

[REPUBLIC ACT NO. 10165, June 11, 2012]

AN ACT TO STRENGTHEN AND PROPAGATE FOSTER CARE AND TO PROVIDE FUNDS THEREFOR

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

ARTICLE I

GENERAL PROVISIONS

SECTION 1. *Title.* – This Act shall be known as the “Foster Care Act of 2012”.

SEC. 2. *Declaration of Policy.* – Article XV of the Constitution provides that the 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 or other conditions prejudicial to their development.

It is hereby declared the policy of the State to provide every child who is neglected, abused, surrendered, dependent, abandoned, under sociocultural difficulties, or with special needs with an alternative family that will provide love and care as well as opportunities for growth and development.

The State shall guarantee that all the lights of the child enumerated under Article 3 of Presidential Decree No. 603, otherwise known as “The Child and Youth Welfare Code”, as amended, and the rights found under Article 20 of the United Nations Convention on the Rights of the Child shall be observed.

The State recognizes that in most cases, a child will benefit more from foster care than institutional care. Towards this end, the State shall systematize and enhance the foster care program in the country. It shall ensure that the foster family shall provide a wholesome atmosphere to the foster child. Further to this end, the State recognizes that foster care is an important step towards the child’s return and reintegration to his biological parents or placement with an adoptive family.

The State shall also protect the rights of the biological child of the foster family and ensure that in no case shall the child be disadvantaged as a result of the placement of a foster child.

In all cases, the child’s right to health shall be upheld and protected.

SEC. 3. *Definition of Terms.* – For purposes of this Act, the following terms are defined:

(a) *Agency* refers to any child-caring or child-placing institution licensed and accredited by the Department of Social Welfare and Development (DSWD) to implement the foster care program.

(b) *Child* refers to a person below eighteen (18) years of age, or one who is over eighteen (18) but is unable to fully take care of or protect oneself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

(c) *Child Case Study Report* refers to a written report prepared by a social worker containing all the necessary information about a child.

(d) *Child with Special Needs* refers to a child with developmental or physical disability.

(e) *Family* refers to the parents or brothers and sisters, whether of the full or half-blood, of the child.

(f) *Foster Care* refers to the provision of planned temporary substitute parental care to a child by a foster parent.

(g) *Foster Child* refers to a child placed under foster care.

(h) *Foster Family Care License* refers to the document issued by the DSWD authorizing the *foster parent to provide* foster care.

(i) *Foster Parent* refers to a person, duly licensed by the DSWD, to provide foster care.

(j) *Foster Placement Authority (FPA)* refers to the document issued by the DSWD authorizing the placement of a particular child with the foster parent.

(k) *Home Study Report* refers to a written report prepared by a social worker containing the necessary information on a prospective parent or family member.

(l) *Matching* refers to the judicious pairing of a child with foster parent and family members based on the capacity and commitment of the foster parent to meet the individual needs of the particular child and the capacity of the child to benefit from the placement.

(m) *Parent* refers to the biological or adoptive parent or legal guardian of a child.

(n) *Placement* refers to the physical transfer of the child with the foster parent.

(o) *Relatives* refer to the relatives of a child, other than family members, within the fourth degree of consanguinity or affinity.

(p) *Social Worker* refers to the registered and licensed social worker of the DSWD, local government unit (LGU) or agency.

ARTICLE II

ELIGIBILITY

SEC. 4. *Who May Be Placed Under Foster Care.* – The following may be placed in foster care:

(a) A child who is abandoned, surrendered, neglected, dependent or orphaned;

(b) A child who is a victim of sexual, physical, or any other form of abuse or exploitation;

- (c) A child with special needs;
- (d) A child whose family members are temporarily or permanently unable or unwilling to provide the child with adequate care;
- (e) A child *awaiting adoptive placement and who* would have to be prepared for family life;
- (f) A child who needs long-term care and close family ties but who cannot be placed for domestic adoption;
- (g) A child whose adoption has been disrupted;
- (h) A child who is under socially difficult circumstances such as, but not limited to, a street child, a child in armed conflict or a victim of child labor or trafficking;
- (i) A child who committed a minor offense but is released on recognizance, or who is in custody supervision or whose case is dismissed; and
- (j) A child who is in need of special protection as assessed by a social worker, an agency or the DSWD.

