

[REPUBLIC ACT NO. 8552, February 25, 1998]

**AN ACT ESTABLISHING THE RULES AND POLICIES ON THE
DOMESTIC ADOPTION OF FILIPINO CHILDREN AND FOR OTHER
PURPOSES**

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

ARTICLE I

GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the "Domestic Adoption Act of 1998."

SEC. 2. *Declaration of Policies.* -

- a. It is hereby declared the policy of the State to ensure that every child remains under the care and custody of his/her parents(s) and be provided with love, care, understanding and security towards the full and harmonious development of his/her personality. Only when such efforts prove insufficient and no appropriate placement or adoption within the child's extended family is available shall adoption by an unrelated person be considered.
- b. In all matters relating to the care, custody and adoption of a child, his/her interest shall be the paramount consideration in accordance with the tenets set forth in the United Nations (UN) Convention on the Rights of the Child; UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption, Nationally and Internationally; and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. Toward this end, the State shall provide alternative protection and assistance through foster care or adoption for every child who is neglected, orphaned, or abandoned.
- c. It shall also be a State policy to:
 - i. Safeguard the biological parent(s) from making hurried decisions to relinquish his/her parental authority over his/her child;
 - ii. Prevent the child from unnecessary separation from his/her biological parent(s);
 - iii. Protect adoptive parent(s) from attempts to disturb his/her parental authority and custody over his/her adopted child.

Any voluntary or involuntary termination of parental authority shall be administratively or judicially declared so as to establish the status of the child as "legally available for adoption" and his/her custody transferred to the Department of Social Welfare and Development or to any duly licensed and accredited child-placing or child-caring agency, which entity

- shall be authorized to take steps for the permanent placement of this child;
- iv. Conduct public information and educational campaigns to promote a positive environment for adoption;
 - v. Ensure that sufficient capacity exists within government and private sector agencies to handle adoption inquiries, process domestic adoption applications, and offer adoption-related services including, but not limited to, parent preparation and post-adoption education and counseling; and
 - vi. Encourage domestic adoption so as to preserve the child's identity and culture in his/her native land, and only when this is not available shall inter-country adoption be considered as a last resort.

SEC. 3. *Definition of Terms.* - For purposes of this Act, the following terms shall be defined as:

- a. "Child" is a person below eighteen (18) years of age.
- b. "A child legally available for adoption" refers to a child who has been voluntarily or involuntarily committed to the Department or to a duly licensed and accredited child-placing or child-caring agency, freed of the parental authority of his/her biological parent(s) or guardian or adopter(s) in case of rescission of adoption.
- c. "Voluntarily committed child" is one whose parent(s) knowingly and willingly relinquishes parental authority to the Department.
- d. "Involuntarily committed child" is one whose parent(s), known or unknown, has been permanently and judicially deprived of parental authority due to abandonment; substantial, continuous, or repeated neglect; abuse; or incompetence to discharge parental responsibilities.
- e. "Abandoned child" refers to one who has no proper parental care or guardianship or whose parent(s) has deserted him/her for a period of at least six (6) continuous months and has been judicially declared as such.
- f. "Supervised trial custody" is a period of time within which a social worker oversees the adjustment and emotional readiness of both adopter(s) and adoptee in stabilizing their filial relationship.
- g. "Department" refers to the Department of Social Welfare and Development.
- h. "Child-placing agency" is a duly licensed and accredited agency by the Department to provide comprehensive child welfare services including, but not limited to, receiving applications for adoption, evaluating the prospective adoptive parents, and preparing the adoption home study.
- i. "Child-caring agency" is a duly licensed and accredited agency by the Department that provides twenty four (24)-hour residential care services for abandoned, orphaned, neglected, or voluntarily committed children.
- j. "Simulation of birth" is the tampering of the civil registry making it appear in the birth records that a certain child was born to a person who is not his/her biological mother, causing such child to lose his/her true identity and status.

ARTICLE II

PRE-ADOPTION SERVICES

SEC. 4. *Counseling Services.* - The Department shall provide the services of licensed social workers to the following:

- a. Biological Parent(s) - Counseling shall be provided to the parent(s) before and after the birth of his/her child. No binding commitment to an adoption plan shall be permitted before the birth of his/her child. A period of six (6) months shall be allowed for the biological parent(s) to reconsider any decision to relinquish his/her child for adoption before the decision becomes irrevocable. Counseling and rehabilitation services shall also be offered to the biological parent(s) after he/she has relinquished his/her child for adoption. Steps shall be taken by the Department to ensure that no hurried decisions are made and all alternatives for the child's future and the implications of each alternative have been provided.
- b. Prospective Adoptive Parent(s) - Counseling sessions, adoption for a and seminars, among others, shall be provided to prospective adoptive parent(s) to resolve possible adoption issues and to prepare him/her for effective parenting.
- c. Prospective Adoptee - Counseling sessions shall be provided to ensure that he/she understands the nature and effects of adoption and is able to express his/her views on adoption in accordance with his/her age and level of maturity.

