

SENATE

S.B. No. 2081



(In substitution of Senate Bill Nos. 1725 and 1728, taking into
consideration House Bill No. 5675) 18 OCT 22 P 5:45

Prepared and submitted jointly by the Committees on Women, Children, Family
Relations and Gender Equality; and Social Justice, Welfare and Rural Development
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**AN ACT GRANTING AMNESTY FOR SIMULATED BIRTHS, ALLOWING THE
RECTIFICATION OF SIMULATED BIRTH RECORDS THROUGH
ADMINISTRATIVE ADOPTION AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and 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 of 2018*”.

3 SEC. 2. **Objectives.** – This Act has the following objectives:

- 4 (a) To grant amnesty and allow the rectification of the simulated birth of a
5 child where the simulation was made for the best interest of the child,
6 and that such child has been consistently considered and treated by
7 the person or persons who simulated such birth as her, his, or their
8 own daughter or son;
- 9 (b) To fix the status and filiation of a child whose birth was simulated by
10 giving such child all the benefits of adoption and ensuring that the
11 child shall be entitled to all the rights provided by law to legally
12 adopted children, without any discrimination of any kind, as well as to
13 love, guidance, and support from the child’s adoptive family;

- 1 (c) To exempt from criminal, civil, and administrative liability those who
2 simulated the birth record of a child prior to the effectivity of this Act:
3 *Provided*, That an application for the rectification of the simulated birth
4 record is filed within ten (10) years from the effectivity of this Act;
- 5 (d) To provide for and allow a simpler and less costly administrative
6 adoption proceeding where the child has been living with the person or
7 persons who simulated her or his birth record for at least three (3)
8 years before the effectivity of this Act; and
- 9 (e) To educate and inform the public about the rectification of simulated
10 births, and to encourage people to avail of the benefits of this Act.

11 **SEC. 3. Definition of Terms.** – As used in this Act:

- 12 (a) *Certification Declaring a Child Legally Available for Adoption (CDCLAA)*
13 refers to a document signed by the Secretary of the Department of
14 Social Work and Development (DSWD) or her/his duly authorized
15 representative, administratively declaring that a child is legally
16 available for adoption which terminates the rights of the biological
17 parents, guardian, or other custodian to exercise authority over the
18 child upon issuance of the certificate.
- 19 (b) *Child* refers to a person below eighteen (18) years of age, or a person
20 eighteen (18) years of age or over who is unable to fully take care of
21 himself or herself or protect himself or herself from abuse, neglect,
22 cruelty, exploitation, or discrimination because of a physical or mental
23 disability or condition, whose birth was simulated;
- 24 (c) *Child Legally Available for Adoption* refers to a child in whose favor a
25 certification is issued by the DSWD stating that such child is legally
26 available for adoption after it has been established that her or his birth
27 was simulated and that the conditions provided for in this Act to allow
28 the rectification of such simulated birth are present;
- 29 (d) *Foundling* refers to a child who is abandoned and whose parentage is
30 unknown;
- 31 (e) *Regional Director* refers to the head of a field office of the DSWD;
- 32 (f) *Secretary* refers to the Secretary of the DSWD;

1 (g) *Simulation of birth* refers to the tampering of the civil registry to make
2 it appear in the record of birth that a child was born to a person who is
3 not such child's biological mother, causing such child to lose his or her
4 true identity and status; and

5 (h) *Social Welfare and Development Officer* refers to the head of a city or
6 municipal social welfare and development office, which serves as the
7 frontline of a city or municipal government in the delivery of social
8 welfare and development programs and services.

9 **ARTICLE II**

10 **RECTIFICATION OF SIMULATED BIRTHS**

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

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

26 SEC. 6. **Non-admissible Evidence.** – All petitions, documents, records, and
27 papers relating to adoption and rectification of simulated births under this Act cannot
28 be used as evidence against those who simulated the birth of a child or who
29 cooperated in the execution of such simulation in any criminal, civil, or
30 administrative proceeding.

1 **ARTICLE III**

2 **ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE ADOPTION**

3 SEC. 7. **Personal Qualifications.** – Adopters must:

- 4 (a) Be Filipino citizens, and of legal age;
5 (b) Possess full civil capacity and legal rights;
6 (c) Be of good moral character;
7 (d) Have not been convicted of any crime involving moral turpitude;
8 (e) Be emotionally and psychologically capable of caring for children; and
9 (f) Be in a position to support and care for the child in keeping with the
10 means of the family.

11 SEC. 8. **Required Consent.** – After being properly counseled and informed
12 of the right to give or withhold approval of the adoption, the written consent of the
13 following shall be required:

- 14 (a) The adoptee, if ten (10) years of age or over;
15 (b) The biological parent of the child, if known and can be located;
16 (c) The legitimate and adopted sons and daughters, ten (10) years of age
17 or over, of the adopter and adoptee, if any;
18 (d) The illegitimate sons and daughters, ten (10) years of age or over, of
19 the adopter if living with said adopter and the latter's spouse, if any;
20 and
21 (e) The spouse, if any, of the adoptee.

22 **ARTICLE IV**

23 **ADMINISTRATIVE ADOPTION PROCEDURE**

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

- 31 (a) A copy of simulated birth or foundling certificate of the child;

- 1 (b) Affidavit of admission if the simulation of birth was done by a third
2 person;
- 3 (c) Certification issued and signed by the Punong Barangay attesting that
4 the petitioner or petitioners is a resident or are residents of the
5 barangay, and that the child has been living with the petitioner or
6 petitioners for at least three (3) years prior to the effectivity of this Act;
- 7 (d) Affidavits of at least two (2) disinterested persons, who reside in the
8 same barangay where the child resides, attesting that the child has
9 been living with the petitioner for at least three (3) years prior to the
10 effectivity of this Act;
- 11 (e) CDCLAA issued by the DSWD; and
- 12 (f) Photographs of the child and the petitioner or petitioners taken within
13 the last three (3) months.

