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**CERTIFIED BY THE PRESIDENT
FOR ITS IMMEDIATE ENACTMENT
ON FEBRUARY 3, 1998**

SENATE

S. No. 1523

Introduced by Senators Santiago and Romulo

TO ENACT AN ACT ESTABLISHING THE RULES TO GOVERN THE
ADOPTION OF FILIPINO CHILDREN IN THE PHILIPPINES

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

1

Article I

2

GENERAL PROVISIONS

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

5 SEC. 2. *Declaration of Policy.* - It is hereby declared the policy
6 of the State:

7 (1) To exert all efforts to ensure that each child remains under the
8 care and custody of his/her parents. Only when such efforts prove
9 insufficient and no appropriate placement or adoption within the child's
10 extended family is available shall adoption by an unrelated person be
11 considered;

1 (2) To ensure that the best interest of the child shall be the
2 paramount consideration in all adoption procedures;

3 (3) To provide every neglected, orphaned, surrendered or
4 abandoned child with a family that will provide such child with love
5 and care as well as opportunities for growth and development.
6 Towards this end, efforts shall be exerted to promote domestic
7 adoption and to place the child with an adoptive family or parent in the
8 Philippines;

9 (4) To conduct public education to promote a positive
10 environment for adoption;

11 (5) To ensure that sufficient capacity exists within government
12 and private sector agencies to handle adoption inquiries, process
13 domestic adoption applications and offer adoption-related services,
14 including parent preparation and post adoption education and
15 counseling; and

16 (6) To consider inter-country adoption only as a last resort; after
17 all possibilities for the domestic adoption of the child have been
18 exhausted.

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

20 (1) "Child" refers to a person below eighteen (18) years of age.

21 (2) "A child legally available for adoption" refers to a child who
22 has been voluntarily or involuntarily committed to the Department of
23 Social Welfare and Development in accordance with the provisions of
24 the Child and Youth Welfare Code (P. D. No 603).

25 (3) "Resident Alien" refers to a person residing legally in the

1 Philippines, including an alien who is legally permitted to work or
2 engage in business in the Philippines, a member of the diplomatic corps
3 and staff of international organizations based in the Philippines.

4 (4) "Department" refers to the Department of Social Welfare and
5 Development.

6 (5) "Child Placement Agency" refers to an agency duly licensed
7 and accredited by the Department of Social Welfare and Development
8 to provide comprehensive child placement services including receiving
9 applications for adoption, evaluating the prospective adoptive parents
10 and preparing the adoption home study.

11 (6) "Child Caring Agency" refers to an agency duly licensed and
12 accredited by the Department that provides twenty-four (24)-hour
13 resident group service for the physical, mental, social and spiritual well-
14 being of nine (9) or more mentally-gifted, dependent, abandoned,
15 neglected, handicapped or disturbed children or youth offenders.

16 (7) "Pre-adoption Placement Authority" refers to the document
17 issued by the Department authorizing the placement of a child with a
18 prospective parent for a given period preparatory to adoption.

19 (8) "Simulation of Birth" refers to the pretension that a child was
20 born to a woman who is not the child's biological mother and the
21 registration of the child in the registry of births as such.

22 Article II

23 BIOLOGICAL PARENTS

24 SEC. 4. *Counselling Services.* - The services of licensed social
25 workers shall be provided to biological parents contemplating the

1 relinquishment of their child for adoption. Counselling should be
2 provided to the biological parents, if possible, before and after the birth
3 of the child, to assist them in considering the alternatives for the child's
4 future and the implications of each alternative. No binding commitment
5 to an adoption plan shall be permitted before the birth of the child. A
6 period of six (6) months shall be allowed for the biological parents to
7 reconsider any decision to relinquish a child for adoption before the
8 decision becomes irrevocable. Counselling and rehabilitation services
9 should also be offered to the biological parents after they have
10 relinquished the child for adoption.

