


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



'18 MAR -5 P 4 :07

SENATE

S. No. 1725

RECEIVED BY: 

Introduced by Senator Grace Poe

AN ACT
ALLOWING THE RECTIFICATION OF SIMULATED BIRTHS AND
PRESCRIBING ADMINISTRATIVE ADOPTION PROCEEDINGS FOR THE
PURPOSE

Explanatory Note

The 1987 Philippine Constitution is known for its social justice provisions as governing light, viz:

- "The State shall promote social justice in all phases of national development"¹;
- "The State values the dignity of every human person and guarantees full respect for human rights."²

These provisions of the supreme law is complemented by a specific dictum enshrined in Section. 3 (2) , Article XV, declaring that "[t]he State shall defend... the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development."

Further, Article 20 (3) of the Convention on the Rights of the Child for which the Philippines is a signatory to mandates that State Parties shall ensure alternative care for the child including adoption. It says:

¹ Article II, Section 10, 1987 Philippine Constitution

² Article II, Section 11

"When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background."

It is for above reasons that Republic Act No. 8552, otherwise known as the Domestic Adoption Act, was signed into law. Aside from laying down the procedure for formal adoption, R.A. 8552 also recognized informal adoptions or more commonly known on the ground as simulated births.

While Section 21 (b) of the said Act penalizes "(a)ny person who shall cause the fictitious registration of the birth of a child under the name(s) of a person(s) who is not his/her biological parent(s)..", it also provided for an amnesty for those who did so for the best interest of the child. However, this amnesty resulted in a lacuna in the law in that it only allowed the "rectification" of those who 1) did so before the effectivity of the law on 22 March 1998; and (2) filed a petition for adoption within five (5) years from the effectivity of the Act or until 22 March 2003.

Needless to say, this resulted to two absurd scenarios:

- (1) Simulated births made after 22 March 1998 could not be "rectified"; and
- (2) The five-year period for filing a Petition for Adoption with Rectification of Simulated Birth ended in March 2003.

Because the formal adoption procedure remains tedious and excessively costly for ordinary Filipinos, adoptions in the Philippines have been and continue to be handled through simulation of birth. Unfortunately, since the periods in R.A. 8552 have lapsed, adopters have no other recourse but to persist with the practice. This leaves a lot of adoptees under assumed filiation and unduly deprived of the benefits of legitimacy and succession.

In order to address this, the bill seeks to allow the rectification of the simulated birth where the simulation was made for the best interest of the child and that such child has been consistently considered and treated by the person/s as his/her/their own.

While a better solution would still be to do a comprehensive review and gap analysis of the Domestic Adoption Act in order to make formal domestic adoption accessible and more efficient, the State should offer a viable alternative to well-meaning adopters who have been providing homes to adopted children.

For this purpose, the immediate passage of this bill is sought.


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

**ARTICLE I
GENERAL PROVISIONS**

1 Section 1. *Short Title.* — This Act shall be known as the "*Simulated Birth*
2 *Rectification Act*".

3 Sec. 2. *Objectives.* — This Act has the following objectives:

4 1. To allow the rectification of the simulated birth of a child where the
5 simulation was made for the best interest of the child and that such child has been
6 consistently considered and treated by the person or persons who simulated such
7 birth as his, her, or their own son or daughter;

8 2. To fix the status and filiation of a child whose birth was simulated by
9 giving such child all the benefits of adoption and ensuring that the child shall be
10 entitled to all the rights provided by law to legally adopted children, without any
11 discrimination of any kind, as well as to love, guidance, and support from the child's
12 adoptive family;

13 3. To exempt from criminal, civil, and administrative liability those who
14 simulated the birth record of a child prior to the effectivity of the Act, provided that a

1 petition for adoption with an application for the rectification of the simulated birth
2 record is filed within ten (10) years from the effectivity of the Act;

3 4. To provide for and allow a simpler and less costly administrative
4 adoption proceeding where the child has been living with the person or persons who
5 simulated his or her birth record for at least three (3) years prior the filing of the
6 petition for adoption with an application for the rectification of the simulated birth as
7 provided in this Act;

8 5. To educate and inform the public about the rectification of simulated
9 births and to encourage people to avail of the benefits of the Act.

