

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

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

10 Towards this end, the State shall systematize and enhance the foster care
11 program in the country. It shall ensure that the foster family shall provide a
12 wholesome atmosphere to the foster child.

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

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

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

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

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

27 (d) *Child with special needs* refers to a child with developmental or
28 physical disability.

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

3 (f) *Foster child* refers to a child placed under foster care.

4 (g) *Foster family care license* refers to the document issued by the
5 DSWD authorizing the foster parent to provide foster care.

6 (h) *Foster parent* refers to a person duly licensed by the DSWD to
7 provide foster care to a child.

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

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

14 (k) *Matching* refers to the judicious pairing of a child with foster
15 parents and family members based on the capacity and commitment of the
16 foster parents to meet the individual needs of the child and the capacity of the
17 child to benefit from the placement.

18 (l) *Parents* refer to the biological or adoptive parents or guardians.

19 (m) *Placement* refers to the physical transfer of the child with the foster
20 parent.

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

23 ARTICLE II

24 ELIGIBILITY

25 SEC. 4. *Who May Be Placed Under Foster Care.* – A child may be
26 placed under foster care if in need of special protection, as assessed by a social
27 worker due to, but not limited to, any of the following circumstances:

1 (a) The child has been abandoned, surrendered, neglected, orphaned or
2 dependent;

3 (b) The child is a victim of sexual, physical, or any other form of abuse
4 or exploitation;

5 (c) The child has special needs;

6 (d) The child's parents are temporarily or permanently unable to
7 provide adequate care;

8 (e) The child is awaiting adoptive placement and would have to be
9 prepared for family life;

10 (f) The child needs long-term care and close family ties but cannot be
11 placed for adoption;

12 (g) The adoption process involving the child has been disrupted;

13 (h) The child is under socially difficult circumstances such as in the
14 case of street children, children in situations of armed conflict, victims of child
15 labor or trafficking, or children whose family or are themselves afflicted with
16 the Human Immunodeficiency Virus-Acquired Immunodeficiency Syndrome
17 (HIV-AIDS); and

18 (i) The child has committed a minor offense but has been released on
19 recognizance or is under custody supervision or has a case that has been
20 dismissed but whose family or relatives are not capable of providing care.

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

23 (a) Must be of legal age;

24 (b) Must have a genuine interest, capacity and commitment in
25 parenting and be able to provide a family atmosphere for the child;

26 (c) Must have a healthy and harmonious relationship with each family
27 member;

28 (d) Must have good moral character;

- 1 (e) Must be physically and mentally capable and emotionally mature;
2 (f) Must have sufficient resources to provide for the family's needs;
3 and
4 (g) Must be willing to be trained on knowledge, attitudes and skills in
5 caring for a child.

6 The relatives of the child shall be given priority to be the foster parent/s.

7 An alien possessing the abovestated qualifications and has resided in the
8 Philippines for at least twelve (12) continuous months and will continue to stay
9 in the country for the duration of the foster placement may qualify as a foster
10 parent.

11 ARTICLE III

12 PROCEDURE

13 SEC. 6. *Recruitment and Development of Foster Parent.* – Social
14 workers shall reach out to communities to recruit and develop applicants for
15 foster care.

16 SEC. 7. *Issuance of License.* – The DSWD shall issue a license to
17 applicant foster parents after determining their motivation, capacities and
18 potentials for development on the basis of a home study report submitted by
19 the agency or LGU concerned. The license is renewable unless earlier revoked
20 by the DSWD.

21 SEC. 8. *Matching.* – Matching shall be done by the agencies or LGU
22 concerned only after the child case study and the home study have been
23 conducted. The child case study report shall establish the needs of the child for
24 consideration in the selection of the foster parent. Likewise, the home study
25 report shall establish said foster parent's capacity and resources to provide a
26 safe, secure and loving home to the child.

27 SEC. 9. *Placement.* – The physical transfer of the child to the foster
28 parent shall be allowed only after the FPA has been issued, except in

1 emergency cases when the life of the child is in danger or at risk due to natural
2 or man-made disasters. The DSWD shall issue the FPA within five (5) working
3 days from submission of application thereof. Otherwise, the application for a
4 FPA shall be deemed approved after the lapse of said period without express or
5 written denial thereof.

6 SEC. 10. *Supervision of Foster Placement.* – Supervised foster
7 placement begins as soon as the foster parent receives care of the child.

8 During the foster placement, the social worker shall conduct regular
9 home visits to monitor the child's adjustment in the foster home and shall
10 submit progress reports to the DSWD.

11 In case of injury or death of a foster child, or if the child runs away or
12 gets lost, such incident shall be reported immediately to the agency which, in
13 turn, shall report the same to the DSWD.

14 SEC. 11. *Termination of Placement.* – Termination of placement shall
15 be done by the DSWD upon the recommendation of the agency or LGU.