11 **SEC. 5 *Hurried Decision.*** In all proceedings for adoption, steps
12 should be taken by the Department, by the duly licensed and accredited
13 child caring agency and by the court to prevent the biological parents
14 from making hurried decisions caused by strain or anxiety to give up
15 the child, and to ascertain that all measures to strengthen the family
16 have been exhausted and that any prolonged stay of the child with the
17 biological parents will be inimical to the child's welfare and safety. No
18 adoption proceedings shall be initiated within six (6) months after the
19 death of one or both biological parents of the child.

20 **SEC. 6. *Unknown Parents.*** - If the biological parents are not
21 known, the department, or the duly licensed and accredited child caring
22 agency which has custody of the child, should register the child as a
23 foundling. Thereafter, the child may be the subject of court
24 proceedings where he/she may be declared abandoned or neglected
25 and in the legal custody of the Department.

Article III

ELIGIBILITY AND PROCEDURE

SEC. 7. *Who May Adopt.* - A person of age and in possession of full civil capacity and legal rights may adopt, provided he/she is in a position to support and care for his/her children, legitimate or illegitimate, in keeping with the means of the family.

In addition, the adopter must be at least sixteen (16) years older than the person to be adopted, unless the adopter is the biological parent of the adopted, or is the spouse of the legitimate parent of the person to be adopted.

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

(1) When one spouse seeks to adopt his/her own illegitimate child; or

(2) When one spouse seeks to adopt the legitimate child of the other; or

(3) When the spouses are legally separated or when the marriage has been dissolved by annulment or by a declaration of nullity.

In case husband and wife jointly adopt or one spouse adopts the legitimate child of the other, joint parental authority shall be exercised by the spouses.

SEC. 8. *Who may be Adopted.* - Only minors may be adopted, except in cases where the adoption of a person of majority age is allowed under this Act.

1 The following may not be adopted:

2 (1) A person of legal age, unless he/she is a biological
3 child of the adopter or his/her spouse, or, prior to the adoption,
4 said person has been consistently considered and treated by the
5 adopter as his/her own child during minority;

6 (2) An alien with whose government the Republic of the
7 Philippines has no diplomatic relations; and

8 (3) A person who has already been adopted unless such
9 adoption has been previously rescinded or unless his or her
10 adoptive parents have already died.

11 SEC. 9. *Who May Not Adopt.* - The following persons may not
12 adopt:

13 (1) The guardian with respect to the ward prior to the
14 approval of the final accounts rendered upon the termination of
15 their guardianship relation;

16 (2) Any person who has been convicted of a crime
17 punishable by imprisonment of six (6) years and one (1) day or
18 higher;

19 (3) An alien, except:

20 (a) A former Filipino citizen who seeks to adopt a
21 relative by consanguinity or affinity within the fourth civil
22 degree;

23 (b) One who seeks to adopt the legitimate child or
24 children of his/her Filipino spouse;

25 (c) One who is married to a Filipino citizen and seeks to

1 adopt jointly with his/her spouse a relative by consanguinity or
2 affinity within the fourth civil degree of the latter;

3 (d) An alien who has not committed any crime involving
4 moral turpitude; or

5 (e) A resident alien who is not a Filipino citizen and who
6 has been living in the Philippines for at least three (3) years
7 prior to the filing of the application for adoption and maintains
8 such residence until the adoption decree is entered. The alien
9 must be eligible to adopt under his/her national law: *Provided,*
10 That the country of which such alien is a national maintains
11 diplomatic relations with the Philippines.

12 An alien who is not a Filipino citizen seeking to adopt
13 through the domestic adoption program shall be required to
14 submit a certification issued by the alien's diplomatic or
15 consular office of his/her legal capacity to adopt and of the
16 absence of any legal impediment or violation of public policy
17 that would bar recognition by the alien's National Law of the
18 Philippine Decree of Adoption. Such alien may also be subject
19 to additional documentary requirements by the Department in
20 order to ascertain that the alien possesses all the qualifications
21 and none of the disqualifications of an adoptive parent. Aliens
22 disqualified to adopt under Section 9 (3D) above may adopt
23 Filipino children in accordance with Republic Act No. 8043.