14 If the adoptee is a relative of the adopter within the fourth degree of
15 consanguinity or affinity, a CDCLAA shall no longer be required. If the adoptee is
16 already an adult, a CDCLAA shall no longer be required.

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

27 The Regional Director shall review the petition, establish the identity of the
28 child, and prepare a recommendation on the petition, and submit it with a copy of
29 the petition and its supporting documents to the Secretary not later than thirty (30)
30 days from receipt thereof. The Regional Director may require the applicant-petitioner
31 to submit additional information or evidence to support the application and petition.
32 The failure of the applicant-petitioner to comply with such request shall not preclude

1 the Regional Director from acting on the application and petition based on the
2 evidence on hand.

3 The Secretary of the DSWD shall act and decide on the petition within thirty
4 (30) days from receipt of the recommendation of the Regional Director.

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

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

11 (a) Cancellation of the simulated birth record of the child;

12 (b) Issuance of the rectified birth record bearing the names of the
13 biological parents of the child or the foundling certificate; and

14 (c) Issuance of an amended birth certificate.

15 An administrative adoption order obtained under this Act shall have the same
16 effect as a decree of adoption issued pursuant to Republic Act No. 8552, otherwise
17 known as the "Domestic Adoption Act of 1998."

18 SEC. 12. **Civil Registry Record.** – The DSWD Secretary shall immediately
19 transmit the Order of Adoption to the appropriate Local Civil Registrar, and provide a
20 copy to the concerned DSWD Regional Office. The Local Civil Registrar shall stamp
21 the simulated birth record "cancelled" with an annotation of the issuance of a new
22 rectified certificate of birth in its place. The rectified birth certificate bearing the
23 names of the biological parents of the child or the foundling certificate shall then
24 likewise be stamped "cancelled" with the annotation of the issuance of an amended
25 certificate in its place, and shall be sealed in the civil registry records. Thereafter,
26 the Local Civil Registrar shall record, register, and issue an amended certificate of
27 birth which shall not bear any notation that is a new or amended issue.

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

SEC. 14. **Confidentiality.** – All petitions, documents, records, and papers relating to administrative adoption proceedings in the files of the city or municipal SWDOs, the DSWD Central and Field Offices, or any other agency or institution participating in such proceedings shall be strictly confidential. The disclosure of any information to a third person shall only be allowed if it is necessary for security reasons or for purposes connected with or arising out of the administrative adoption and if it is for the best interest of the adoptee, upon her or his appropriate request. The Secretary may, upon appropriate request, order the necessary information released, restricting the purposes for which it may be used.

ARTICLE V

EFFECTS OF ADMINISTRATIVE ADOPTION

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

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

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

ARTICLE VI

RESCISSION OF ADMINISTRATIVE ADOPTION

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

- (a) Repeated physical or verbal maltreatment by the adopter;
- (b) Attempt on the life of the adoptee;
- (c) Sexual assault or violence;

- 1 (d) Abandonment and failure to comply with parental obligations; or
2 (e) Other acts that are detrimental to the psychological and emotional
3 development of the adoptee.

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

7 **SEC. 19. Rescission of Administrative Adoption.** – The process for
8 administrative adoption as provided under Section 10 of this Act shall apply to the
9 rescission of administrative adoption: *Provided*, That the concerned SWDO, Regional
10 Director, and the Secretary shall act on the petition for rescission immediately
11 bearing in mind the best interest of the child.

12 **SEC. 20. Effects of Rescission.** – If the petition for rescission of
13 administrative adoption is granted by the Secretary, the parental authority of the
14 adoptee's biological parents, if known, shall be restored if the adoptee is still a minor
15 or incapacitated. The reciprocal rights and obligations of the adopter and adoptee to
16 each other shall be extinguished.

17 The Secretary shall furnish a copy of the order of rescission to the local civil
18 registrar concerned who shall thereafter cancel the amended certificate of birth of
19 the adoptee, and restore the adoptee's rectified birth certificate bearing the name/s
20 of the latter's biological parents, or the foundling certificate, as the case may be.

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

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

27 **ARTICLE VII**

28 **VIOLATIONS AND PENALTIES**

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

- 1 (a) Obtaining consent for an adoption through coercion, undue influence,
2 fraud, improper material inducement, or other similar acts;
3 (b) Noncompliance with the procedures and safeguards provided by law
4 for the adoption; or
5 (c) Subjecting or exposing the child to be adopted to danger, abuse, or
6 exploitation.

7 **ARTICLE VIII**

8 **FINAL PROVISIONS**

9 SEC. 22. **Information Dissemination.** – The DSWD, in coordination with
10 the Department of the Interior and Local Government (DILG), the Philippine
11 Commission on Women (PCW), the Council for the Welfare of Children (CWC) and
12 the Philippine Statistics Authority (PSA) shall disseminate to the public information
13 regarding this Act and its implementation.
14

15 SEC. 23. **Implementing Rules and Regulations.** – The Secretary, after
16 due consultation with the PSA, the DILG, the PCW, and the CWC, together with
17 representatives from the Local Civil Registrar, parents and children shall issue rules
18 and regulations for the effective implementation of this Act within thirty (30) days
19 from its effectivity.

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

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

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

Approved,