Provided, That in the case of (b), (c), (f), (h), (i), and (j), the child must have no family willing and capable of caring and providing for him.

SEC. 5. *Who May Be a Foster Parent.* – An applicant who meets all of the following qualifications may be a foster parent:

- (a) Must be of legal age;
- (b) Must be at least sixteen (16) years older than the child unless the foster parent is a relative;
- (c) Must have a genuine interest, capacity and commitment in parenting and is able to provide a familial atmosphere for the child;
- (d) Must have a healthy and harmonious relationship with each family member living with him or her;
- (e) Must be of good moral character;
- (f) Must be physically and mentally capable and emotionally mature;
- (g) Must have sufficient resources to be able to provide for the family's needs;
- (h) Must be willing to further hone or be trained on knowledge, attitudes and skills in caring for a child; and
- (i) Must not already have the maximum number of children under his foster care at the time of application or award, as may be provided in the implementing rules and regulations (IRR) of this Act.

Provided, That in determining who is the best suited foster parent, the relatives of the child shall be given priority, so long as they meet the above qualifications: *Provided, further,* That an alien possessing the above qualifications and who has resided in the Philippines for at least twelve (12) continuous months and maintains

such residence until the termination of placement by the DSWD or expiration of the foster family license, may qualify as a foster parent.

ARTICLE III

PARENTAL AUTHORITY OF FOSTER PARENTS

SEC. 6. *Parental Authority of a Foster Parent.* – Foster parents shall have the rights, duties and liabilities of persons exercising substitute parental authority, as may be provided under the Family Code over the children under their foster care.

SEC. 7. *Limitations on Parental Authority of Foster Parents.* – Foster parents shall only have the rights of a person with special parental authority to discipline the foster children as defined under Section 233 of the Family Code, insofar as it prohibits the infliction of corporal punishment upon the child.

ARTICLE IV

PROCEDURE

SEC. 8. *Recruitment and Development of Foster Parents.* – To recruit applications for foster care, the DSWD shall reach out to various communities and LGUs and work preferably with the Local Council for the Protection of Children (LCPC).

SEC. 9. *Submission of Home Study Report.* – The social worker shall make a detailed Home Study Report of an applicant's background and circumstances, carried out in a series of planned visits and interviews, in order to determine if the applicant meets the basic requirements for foster care and is suitable to become a foster parent.

SEC. 10. *Issuance of License.* – The DSWD shall issue a Foster Family Care License based on the Home Study Report submitted by the agency to determine the motivations, capacities and potentials for development of applicants. The license is renewable every three (3) years unless earlier revoked by the DSWD.

SEC. 11. *Matching.* – Matching shall be done by the agency only after the child case study and the home study have been conducted, save for exceptions to be determined by the DSWD, taking into consideration the best interests of the child.

The child case study report shall establish the needs of the child for consideration in the selection of the foster parent. Likewise, the Home Study Report shall establish said foster parent's capacity and resources to provide a safe, secure and loving home to the child.

SEC. 12. *Placement.* – The physical transfer of the child to the foster parent shall be allowed only after the FPA has been issued, save for exceptions to be determined by the DSWD, taking into consideration the best interest of the child.

SEC. 13. *Supervision of Foster Placement.* – Supervised foster placement begins as soon as the foster parent receives the child into his care. During the foster placement, the social worker shall conduct regular home visits to monitor the child's adjustment in the foster home and shall submit progress reports to the DSWD.

In case of incident, injury or death of a foster child, or if he runs away or gets lost, such case shall be reported immediately to the agency, which, in turn, shall