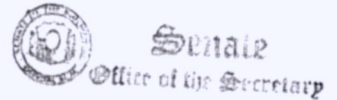


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



'18 MAR -5 P5:57

SENATE
S.B. No. 1728

RECEIVED BY: 

Introduced by Senator **Ana Theresia "Risa" Hontiveros-Baraquel**

**AN ACT GRANTING AMNESTY FOR SIMULATED BIRTHS, ALLOWING
THE RECTIFICATION OF SIMULATED BIRTH RECORDS THROUGH
ADMINISTRATIVE ADOPTION AND FOR OTHER PURPOSES**

Explanatory Note


Simulation of birth remains to be a crime in the Philippines. Article 347 of the Revised Penal Code still gives the penalty of six years and 1 day to eight years of imprisonment and fine not exceeding fifty thousand pesos (P50,000) to anyone who falsifies certificates of live births with the intent to simulate birth. While Section 22 of the Domestic Adoption Act provided amnesty to those who will apply for correction of birth registration and petition for adoption, the period for its application has already expired in 2003.

This legal and legislative milieu has barred the legitimation of de facto adoption that is very common in Filipino families. In 2016, it was reported by the United Nation's Children's Rights and Emergency Relief Organization that the Philippines has about 1.8 Million abandoned children. These children are found to be victims of extreme poverty, natural disasters, and armed conflicts. However, adoption laws in the Philippines cannot save these kids from their unfortunate lives. Formal adoption in the country remains to be tedious, bureaucratic, and expensive. Ironically, the process incentivizes Filipino families of average means to adopt children informally, establish filiation through simulation of public records, and incidentally commit a crime.

The 1987 Constitution declares the Filipino family as the foundation of the nation. Premised on this principle is the State recognition of the right of Filipino 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. Simulation of birth deprives children of the rights and benefits of legal adoption and make adoptive parents vulnerable to imprisonment and legal fines. Yet, it is our adoption laws that even prohibit them to become families under the law.

This bill aims to grant amnesty for simulated births and allow rectification of the simulated birth records through a simplified administrative adoption. This will help adoptive parents to legalize their filiation to their adopted children. This will help children who are victims of their cruel fates to finally belong to families, formed by love, recognized in law.

It is for the Filipino family, the foundation of our nation, that the passage of this bill is earnestly sought.


ANA THERESIA "RISA" HONTIVEROS-BARAQUEL

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5

6 Be it enacted by the Senate and House of Representatives of the Philippines in Congress
7 assembled:
8

9 **ARTICLE I**
10 **GENERAL PROVISIONS**
11

12 SECTION 1. **Short Title.** – This Act shall be known as the, "*Simulated Birth*
13 *Rectification Act of 2018*".
14

15 SECTION 2. **Objective.** – This Act has the following objectives:

- 16 (a) To grant amnesty and allow the rectification of the simulated birth of a child where
17 the simulation was made for the best interest of the child and that such child has
18 been consistently considered and treated by the person or persons who simulated
19 such birth as his, her, or their own son or daughter;
20 (b) To fix the status and filiation of a child whose birth was simulated by giving such
21 child all the benefits of adoption and ensuring that the child shall be entitled to all
22 the rights provided by law to legally adopted children, without any discrimination of
23 any kind, as well as to love, guidance, and support from the child's adoptive family;
24 (c) To exempt from criminal, civil, and administrative liability those who simulated the
25 birth record of a child prior to the effectivity of this Act: Provided, That an
26 application for the rectification of the simulated birth record is filed within ten (10)
27 years from the effectivity of this Act;
28 (d) To provide for and allow a simpler and less costly administrative adoption
29 proceeding where the child has been living with the person or persons who
30 simulated his or her birth record for at least three (3) years before the effectivity of
31 this Act; and
32 (e) To educate and inform the public about the rectification of simulated births and to
33 encourage people to avail of the benefits of this Act.
34