16 ARTICLE IV

17 ADOPTION OF A FOSTER CHILD

18 SEC. 12. *Conditions.* – A foster parent may adopt the foster child
19 through the following conditions:

20 (a) The foster parent must have all the qualifications as provided for in
21 Republic Act No. 8552, otherwise known as the "Domestic Adoption Act of
22 1998", or Republic Act No. 8043, otherwise known as the "Inter-Country
23 Adoption Act of 1995", as the case may be;

24 (b) The foster child has not yet been matched for adoption;

25 (c) The trial custody, as required in adoption, may be waived by the
26 DSWD: *Provided*, That a harmonious relationship exists between the child
27 and the foster parents and family members; and

1 (d) For purposes of this Act, the procedure for adoption shall be
2 governed by Republic Act No. 8552 or Republic Act No. 8043, as the case
3 may be.

4 ARTICLE V

5 ASSISTANCE AND INCENTIVES

6 SEC. 13. *Foster Child Subsidy.* – Subject to the availability of funds, a
7 foster child may be given a monthly subsidy by the LGU with augmentation
8 from the DSWD.

9 SEC. 14. *Support Care Services to Foster Parents.* – The DSWD, the
10 social service unit of the LGU, or the agency may provide support care
11 services to include, but not limited to, counseling, visits, training on child care
12 and development, respite care, skills training and livelihood assistance.

13 SEC. 15. *Tax Exemptions.* –

14 (a) Additional Exemption for Dependents of Foster Parents. – For
15 purposes of claiming the additional exemption by foster parent/s for each
16 dependent not exceeding four (4), the definition of the term “dependent” under
17 Section 35(B) of the National Internal Revenue Code (NIRC) of 1997, as
18 amended, shall include “foster child”.

19 (b) Income Tax Exemption to a DSWD-Accredited Nongovernment
20 Agency. – All income received by a DSWD-accredited nongovernment
21 agency shall be exempt from income tax pursuant to Section 30 of the NIRC of
22 1997, as amended.

23 (c) Incentives for a DSWD-Accredited Nongovernment Organization
24 Donor. – Gifts and donations of real and personal properties of all kinds shall
25 be exempt from the donor’s tax and the same shall be considered as allowable
26 deductions from the gross income in the computation of the income tax of a
27 donor which shall qualify as a DSWD-accredited nongovernment organization,
28 pursuant to Sections 34(H) and 101 of the NIRC of 1997, as amended.

ARTICLE VI

PENALTIES

SEC. 16. *Penalties.* –

(a) Any person found to be committing any act of neglect, abuse, cruelty, exploitation or other similar acts prejudicial to the foster child's development shall be punished in accordance with Republic Act No. 7610, as amended, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act", and other applicable laws.

(b) Any person who violates any provision of this Act shall be punished with imprisonment of not less than three (3) months but not more than three (3) years or a fine of not less than Ten thousand pesos (P10,000.00) but not more than One hundred thousand pesos (P100,000.00), or both, at the discretion of the court.

(c) Any agency which violates any provision of this Act and its implementing rules and regulations shall be punished as follows:

(1) For the first violation, a fine of not less than Five thousand pesos (P5,000.00) but not exceeding Twenty thousand pesos (P20,000.00); and

(2) For any subsequent violation, a fine of not less than Twenty thousand pesos (P20,000.00) but not exceeding One hundred thousand pesos (P100,000.00) and the revocation of its license to operate.

(d) If the offender is a public official, the court may impose the additional penalty of disqualification from office in addition to the penalties provided in the preceding paragraph.

ARTICLE VII

FINAL PROVISIONS

SEC. 17. *Foster Care Committee.* – The Regional Child Welfare Specialist Group of the DSWD shall serve as the Foster Care Committee, and shall exercise the following functions:

1 (a) Review and deliberate issues affecting the placement of a particular
2 child;

3 (b) Make recommendations to resolve any dispute between and among
4 the agency, the parents, the foster parents and the child;

5 (c) Monitor the implementation of, and review and recommend
6 changes in policies and other matters concerning foster care and the child's
7 welfare; and

8 (d) Perform such other functions and duties as may be prescribed by
9 the DSWD.

10 SEC. 18. *Appropriations.* – The Secretary of the DSWD shall include
11 in the Department's programs the implementation of this Act, the initial
12 funding of which shall be charged against the current year's appropriations of
13 the DSWD. Thereafter, the amount necessary for its continued implementation
14 shall be included in the annual *General Appropriations Act*.

15 SEC. 19. *Implementing Rules and Regulations.* – The DSWD, as lead
16 agency, the Department of the Interior and Local Government, the Department
17 of Justice, the Department of Health, the Council for the Welfare of Children
18 and other concerned government agencies, in consultation with accredited
19 child-caring institutions and organizations with foster care programs, are
20 hereby mandated to issue and promulgate the implementing rules and
21 regulations to operationalize the provisions of this Act within three (3) months
22 from its effectivity.

23 SEC. 20. *Repealing Clause.* – Any law, presidential decree, issuance,
24 executive order, letter of instruction, administrative order, rule and regulation
25 contrary to or inconsistent with the provisions of this Act is hereby repealed,
26 modified or amended accordingly.

1 SEC. 21. *Separability Clause.* – If any provision of this Act is held
2 invalid or unconstitutional, the other provisions not affected thereby shall
3 remain valid and subsisting.

4 SEC. 22. *Effectivity Clause.* – This Act shall take effect fifteen (15)
5 days after its publication in the *Official Gazette* or in two (2) newspapers of
6 general circulation.

 Approved,

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