24 SEC. 10. *Child Placement Agencies.* - Only agencies which have
25 been duly licensed and accredited by the Department to accept and

1 process applications for adoption, conduct the adoption home study
2 and provide other child placement-related services are authorized to
3 render such services. The Department is empowered to determine a
4 reasonable schedule of fees and charges that may be exacted by duly
5 licensed and accredited child placement agencies in connection with
6 the application for adoption.

7 SEC. 11. *Case Study.* - No petition for adoption shall be granted
8 unless the Department or child placement agency duly licensed and
9 accredited by the Department has made a case study of the child to be
10 adopted, his biological parents, as well as the prospective adopting
11 parents, and has submitted its report and recommendations on the
12 matter to the court hearing such petition.

13 At the time of preparation of the child's case study, the
14 concerned social worker shall confirm with the civil registry the real
15 identity and registered name of the child. If the birth of the child was
16 not registered in the registry of births, it shall be the responsibility of
17 the concerned social worker to ensure that an application is promptly
18 submitted to the civil registrar for delayed registration of the child's
19 birth by the biological parents or, in their absence, the person or entity
20 having legal custody over the child.

21 The case study of the child should establish that the child is
22 legally available for adoption and that the necessary documents to
23 support this fact are valid and authentic. Further, the case study of the
24 social workers on the adoptive parent shall ascertain the genuine
25 intention of the adopter and that the adoption is in the best interest

1 of the child.

2 The Department shall intervene on behalf of the child if it finds,
3 after the case study, that the petition should be denied. The case study
4 and other relevant documents and records pertaining to the child and
5 the adoption shall be preserved by the Department.

6 **SEC. 12. *Legal Proceedings.*** - The proceedings for adoption shall
7 be governed by the Rules of Court in so far as they are not in conflict
8 with this Act.

9 **SEC. 13. *Trial Custody.*** - No petition for adoption shall be finally
10 granted unless and until the adopting parents are given by the court
11 a supervised trial custody period of at least six (6) months to assess
12 their adjustment and emotional readiness for the legal union. During
13 the period of trial custody, parental authority shall be vested in the
14 adopting parents.

15 The court may, upon its own motion or on motion of the
16 petitioner, reduce or dispense with the trial period if it finds that is in
17 the best interest of the child. In such case, the court shall state its
18 reasons for reducing or dispensing with the trial period.

19 **SEC. 14. *Decree of Adoption.*** - If, after considering the report of
20 the Department or duly licensed and accredited child placement agency
21 and the evidence submitted before it, the court is satisfied that the
22 petitioner is qualified to maintain, care for, educate and protect the
23 child, that the trial custody period has been completed, and that the
24 best interests of the child will be promoted by the adoption, a decree
25 of adoption shall be entered, which shall be effective as of the date the

1 original petition was filed. The decree shall state the name by which
2 the child is to be known.

3 SEC. 15. *Confidential Nature of Proceedings and Records.* - All
4 hearings in adoption cases shall be confidential and shall not be open
5 to the public. All records, books and papers relating to the adoption
6 cases in the files of the court, or of the Department and of any other
7 agency and institution participating in the adoption proceedings, shall
8 be kept strictly confidential.

9 Subject to the provisions of Article 7 of the Child and Youth
10 Welfare Code, in any case in which the information from such records,
11 books and papers is needed, the person or agency requesting the
12 release of the information may file a petition with the court which
13 entered the decree of adoption for its release. If the court finds that
14 the disclosure of the information is necessary for purposes connected
15 with or arising out of the adoption and will be in the best interest of
16 the adopted, the court may permit the necessary information to be
17 released, restricting the purposes for which it may be used. Persons
18 to whom the information is to be released shall be required to obtain
19 appropriate prior counselling to help ensure that the information is
20 received and used in a responsible manner.