SEC. 5. *Location of Unknown Parent(s).* - It shall be the duty of the Department or the child-placing or child-caring agency which has custody of the child to exert all efforts to locate his/her unknown biological parent(s). If such efforts fail, the child shall be registered as a foundling and subsequently be the subject of legal proceedings where he/she shall be declared abandoned.

SEC. 6. *Support Services.* - The Department shall develop a pre-adoption program which shall include, among others, the above mentioned services.

ARTICLE III

ELIGIBILITY

SEC. 7. *Who May Adopt.* - The following may adopt:

- a. Any Filipino citizen of legal age, in possession of full civil capacity and legal rights, of good moral character, has not been convicted of any crime involving moral turpitude, emotionally and psychologically capable of caring for children, at least sixteen (16) years older than the adoptee, and who is in a position to support and care for his/her children in keeping with the means of the family. The requirement of sixteen (16) year difference between the age of the adopter and adoptee may be waived when the adopter is the biological parent of the adoptee, or is the spouse of the adoptee's parent;
- b. Any alien possessing the same qualifications as above stated for Filipino nationals: Provided, That his/her country has diplomatic relations with the Republic of the Philippines, that he/she has been living in the Philippines for at least three (3) continuous years prior to the filing of the application for adoption and maintains such residence until the adoption decree is entered, that he/she has been certified by his/her diplomatic or consular office or any appropriate government agency that he/she has the legal capacity to adopt in his/her country, and that his/her government allows the adoptee to enter his/her country as his/her adopted son/daughter: Provided, further, That the requirements on residency and certification of the alien's qualification to adopt in his/her country may be waived for the following:

- i. a former Filipino citizen who seeks to adopt a relative within the fourth (4th) degree of consanguinity or affinity; or
- ii. one who seeks to adopt the legitimate son/daughter of his/her Filipino spouse; or
- iii. one who is married to a Filipino citizen and seeks to adopt jointly with his/her spouse a relative within the fourth (4th) degree of consanguinity or affinity of the Filipino spouse; or
- c. The guardian with respect to the ward after the termination of the guardianship and clearance of his/her financial accountabilities.

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

- i. if one spouse seeks to adopt the legitimate son/daughter of the other; or
- ii. if one spouse seeks to adopt his/her own illegitimate son/daughter: Provided, however, That the other spouse has signified his/her consent thereto; or
- iii. if the spouses are legally separated from each other. In case husband and wife jointly adopt, or one spouse adopts the illegitimate son/daughter of the other, joint parental authority shall be exercised by the spouses.

SEC. 8. *Who May Be Adopted.* - The following may be adopted:

- a. Any person below eighteen (18) years of age who has been administratively or judicially declared available for adoption;
- b. The legitimate son/daughter of one spouse by the other spouse;
- c. An illegitimate son/daughter by a qualified adopter to improve his/her status to that of legitimacy;
- d. A person of legal age if, prior to the adoption, said person has been consistently considered and treated by the adopter(s) as his/her own child since minority;
- e. A child whose adoption has been previously rescinded; or
- f. A child whose biological or adoptive parent(s) has died: Provided, That no proceedings shall be initiated within six (6) months from the time of death of said parent(s).

SEC. 9. *Whose Consent is Necessary to the Adoption.* - After being properly counseled and informed of his/her right to give or withhold his/her approval of the adoption, the written consent of the following to the adoption is hereby required:

- a. The adoptee, if ten (10) years of age or over;
- b. The biological parent(s) of the child, if known, or the legal guardian, or the proper government instrumentality which had legal custody of the child;
- c. The legitimate and adopted sons/daughters, ten (10) years of age or over, of the adopter(s) and adoptee, if any;
- d. The illegitimate sons/daughters, ten (10) years of age or over, of the adopter if living with said adopter and the latter's spouse, if any; and
- e. The spouse, if any, of the person adopting or to be adopted.

ARTICLE IV

PROCEDURE

SEC. 10. *Hurried Decisions.* - In all proceedings for adoption, the court shall require proof that the biological parent(s) has been properly counseled to prevent him/her from making hurried decisions caused by strain or anxiety to give up the child, and