

[REPUBLIC ACT NO. 8043, June 07, 1995]

AN ACT ESTABLISHING THE RULES TO GOVERN INTER-COUNTRY 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 "Inter-Country Adoption Act of 1995.

SEC. 2. *Declaration of Policy.* — It is hereby declared the policy of the State to provide every neglected and abandoned child with a family that will provide such child with love and care as well as opportunities for growth and development. Towards this end, efforts shall be exerted to place the child with an adoptive family in the Philippines. However, recognizing that inter-country adoption may be considered as allowing aliens, not presently allowed by law to adopt Filipino children if such children cannot be adopted by qualified Filipino citizens or aliens, the State shall take measures to ensure that inter-country adoptions are allowed when the same shall prove beneficial to the child's best interests, and shall serve and protect his/her fundamental rights.

SEC. 3. *Definition of Terms.* — As used in this Act, the term:

- a. *Inter-country adoption* refers to the socio-legal process of adopting a Filipino child by a foreigner or a Filipino citizen permanently residing abroad where the petition is filed, the supervised trial custody is undertaken, and the decree of adoption is issued outside the Philippines.
- b. *Child* means a person below fifteen (15) years of age unless sooner emancipated by law.
- c. *Department* refers to the Department of Social Welfare and Development of the Republic of the Philippines.
- d. *Secretary* refers to the Secretary of the Department of Social Welfare and Development.
- e. *Authorized and accredited agency* refers to the State welfare agency or a licensed adoption agency in the country of the adopting parents which provide comprehensive social services and which is duly recognized by the Department.
- f. *Legally-free child* means a child who has been voluntarily or involuntarily committed to the Department, in accordance with the Child and Youth Welfare Code.

- g. *Matching* refers to the judicious pairing of the adoptive child and the applicant to promote a mutually satisfying parent-child relationship.
- h. *Board* refers to the Inter-country Adoption Board.

ARTICLE II

THE INTER-COUNTRY ADOPTION BOARD

SEC. 4. *The Inter-Country Adoption Board.* — There is hereby created the Inter-Country Adoption Board, hereinafter referred to as the Board, to act as the central authority in matters relating to inter-country adoption. It shall act as the policy-making body for purposes of carrying out the provisions of this Act, in consultation and coordination with the Department, the different child-care and placement agencies, adoptive agencies, as well as non-governmental organizations engaged in child-care and placement activities. As such, it shall:

- a. Protect the Filipino child from abuse, exploitation, trafficking and /or sale or any other practice in connection with adoption which is harmful, detrimental, or prejudicial to the child;
- b. Collect, maintain, and preserve confidential information about the child and the adoptive parents;
- c. Monitor, follow up, and facilitate completion of adoption of the child through authorized and accredited agency;
- d. Prevent improper financial or other gain in connection with an adoption and deter improper practices contrary to this Act;
- e. Promote the development of adoption services including post-legal adoption;
- f. License and accredit child-caring/placement agencies and collaborate with them in the placement of Filipino children;
- g. Accredit and authorize foreign adoption agency in the placement of Filipino children in their own country; and
- h. Cancel the license to operate and blacklist the child- caring and placement agency or adoptive agency involved from the accreditation list of the Board upon a finding of violation of any provision under this Act.

SEC. 5. *Composition of the Board.* — The Board shall be composed of the Secretary of the Department as *ex officio* Chairman, and six (6) other members to be appointed by the President for a nonrenewable term of six (6) years: *Provided*, That there shall be appointed one (1) psychiatrist or psychologist, two (2) lawyers who shall have at least the qualifications of a regional trial court judge, one (1) registered social worker and two (2) representatives from non-governmental organizations engaged in child-caring and placement activities. The members of the Board shall receive a *per diem* allowance of One thousand five hundred pesos (P1,500) for each meeting attended by them: *Provided, further*, That no compensation shall be paid for more than four (4) meetings a month.

SEC. 6. *Powers and Functions of the Board.* — The Board shall have the following powers and functions:

- a. to prescribe rules and regulations as it may deem reasonably necessary to carry out the provisions of this Act, after consultation and upon favorable recommendation of the different agencies concerned with child-caring, placement, and adoption;
- b. to set the guidelines for the convening of an Inter-country Adoption Placement Committee which shall be under the direct supervision of the Board;

- c. to set the guidelines for the manner by which selection/ matching or prospective adoptive parents and adoptive child can be made;
- d. to determine a reasonable schedule of fees and charges to be exacted in connection with the application for adoption;
- e. to determine the form and contents of the application for inter-country adoption;
- f. to formulate and develop policies, programs and services that will protect the Filipino child from abuse, exploitation, trafficking and other adoption practice that is harmful, detrimental and prejudicial to the best interest of the child;
- g. to institute systems and procedures to prevent improper financial gain in connection with adoption and deter improper practices which are contrary to this Act;
- h. to promote the development of adoption services, including post-legal adoption services;
- i. to accredit and authorize foreign private adoption agencies which have demonstrated professionalism, competence and have consistently pursued non-profit objectives to engage in the placement of Filipino children in their own country: *Provided*, That such foreign private agencies are duly authorized and accredited by their own government to conduct inter-country adoption: *Provided, however*, That the total number of authorized and accredited foreign private adoption agencies shall not exceed one hundred (100) a year;
- j. to take appropriate measures to ensure confidentiality of the records of the child, the natural parents and the adoptive parents at all times;
- k. to prepare, review or modify, and thereafter, recommend to the Department of Foreign Affairs, Memoranda of Agreement respecting inter-country adoption consistent with the implementation of this Act and its stated goals, entered into, between and among foreign governments, international organizations and recognized international non-governmental organizations;
- l. to assist other concerned agencies and the courts in the implementation of this Act, particularly as regards coordination with foreign persons, agencies and other entities involved in the process of adoption and the physical transfer of the child; and
- m. to perform such other functions on matters relating to inter-country adoption as may be determined by the President.

ARTICLE III PROCEDURE

SEC. 7. *Inter-Country Adoption as the Last Resort.* — The Board shall ensure that all possibilities for adoption of the child under the Family Code have been exhausted and that inter-country adoption is in the best interest of the child. Towards this end, the Board shall set up the guidelines to ensure that steps will be taken to place the child in the Philippines before the child is placed for inter-country adoption: *Provided, however*, That the maximum number that may be allowed for foreign adoption shall not exceed six hundred (600) a year for the first five (5) years.

SEC. 8. *Who May be Adopted.* — Only a legally free child may be the subject of inter-country adoption. In order that such child may be considered for placement, the following documents must be submitted to the Board:

- a. Child study;
- b. Birth certificate/foundling certificate;