verbal maltreatment by the adopter(s) despite
4 having undergone counseling;
- 5 B. Attempt on the life of the adoptee;
- 6 C. Sexual assault or violence; or
- 7 D. Abandonment and failure to comply with parental obligations.

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

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

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

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

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

23 ARTICLE VI

24 CONFIDENTIAL NATURE OF PROCEEDINGS

25 SECTION 39. *Confidential Nature of Proceedings and Records.* – All hearings in
26 adoption cases shall be confidential and shall not be open to the public. All records,

1 books and papers relating to the adoption cases in the files of the court, the Department,
2 or any other agency or institution participating in the adoption proceedings shall be kept
3 strictly confidential.

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

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

- 11 A. The child/adopted person, with appropriate guidance and counselling,
12 or his/her duly authorized representative, spouse, parent or parents,
13 direct descendants, or guardian or legal institution legally in charge of
14 the adopted person, if minor;
- 15 B. The court or proper public official whenever necessary in an
16 administrative, judicial or other official proceeding to determine the
17 identity of the parent or parents or of the circumstances surrounding the
18 birth of the child/adopted person; or
- 19 C. The nearest kin, in case of death of the child/adopted person.

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

23 ARTICLE VII

24 VIOLATIONS AND PENALTIES

25 SECTION 40. *Violations and Penalties.* –

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

8 1. Obtaining consent for an adoption through coercion, undue
9 influence, fraud, improper material inducement, or other similar
10 acts;

11 2. Non-compliance with the procedures and safeguards provided by
12 law for the adoption; or

13 3. Subjecting or imposing the child to be adapted to danger, abuse
14 or exploitation;

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

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

24 C. Any person who shall violate established regulations relating the
25 confidentiality and integrity of records, documents, and
26 communications of adoption applications, cases and processes shall

1 suffer the penalty of imprisonment ranging from one (1) year and one
2 (1) day to two (2) years, and/or a fine of not less than five thousand
3 pesos (P5,000.00) but not more than ten thousand pesos (P10,000.00)
4 at the discretion of the court.

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

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

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

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

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

22 SECTION 41. *Public Officers as Offender.* – Any government official, employee
23 or functionary who shall be found guilty of violating any provisions of this Act, or who
24 shall conspire with private individual shall, in addition to the above prescribed penalties,
25 be penalized in accordance with existing civil service laws, rules and regulations.
26 Provided, that upon the filing of a case either administrative or criminal, said government

1 official, employee, or functionary concerned shall automatically suffer suspension until
2 the resolution of the case.

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

12 ARTICLE VIII

13 FINAL PROVISIONS

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

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

23 SECTION 45. *Separability Clause.* – If any provision of this Act is held invalid or
24 unconstitutional, the same shall not affect the validity and effectivity of the other
25 provisions hereof.

1 SECTION 46. *Repealing Clause.* – All laws, decrees, orders, and issuances, or
2 portions thereof, which are inconsistent with the provisions of this Act, are hereby
3 repealed, amended or modified accordingly.

4 SECTION 47. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
5 after its publication in the *Official Gazette* or in two (2) newspapers of general
6 circulation.

Approved,

/aml 10July2015