21 SEC. 16. *Civil Registry Record.* - The adoption shall be recorded
22 in the local civil register and shall be annotated on the record of birth
23 and the same shall entitle the adopted person the issuance of an
24 amended birth certificate in keeping with the need for confidentiality,
25 the amended birth certificate, unless so requested, should not indicate

1 that it was amended.

2 SEC. 17. *Consent to Adoption.* - The written consent of the
3 following to the adoption shall be necessary:

4 (1) The person to be adopted, if ten (10) years of age or
5 over;

6 (2) The biological parents of the child, legal guardian, or
7 the proper government instrumentality;

8 (3) The legitimate and adopted children, ten (10) years of
9 age or over, of the adopting parent or parents;

10 (4) The illegitimate children, ten (10) years of age or older,
11 of the adopting parent, if living with the said parent and the
12 latter's spouse, if any; and

13 (5) The spouse, if any, of the person adopting or to be
14 adopted.

15 In case the person to be adopted is below eighteen (18) years
16 of age but not less than ten (10) years old, it shall be the duty of the
17 social worker or of the Department to advise the person to be adopted
18 of his right to agree or disagree to the proposed adoption and to certify
19 to the court in an appropriate document that this requirement has been
20 complied with.

21 Article IV

22 SUCCESSION AND EFFECT OF ADOPTION

23 SEC. 18. *Effect of Adoption.* - Adoption shall have the following
24 effects:

25 (1) For all purposes, the adopted shall be deemed to be

1 a legitimate child of the adopter and both shall acquire the
2 reciprocal rights and obligations arising from the relationship of
3 parent and child; and

4 (2) Except in cases where the biological parent is the
5 spouse of the adopter, all legal ties between the biological
6 parents and the adopted shall be severed.

7 SEC. 19. *Succession.* - Successional rights of the adopted shall be
8 governed by the provisions in Title IV of the Civil Code subject to
9 Section 18 of this Act.

10 Article V

11 RESCISSION OF ADOPTION

12 SEC. 20. If the adopted is a child or otherwise incapacitated, the
13 adoption may be judicially rescinded upon the petition of any person
14 authorized by the court or proper government instrumentality acting in
15 behalf of the child, on his/her behalf, on the same grounds prescribed
16 for loss or suspension of parental authority. If the adopted is at least
17 eighteen (18) years of age, he/she may petition for judicial rescission
18 of the adoption on the same grounds prescribed for disinheriting an
19 ascendant.

20 SEC. 21. Adoption, being in the best interest of the child, shall
21 not be subject to rescission by the adopters. However, the adopters
22 may disinherit the adopted for causes provided in Article 919 of the
23 Civil Code.

24 SEC. 22. If the adopted has not reached the age of majority at
25 the time of the judicial rescission of the adoption, the court, in the same

1 proceeding, shall reinstate the parental authority of the biological
2 parents, unless the latter are disqualified, incapacitated or have
3 abandoned the child. In the latter case, the court shall appoint a
4 guardian over the person and property of the minor. If the adopted is
5 physically or mentally handicapped, the court shall appoint in the same
6 proceeding a guardian over the adopted or the adopted's property or
7 both.

8 Judicial rescission of the adoption shall extinguish all reciprocal
9 rights and obligations between the adopters and the adopted arising
10 from the relationship of parent and child as of the date of judgment of
11 judicial rescission. The adopted shall likewise lose the right to use the
12 surname of the adopters and shall use his/her surname prior to the
13 adoption which shall be recorded in the proper civil registry.
14 Successional rights shall revert back to its status prior to adoption, but
15 only as of the date of judgment of judicial rescission. Vested rights
16 acquired prior to judicial rescission shall be respected.

