



1           It is hereby declared the policy of the State to provide every child who  
2 is abused, neglected, surrendered, dependent, abandoned, under sociocultural  
3 difficulties and 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 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 he/she 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 as:

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 himself/herself from  
23 abuse, neglect, cruelty, exploitation or discrimination because of a physical or  
24 mental 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.

1 (d) "Child with special needs" refers to a child with developmental  
2 and/or physical disability.

3 (e) "Foster care" refers to the provision of planned temporary  
4 substitute parental care to a child by a foster parent.

5 (f) "Foster child" refers to a child placed under foster care.

6 (g) "Foster family care license" refers to the document issued by the  
7 DSWD authorizing the foster parent to provide foster care.

8 (h) "Foster parent" refers to a person duly licensed by the DSWD to  
9 provide foster care to a child.

10 (i) "Foster placement authority" refers to the document issued by the  
11 DSWD authorizing the placement of a particular child with the foster parent.

12 (j) "Home study report" refers to a written report prepared by a social  
13 worker containing the necessary information on a prospective foster  
14 parent/family member.

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

19 (l) "Parents" refers to the biological or adoptive parents or guardians.

20 (m) "Placement" refers to the physical transfer of the child to the foster  
21 parent.

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

## ARTICLE II

## ELIGIBILITY

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

6        (a) Child who is abandoned, surrendered, neglected, dependent or  
7 orphaned;

8        (b) Child who is a victim of sexual, physical, or any other form of  
9 abuse or exploitation;

10       (c) Child with special needs;

11       (d) Child whose parents are temporarily or permanently unable to  
12 provide him/her with adequate care;

13       (e) Child awaiting adoptive placement and would have to be prepared  
14 for family life;

15       (f) Child who needs long-term care and close family ties but who  
16 cannot be placed for adoption;

17       (g) Child whose adoption has been disrupted;

18       (h) Child under socio-legal difficulties, such as, but not limited to,  
19 street child, child in armed conflict, one who is a victim of child labor or  
20 trafficking, and child whose family and/or himself/herself is affected by HIV-  
21 AIDS; and

22       (i) Child who has committed a minor offense but has been released on  
23 recognizance or on custody supervision or his/her case dismissed but whose  
24 family or relatives are not capable of providing him/her care.

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

1 (a) Must be of legal age;

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

4 (c) Must have a healthy and harmonious relationship with each family  
5 member;

6 (d) Must have good moral character;

7 (e) Must be physically and mentally capable and emotionally mature;

8 (f) Must have sufficient resources to provide for the family's needs;

9 and

10 (g) Must be willing to be trained to further hone his/her knowledge,  
11 attitudes and skills in caring for a child.

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

13 An alien possessing the abovestated qualifications and has resided in the  
14 Philippines for at least six continuous months and will continue to stay in the  
15 country for the duration of the foster placement may qualify as a foster parent.

### 16 ARTICLE III

#### 17 PROCEDURE

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

21 SEC. 7. *Issuance of License.* – The DSWD shall issue a license to  
22 applicant foster parents after determining their motivation, capacities and  
23 potentials for development on the basis of a home study report submitted by an  
24 agency or LGU <sup>there</sup> concerned. The license is renewable unless earlier  
25 revoked by the DSWD.

1           SEC. 8. *Matching.* – Matching shall be done by the agency/ies or LGU  
2 concerned only after the child case study and the home study have been  
3 conducted. The child case study report shall establish the needs of the child  
4 for consideration in the selection of the foster parent. Likewise, the home  
5 study report shall establish said foster parent’s capacity and resources to  
6 provide a safe, secure and loving home to the child.

7           SEC. 9. *Placement.* – The physical transfer of the child to the foster  
8 parent shall be allowed only after the Foster Placement Authority has been  
9 issued, except in emergency cases when the life of the child is in danger or at  
10 risk due to natural or man-made disasters. The DSWD shall issue the Foster  
11 Placement Authority within five working days from submission of application  
12 thereof. Otherwise, the application for a Foster Placement Authority shall be  
13 deemed approved after the lapse of said period without express or written  
14 denial thereof.

15           SEC. 10. *Supervision of Foster Placement.* – Supervised foster  
16 placement begins as soon as the foster parent receives the child into his/her  
17 care.

18           During the foster placement, the social worker shall conduct regular  
19 home visits to monitor the child’s adjustment in the foster home and shall  
20 submit progress reports to the DSWD.

21           In case of injury or death of a foster child or if he/she runs away or gets  
22 lost, such incident shall be reported immediately to the agency which, in turn,  
23 shall report the same to the DSWD.

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

## ARTICLE IV

## ADOPTION OF A FOSTER CHILD

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3       SEC. 12. *Conditions.* – A foster parent may adopt his/her foster child  
4 through the following conditions:

5           (a) The foster parent must have all the qualifications as provided for by  
6 Republic Act No. 8552, otherwise known as the “Domestic Adoption Act of  
7 1998”, or Republic Act No. 8043, otherwise known as the “Inter-Country  
8 Adoption Act of 1995”, as the case may be;

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

10          (c) The trial custody, as required in adoption, may be waived by the  
11 DSWD: *Provided*, That a harmonious relationship exists between the child  
12 and his/her foster parents and family members; and

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

## ARTICLE V

## ASSISTANCE TO FOSTER PARENTS

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18       SEC. 13. *Foster Child Subsidy.* – A foster child shall be given a  
19 monthly subsidy by the LGU with augmentation from the DSWD.