35 SECTION 3. **Definition of Terms.** –As used in this Act:

- 36
37 (a) *Child* refers to a person below eighteen (18) years of age, or a person eighteen
38 (18) years of age or over who is unable to fully take care of himself or herself or
39 protect himself or herself from abuse, neglect, cruelty, exploitation, or
40 discrimination because of a physical or mental disability or condition, whose
41 birth was simulated;
42 (b) *Foundling* refers to a child who is abandoned and whose parentage is unknown;
43 (c) *Regional Director* refers to the head of a field office of the DSWD;
44 (d) *Secretary* refers to the Secretary of Social Welfare and Development;

- 1 (e) *Simulation of birth* refers to the tampering of the civil registry to make it appear
2 in the record of birth that a child was born to a person who is not such child's
3 biological mother, causing such child to lose his or her true identity and status;
4 and
5 (f) *Social Welfare and Development Officer* refers to the head of a city or municipal
6 social welfare and development office, which serves as the frontline of a city or
7 municipal government in the delivery of social welfare and development
8 programs and services.
9

10 **ARTICLE II**
11 **RECTIFICATION OF SIMULATED BIRTHS**
12

13 **SECTION 4. Rectification of Simulated Births.** –Notwithstanding any provision of
14 law to the contrary, a person or persons who, prior to the effectivity of this Act,
15 simulated the birth of a child, and those who cooperated in the execution of such
16 simulation, shall be granted amnesty and shall not be criminally, civilly, or
17 administratively liable for such act: Provided, That the simulation of birth was made for
18 the best interest of the child and that the child has been consistently considered and
19 treated by such person or persons as his, her, or their own son or daughter: Provided,
20 further, That such person or persons has or have filed an application for the rectification
21 of the simulated birth with administrative petition for adoption within ten (10) years
22 from the effectivity of this Act.
23

24 **SECTION 5. Administrative Adoption and Rectification.** –A person or persons
25 who simulated the birth of a child under the conditions provided under Section 4 of this
26 Act may avail of administrative proceedings for the adoption and rectification of the
27 simulated birth of such child: Provided, That the child has been living with the person
28 for at least three (3) years before the effectivity of this Act.
29

30 **SECTION 6. Nonadmissible Evidence.** –All petitions, documents, records, and
31 papers relating to adoption and rectification of simulated births under this Act cannot
32 be used as evidence against those who simulated the birth of a child or who cooperated
33 in the execution of such simulation in any criminal, civil, or administrative proceeding.
34

35 **ARTICLE III**
36 **ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE ADOPTION**
37

38 **SECTION 7. Personal Qualifications.** –Adopters must:

- 39 (a) Be Filipino citizens and of legal age;
40 (b) Possess full civil capacity and legal rights;
41 (c) Be of good moral character;
42 (d) Have not been convicted of any crime involving moral turpitude;
43 (e) Be emotionally and psychologically capable of caring for children; and
44 (f) Be in a position to support and care for the child in keeping with the means of the
45 family.
46

47 **SECTION 8. Required Consent.** –After being properly counseled and informed of the
48 right to give or withhold approval of the adoption, the written consent of the following
49 shall be required:

- 50 (a) The adoptee, if ten (10) years of age or over;
51 (b) The biological parent of the child, if known and can be located;
52 (c) The legitimate and adopted sons and daughters, ten (10) years of age or over,
53 of the adopter and adoptee, if any;
54 (d) The illegitimate sons and daughters, ten (10) years of age or over, of the
55 adopter if living with said adopter and the latter's spouse, if any; and
56 (e) The spouse, if any, of the adoptee.
57
58

ARTICLE IV
ADMINISTRATIVE ADOPTION PROCEDURE

SECTION 9. **Application for Rectification with Petition for Administrative Adoption.** –The application for rectification of simulated birth with petition for administrative adoption shall be in the form of an affidavit and shall be subscribed and sworn to by the petitioner or petitioners before any person authorized by law to administer affirmations and oaths. It shall state the facts necessary to establish the merits of the petition, the circumstances surrounding the simulation of the birth of the child. The petition shall be supported by the following:

- (a) A copy of simulated birth or foundling certificate of the child;
- (b) Affidavit of admission if the simulation of birth was done by a third person;
- (c) Certification issued and signed by the punong barangay attesting that the petitioner or petitioners is a resident or are residents of the barangay and that the child has been living with the petitioner or petitioners for at least three (3) years prior to the effectivity of this Act;
- (d) Affidavits of at least two (2) disinterested persons, who reside in the same barangay where the child resides, attesting that the child has been living with the petitioner for at least three (3) years prior to the effectivity of this Act; and
- (f) Photographs of the child and the petitioner or petitioners taken within the last three (3) months.