17 Article VI

18 BENEFIT AND LEAVE ENTITLEMENTS

19 SEC. 23. Provided that the child to be adopted is below seven
20 (7) years of age and is placed with the prospective adoptive parent
21 through a pre-adoption placement authority issued by the Department,
22 the prospective adoptive parent shall enjoy all the parental benefits to
23 which biological parents are entitled under existing laws, including
24 parental leave, from the date the child is placed with the prospective

1 adoptive parent.

2 Article VII

3 PENALTIES

4 SEC. 24. *Penalties.* - Any person who knowingly participates in
5 securing the adoption of a child contrary to the requirements provided
6 in this Act and other laws pertaining to adoption shall be punished with
7 a penalty of imprisonment ranging from six (6) years and one (1) day
8 to twelve (12) years and/or a fine of not less than Fifty thousand pesos
9 (P50,000.00), but not more than Two hundred thousand pesos
10 (P200,000.00) at the discretion of the court.

11 Violation of adoption laws include the following acts:

12 (1) obtaining consent for an adoption through coercion,
13 undue influence, fraud, improper material inducement or other
14 similar acts;

15 (2) non-compliance with the procedures and safeguards
16 provided by the law for adoption; and

17 (3) subjecting or exposing the child to be adopted to
18 danger, abuse and exploitation.

19 Any person who shall violate established regulations relating
20 to the confidentiality and integrity of records, documents and
21 communications of adoption application cases and processes shall
22 suffer the penalty of imprisonment ranging from one (1) year and one
23 (1) day to two (2) years, and/or a fine of not less than Ten thousand
24 pesos (P10,000.00) but not more than Twenty thousand pesos

1 (P20,000.00), at the discretion of the court.

2 A penalty lower by two (2) degrees than that prescribed for the
3 consummated felony under this Article shall be imposed upon the
4 principals who attempt to commit any of the acts herein enumerated.

5 Acts punishable under this Article, when committed by a
6 syndicate or where it involves two or more children, shall be considered
7 as an offense constituting child trafficking and shall be punishable by
8 *reclusion perpetua*.

9 Acts punishable under this Article are deemed committed by a
10 syndicate if carried out by a group of three (3) or more persons
11 conspiring and/or confederating with one another in carrying out any
12 of the unlawful acts defined under this Article, penalties imposed under
13 this Act shall be in addition to any other penalties which may be
14 imposed for the same acts punishable under other laws, ordinances,
15 executive orders and proclamations.

16 When the offender is an alien, he/she shall be deported
17 immediately after service of sentence and perpetually excluded from
18 entry to the Philippines.

19 SEC. 25. *Public Officers as Offenders.* - Any government
20 official, employee or functionary who shall be found guilty of violating
21 any of the provisions of this Act, or who shall conspire with private
22 individuals shall, in addition to the above-prescribed penalties, be
23 penalized in accordance with existing civil service law, rules and
24 regulations: *Provided*, That upon the filing of a case, either
25 administrative or criminal, said government official, employee or

1 **SEC. 28. Appropriations.** - The amount of Ten million pesos
2 (P10,000,000.00) is hereby appropriated to the Department to cover
3 administrative and other expenses associated with the promotion of
4 domestic adoption, counselling services for parents considering the
5 relinquishment of a child for adoption, pre-and-post-adoption services
6 for adoptive families, and other expenses associated with the
7 implementation of the provisions of this Act. Subsequently, such sums
8 as may be necessary for the purposes stated in this Section shall be
9 included annually in the General Appropriations Act.

10 **SEC. 29. Separability Clause.** - If any provision, or part hereof,
11 is held invalid or unconstitutional, the remainder of the law or the
12 provision not otherwise affected shall remain valid and subsisting.

13 **SEC. 30. Repealing Clause.** - Any law, presidential decree or
14 issuance, executive order, letter of instruction, administrative order, rule
15 or regulation contrary to, or inconsistent with, the provisions of this
16 Act is hereby repealed, modified or amended accordingly.

17 **SEC. 31. Effectivity Clause.** - This law shall take effect fifteen (15)
18 days after its publication in two (2) newspapers of general circulation.

Approved,