10 *Sec. 3. Definition of Terms. — As used in this Act:*

11 (a) Child – refers to a person below eighteen (18) years of age, or a
12 person eighteen (18) years of age or over who is unable to fully take care of himself
13 or herself or protect himself or herself from abuse, neglect, cruelty, exploitation, or
14 discrimination because of a physical or mental disability or condition, whose birth
15 was simulated;

16 (b) Child Legally Available for Adoption – refers to a child in whose favor a
17 certification is issued by the Department of Social Welfare and Development (DSWD)
18 stating that such child is legally available for adoption after it has been established
19 that his or her birth was simulated and that the conditions provided for in this Act to
20 allow for the rectification of such simulated birth are present;

21 (c) Foundling – refers to a child who is abandoned and whose parentage is
22 unknown;

23 (d) Regional Director – refers to the head of a field office of the DSWD;

24 (e) Secretary – refers to the Secretary of Social Welfare and
25 Development;

26 (f) Simulation of birth – refers to the tampering of the civil registry to
27 make it appear in the record of birth that a child was born to a person who is not
28 such child's biological mother, causing such child to lose his or her true identity and
29 status; and

30 (g) Social Welfare and Development Officer – refers to the head of a city
31 or municipal social welfare development office, which serves as the frontline of a city

- 1 (e) Be emotionally and psychologically capable of caring for children; and
2 (f) Be in a position to support and care for the child in keeping with the
3 means of the family.

4 Sec. 8. *Required Consent.* – After being properly counselled and informed of
5 the right to give or withhold approval of the adoption, the written consent of the
6 following shall be required:

- 7 (a) the adoptee, if ten (10) years of age or over;
8 (b) the biological parent of the child, if known;
9 (c) the legitimate and adopted sons and daughters, ten (10) years of age or
10 over, of the adopter and adoptee, if any;
11 (d) the illegitimate sons and daughters, ten (10) years of age or over, of the
12 adoptee if living with said adopter and the latter's spouse, if any; and
13 (e) the spouse, if any, of the adopter and adoptee.

14 ARTICLE IV

15 Administrative Adoption Procedure

16 Sec. 9. *Petition.* – The petition for adoption with application for rectification of
17 simulated birth record shall be in the form of an affidavit and shall be subscribed and
18 sworn to by the petitioner/s before any person authorized by law to administer
19 affirmations and oaths. It shall state the facts necessary to establish the merits of
20 the petition, the circumstances surrounding the simulation of the birth of the child.
21 The petition shall be supported by the following:

- 22 (a) a copy of simulated birth or foundling certificate of the child;
23 (b) affidavit of admission if the simulation of birth was done by a third person;
24 (c) certification issued and signed by the Punong Barangay attesting that the
25 petitioner/s is a resident/s of the barangay and that the child has been
26 living with the petitioner/s for at least three (3) years prior to the
27 effectivity of this Act;
28 (d) affidavits of at least two (2) disinterested persons, who reside in the same
29 barangay where the adoptee resides, attesting that the adoptee has been
30 living with the petitioner/s for at least three (3) years prior to the
31 effectivity of this Act;

1 (e) CDCLAA issued by the DSWD; and

2 (f) photographs of the child and the petitioner/s taken within the last three
3 (3) months.

4 If the adoptee is already and adult, a CDCLAA shall no longer be required.

5 *Sec. 10. Adoption Process.* – The petition shall be filed with the Office of the
6 Social Welfare and Development Officer (SDWO) of the city or municipality where
7 the child resides. The SWDO shall have seven (7) days to examine the petition and
8 its supporting documents and determine whether the same is sufficient in form and
9 substance. If the SWDO finds that the petition is insufficient in form or substance,
10 the SWDO shall return the same to the petitioner with a written explanation of its
11 insufficiency. If the SWDO finds the petition sufficient in form and substance, the
12 SWDO shall forward the petition and the supporting documents within three (3) days
13 to the Regional Director.