SECTION 10. **Procedure.** –The application for rectification of simulated birth with petition for administrative adoption shall be filed with the Office of the Social Welfare and Development Officer (SWDO) of the city or municipality where the child resides. The SWDO shall have seven (7) days to examine the petition and its supporting documents and determine whether the same is sufficient in form and substance. If the SWDO finds that the petition is insufficient in form or substance, the SWDO shall return the same to the petitioner with a written explanation of its insufficiency. If the SWDO finds the petition sufficient in form and substance, the SWDO shall forward the petition and supporting documents within three (3) days to the Regional Director.

The Regional Director shall review the petition, establish the identity of the child, confirm the status of de facto adoption between the applicant-petitioner and the child and prepare his or her order on the application and petition not later than thirty (30) days from receipt thereof. The Regional Director may require the applicant-petitioner to submit additional information or evidence to support the application and petition. The failure of the applicant-petitioner to comply with such request shall not preclude the Regional Director from acting on the application and petition based on the evidence on hand.

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

The order of adoption shall state that the simulated birth record of the child is now rectified giving legal recognition to the de facto adoption reflected in the rectified birth record. An administrative adoption order obtained under this Act shall have the same effect as a decree of adoption issued pursuant to Republic Act No.8552, otherwise known as the “Domestic Adoption Act of 1998.”

SECTION 12. **Civil Registry Record.** –The Regional Director shall immediately transmit the order of adoption to the appropriate local civil registrar. The local civil registrar shall stamp the simulated birth record “rectified” with an annotation of the order of adoption and other factual antecedents relevant to the issuance thereof.

1 SECTION 13. **Socialized Fees.** –The city or municipal SWDO, the Regional Director,
2 and the Office of the Local Civil Registrar may charge socialized fees to those who avail
3 of the administrative adoption proceedings under this Act. Fees shall be waived if the
4 applicant-petitioner is indigent.

5
6 SECTION 14. **Confidentiality** –All petitions, documents, records, and papers relating
7 to administrative adoption proceedings in the files of the city or municipal SWDOs, the
8 DSWD Central and Field Offices, or any other agency or institution participating in such
9 proceedings shall be strictly confidential. The disclosure of any information to a third
10 person shall only be allowed if it is necessary for security reasons or for purposes
11 connected with or arising out of the administrative adoption and if it is for the best
12 interest of the adoptee, upon his or her appropriate request.

13
14 **ARTICLE V**
15 **EFFECTS OF ADMINISTRATIVE ADOPTION**
16

17 SECTION 15. **Legitimacy.**—The adoptee shall be considered the legitimate son or
18 daughter of the adopter for all intents and purposes and as such is entitled to all rights
19 and obligations provided by law to legitimate sons or daughters born to them without
20 discrimination of any kind. To this end, the adoptee is entitled to love, guidance, and
21 support in keeping with the means of the family.

22
23 SECTION 16. **Parental Authority.**—Except where a biological parent is the spouse of
24 the adopter, all legal ties between the biological parents and the adoptee shall be severed
25 and the same shall then be vested in the adopter.

26
27 SECTION 17. **Succession.** — In legal and intestate succession, the adopter and the
28 adoptee shall have reciprocal rights of succession without distinction from legitimate
29 filiation. However, if the adoptee and his or her biological parents left a will, the law on
30 testamentary succession shall govern.