20       SEC. 14. *Assistance and Incentives to Foster Parents.* – Foster parents  
21 shall be entitled to the following assistance and tax incentives:

22           (a) Support Care Services – The DSWD, the social service unit of the  
23 LGU or the agency shall provide support care services to include, but not  
24 limited to, counseling, visits, training on child care and development, respite  
25 care, skills training and livelihood assistance.

26           (b) Personal Exemption – For purposes of determining the taxable

1 income of a foster parent who is either unmarried, widow/widower or legally  
2 separated, a foster child shall be treated as a dependent by the said foster  
3 parent that would qualify him/her as “head of the family” entitled to the  
4 personal exemption under the provisions of Section 35(A) of the National  
5 Internal Revenue Code (NIRC) of 1997.

6 (c) Additional Exemption for Dependents – For purposes of claiming  
7 the additional exemption of foster parent/s for each dependent not exceeding  
8 four, the definition of the term “dependent” under Section 35(B) of the NIRC  
9 of 1997 shall be amended to include “foster child”: *Provided, however,* That  
10 all the other conditions provided for under the aforesaid section of the Tax  
11 Code are complied with.

12 The foregoing provisions to the contrary notwithstanding, for purposes  
13 of this section, only one foster parent can treat the foster child as dependent for  
14 a particular taxable year to the exclusion of the parents and other foster parents  
15 of the child, if any. The DSWD shall issue a tax exemption certificate for this  
16 purpose.

17 SEC. 15. *Incentives to Agency.* – The agency shall be entitled to the  
18 following tax incentives:

19 (a) Exemption from Income Tax – The agency, which must be a  
20 DSWD-accredited nongovernment organization (NGO), shall be exempt from  
21 income tax on the income derived by it as such organization under the  
22 provision of Section 30 of the Tax Code, as implemented by Revenue  
23 Regulations (RR) No. 13-98.

24 (b) Qualification as a Donee Institution – The agency can also apply  
25 for qualification as a donee institution entitled to receive donations from  
26 donors.

27 SEC. 16. *Incentives to Donor.* – The donor to an accredited NGO shall  
28 be entitled to the following:



1 (a) Full deductibility from the gross income of the donor of the amount  
2 donated subject to the conditions provided for under Section 34 (H2c) of the  
3 Tax Code of 1997 otherwise, the donor shall only be entitled to a limited  
4 deduction in an amount not in excess of ten percent (10%) in the case of an  
5 individual engaged in business or in the practice of a profession and five  
6 percent (5%) in the case of a corporation.

7 (b) Exemption from donor's tax subject to the provisions of Section  
8 101 (A3) and (B2) of the Tax Code: *Provided*, That not more than thirty  
9 percent (30%) of the amount of donations shall be used by such donee for  
10 administrative purposes.

## 11 ARTICLE VI

### 12 PENALTIES

13 SEC. 17. *Penalties.* – (a) Any person found to be committing any act of  
14 neglect, abuse, cruelty, exploitation or other similar acts prejudicial to the  
15 foster child's development shall be penalized in accordance with Republic Act  
16 No. 7610, as amended, otherwise known as "An Act Providing For Stronger  
17 Deterrence and Special Protection Against Child Abuse, Exploitation and  
18 Discrimination, Providing For Its Violation, And For Other Purposes", and  
19 other applicable laws.

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

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

27 (1) For the first violation, a fine of not less than Five thousand pesos

1 (P5,000.00) but not exceeding Twenty thousand pesos (P20,000.00); and

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

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

8 ARTICLE VII

9 FINAL PROVISIONS

10 SEC. 18. *Foster Care Committee.* – The Regional Child Welfare  
11 Specialist Group of the DSWD shall serve as the Foster Care Committee which  
12 shall have the following functions:

13 (a) Review and deliberate on issues affecting the placement of a  
14 particular child;

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

17 (c) Monitor the implementation, review and recommend changes in  
18 policies and other matters concerning foster care and the child's welfare; and

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

21 SEC. 19. *Appropriations.* – The amount necessary to carry out the  
22 provisions of this Act shall be included in the General Appropriations Act of  
23 the year following its enactment into law and thereafter. An initial amount of  
24 Twenty million pesos (P20,000,000.00) shall be allocated for the first year of  
25 its operations. Such sum shall be in the allocation for child-related programs  
26 of the DSWD.

1           SEC. 20. *Implementing Rules and Regulations.* – The DSWD as lead  
2 agency, the Department of the Interior and Local Government, the Department  
3 of Justice, the Department of Health, the Council for the Welfare of Children,  
4 and other concerned government agencies, in consultation with accredited  
5 child-caring institutions and organizations with foster care programs and both  
6 Houses of Congress, are hereby mandated to draft the implementing rules and  
7 regulations to operationalize the provisions of this Act within three months  
8 from its effectivity.

9           SEC. 21. *Repealing Clause.* – Any law, presidential decree, issuance,  
10 executive order, letter of instruction, administrative order, rule and regulation  
11 contrary to or inconsistent with the provisions of this Act is hereby repealed,  
12 modified or amended accordingly.

13           SEC. 22. *Separability Clause.* – If any provision of this Act is held  
14 invalid or unconstitutional, the other provisions not affected thereby shall  
15 remain valid and subsisting.

16           SEC. 23. *Effectivity Clause.* – This Act shall take effect fifteen (15)  
17 days following its publication in two newspapers of general circulation or in  
18 the *Official Gazette*.

Approved,

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