14 The Regional Director shall review the petition, establish the identity of the
15 child, and prepare a recommendation on the petition and submit it with a copy of
16 the petition and its supporting documents to the Secretary not later than thirty (30)
17 days from receipt. The Regional Director may require the petitioner to submit
18 additional information or evidence to support the petition. The failure of the
19 petitioner to comply with such request shall not preclude the Regional Director from
20 acting on the petition based on the evidence on hand.

21 The Secretary of Social Work and Development shall act and decide on the
22 petition within thirty (30) days from receipt of the recommendation of the Regional
23 Director.

24 *Sec. 11. Order of Adoption.* – If the Secretary determines that the adoption
25 shall redound to the best interest of the child, an order of adoption shall be issued
26 which shall take effect on the date the petition was filed with the Office of the
27 SWDO, even if the petitioner dies before its issuance.

28 The order of adoption shall state the name by which the adoptee shall be
29 known and shall likewise direct the:

30 (a) cancellation of the simulated birth record of the child;

31 (b) issuance of a rectified birth record bearing the names of the biological
32 parents of the child or the foundling certificate; and

1 (c) issuance of an amended birth certificate.

2 An administrative adoption order obtained under this Act shall have the same
3 effect as a decree of adoption issued pursuant to Republic Act No. 8552, otherwise
4 known as the Domestic Adoption Act.

5 *Sec. 12. Civil Registry Record.* – The Secretary shall immediately transmit the
6 order of adoption to the appropriate local civil registrar.

7 The Local Civil Registrar shall stamp the simulated birth record “cancelled”
8 with an annotation of the issuance of a new rectified certificate of birth in its place.
9 The rectified birth certificate bearing the names of the biological parents of the child
10 or the foundling certificate shall then likewise be stamped “cancelled” with the
11 annotation of the issuance of an amended birth certificate in its place and shall be
12 sealed in the civil registry records. Thereafter, the local civil registrar shall record,
13 register, and issue an amended certificate of birth, which shall not bear any notation
14 that is a new or amended issue.

15 *Sec. 13. Socialized Fees.* – The city or municipal SWDO, DSWD, and the
16 Office of the Local Civil Registrar may charge reasonable socialized fees to defray
17 the expenses of the administrative adoption proceedings under this Act.

18 *Sec. 14. Confidentiality.* – All petitions, documents, records, and papers
19 relating to administrative adoption proceedings in the files of the city or municipal
20 SWDOs, the DSWD Central and Field Offices, or any other agency or institution
21 participating in such proceedings shall be kept strictly confidential. If the disclosure
22 of certain information to a third person is necessary for security reasons or for
23 purposes connected with or arising out of the administrative adoption and will be for
24 the best interest of the adoptee, the Secretary may, upon appropriate request, order
25 the necessary information released, restricting the purposes for which it may be
26 used.

27 ARTICLE V

28 Effects of Administrative Adoption

29 *Sec. 15. Legitimacy.* – The adoptee shall be considered the legitimate son or
30 daughter of the adopter for all intents and purposes and as such is entitled to all the
31 rights and obligations provided by law to legitimate sons or daughters born to them

1 Sec. 22. *Information Dissemination.* – The DSWD, in coordination with the
2 Department of the Interior and Local Government (DILG), the Philippine Commission
3 on Women (PCW), the Council for the Welfare of the Children (CWC) and the
4 Philippine Statistics Authority (PSA) shall disseminate information to the public
5 regarding this Act and its implementation.

6 Sec. 23. *Implementing Rules and Regulations.* – The Secretary after due
7 consultation with the PSA, DILG, PCW, and the CWC shall issue such rules and
8 regulations for the effective implementation of this Act within thirty (30) days from
9 its effectivity.

10 Sec. 24. *Separability Clause.* – If any section or provision of this Act is held
11 unconstitutional or invalid, any other section or provision not affected thereby shall
12 remain valid and effective.

13 Sec. 25. *Repealing Clause.* – All laws, decrees, orders, rules and regulations
14 inconsistent with the provisions of this Act are hereby repealed or modified
15 accordingly.

16 Sec. 26. *Effectivity.* – This Act shall take effect after fifteen (15) days
17 following the completion of its publication either in the Official Gazette or in a
18 newspaper of general circulation in the Philippines.

Approved,