31
32 **ARTICLE VI**
33 **RESCISSION OF ADMINISTRATIVE ADOPTION**
34

35 SECTION 18. **Grounds for Rescission.** – Upon petition of the adoptee, with the
36 assistance of the city or municipal SWDO if a minor or if over eighteen (18) years of age
37 but is incapacitated, the adoption may be rescinded on any of the following grounds
38 committed by the adopter:

- 39
40 (a) Repeated physical or verbal maltreatment by the adopter;
41 (b) Attempt on the life of the adoptee;
42 (c) Sexual assault or violence;
43 (d) Abandonment and failure to comply with parental obligations; or
44 (e) Other acts that are detrimental to the psychological and emotional development
45 of the adoptee.

46
47 Adoption, being in the best interest of the child, shall not be subject to rescission by the
48 adopter. However, the adopter may disinherit the adoptee for causes provided in Article
49 919 of the Civil Code.

50
51 SECTION 19. **Rescission of Administrative Adoption.** –The process for
52 administrative adoption as provided under Section 10 of this Act shall apply to the
53 rescission of administrative adoption: *Provided, That* the concerned Regional Director
54 shall act on the petition for rescission immediately bearing in mind the best interest of
55 the child.

1 SECTION 20. **Effects of Rescission.** –If the petition for rescission of administrative
2 adoption is granted by the Regional Director, the parental authority of the adoptee’s
3 biological parents, if known, shall be restored if the adoptee is still a minor or
4 incapacitated. The reciprocal rights and obligations of the adopter and adoptee to each
5 other shall be extinguished.

6 The Regional Director shall furnish a copy of the order of rescission to the local
7 civil registrar concerned who shall thereafter cancel the rectified certificate of birth of
8 the adoptee.

9 Successional rights shall revert to its status prior to adoption, but only as of the
10 date of judgment of administrative rescission. Vested rights acquired prior to
11 administrative rescission shall be respected.

12 All the foregoing effects of rescission of adoption shall be without prejudice to the
13 penalties imposable under the Revised Penal Code if the criminal acts are proven.
14

15 ARTICLE VII 16 VIOLATIONS AND PENALTIES 17

18 SECTION 21. **Violations and Penalties.** –The penalty of imprisonment ranging from
19 six (6) years and one (1) day to twelve (12) years and/or a fine not less than two hundred
20 thousand pesos (P200,000.00) at the discretion of the court shall be imposed on any
21 person who shall commit any of the following acts:

22 (a)Obtaining consent for an adoption through coercion, undue influence, fraud,
23 improper material inducement, or other similar acts;

24 (b)Noncompliance with the procedures and safeguards provided by law for the
25 adoption; or

26 (c)Subjecting or exposing the child to be adopted to danger, abuse, or
27 exploitation.
28

29 ARTICLE VIII 30 FINAL PROVISIONS 31

32 SECTION 22. **Information Dissemination.** –The DSWD, in coordination with the
33 Department of the Interior and Local Government (DILG), the Philippine Commission
34 on Women (PCW), the Council for the Welfare of Children (CWC) and the Philippine
35 Statistics Authority (PSA) shall disseminate to the public information regarding this Act
36 and its implementation.
37

38 SECTION 23. **Implementing Rules and Regulations.** – The Secretary, after due
39 consultation with the PSA, the DILG, the PCW, and the CWC shall issue rules and
40 regulations for the effective implementation of this Act within thirty (30) days from its
41 effectivity.
42

43 SECTION 24. **Repealing Clause.** –Section 22 of Republic Act No.8552 is hereby
44 repealed. All other laws, decrees, letters of instruction, executive issuances, resolutions,
45 orders or parts thereof which are inconsistent with the provision of this Act are hereby
46 repealed, modified, or amended accordingly.
47

48 SECTION 25. **Separability Clause.** –If any provision or part of this Act is declared
49 unconstitutional or invalid, the remaining parts or provisions not affected shall remain
50 in full force and effect.
51

52 SECTION 26. **Effectivity.**—This Act shall take effect fifteen (15) days after its
53 publication in the Official Gazette or in a newspaper of general circulation.

Approved,