



HOUSE OF REPRESENTATIVES

H. No. 5524

BY REPRESENTATIVE LACSON, PER COMMITTEE REPORT NO. 1718

AN ACT REQUIRING CERTIFICATION OF THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT (DSWD) TO DECLARE A "CHILD LEGALLY AVAILABLE FOR ADOPTION" AS A PREREQUISITE FOR ADOPTION PROCEEDINGS, AMENDING FOR THIS PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8552 (DOMESTIC ADOPTION LAW), REPUBLIC ACT NO. 8043 (INTER-COUNTRY ADOPTION LAW) AND PRESIDENTIAL DECREE NO. 603 (CHILD AND YOUTH WELFARE CODE) AND FOR OTHER PURPOSES

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

1 SECTION 1. *Declaration of Policy.* – It is hereby declared the policy of
2 the State that alternative protection and assistance shall be afforded to every
3 child who is surrendered, abandoned or neglected. In this regard, the State
4 shall extend such assistance in the most expeditious manner in the best interest
5 of the child.

1 **SEC. 2. *Definition of Terms.*** – As used in this Act, the following terms
2 shall mean:

3 (a) “Child” refers to a person below eighteen (18) years of age or over
4 but is unable to fully take care of himself/herself or protect himself/herself
5 from abuse, neglect, cruelty, exploitation or discrimination because of a
6 physical or mental disability or condition.

7 (b) “Abandoned child” refers to a child who has no proper parental
8 care or guardianship, or whose parent(s) has/have deserted him or her for a
9 period of at least three continuous months.

10 (c) “Neglected child” refers to a child whose basic needs have been
11 deliberately unattended or inadequately attended. Neglect may occur in two
12 ways:

13 (1) There is physical neglect when the child is malnourished, ill clad
14 and without proper shelter.

15 A child is unattended when left by himself/herself without provisions for
16 his/her needs and/or without proper supervision.

17 (2) Emotional neglect exists when the child is maltreated, raped or
18 seduced; exploited, overworked or made to work under conditions not
19 conducive to good health; made to beg in the streets or public places; and/or in
20 moral danger, exposed to gambling, prostitution and other vices.

1 (d) "Voluntary committed child" refers to a child whose parent(s),
2 guardian or any relative having custody over him/her knowingly and willfully
3 relinquishes parental authority to the Department of Social Welfare and
4 Development (DSWD).

5 (e) "Child legally available for adoption" refers to a child in whose
6 favor certification was issued by the DSWD that he/she is legally available for
7 adoption after the fact of abandonment or neglect has been proven through the
8 submission of pertinent documents, or one who was voluntarily committed.

9 (f) "Child caring agency" refers to a duly licensed and accredited
10 agency by the DSWD that provides twenty-four (24)-hour residential care
11 services for abandoned, orphaned, neglected or voluntarily committed
12 children.

13 (g) "Child placing agency" refers to an institution licensed by the
14 DSWD to assume the care, custody, protection and maintenance of children for
15 purposes of adoption, guardianship or foster care.

16 (h) "Petitioner" refers to any child caring agency or child placing
17 agency or any other person who files a petition for certification to declare a
18 surrendered, abandoned or neglected child under its/his/her custody legally
19 available for adoption.

20 (i) "Secretary" refers to the Secretary of the DSWD or his/her duly
21 authorized representative.

1 SEC. 3. *Petition.* -- For abandoned and neglected children, the
2 petitioner shall file a petition with the DSWD for certification that a child in
3 his/her/its custody is legally available for adoption. The petition shall be in the
4 form of a duly notarized affidavit. It shall contain facts necessary to establish
5 the merits of the petition and shall state the circumstance surrounding the
6 abandonment and neglect of the child.

7 The petition shall be supported by the following documents:

8 (a) Case study made by a licensed social worker of the local
9 government unit or the DSWD or licensed and accredited child caring agency
10 or child placing agency charged with the custody of the child;

11 (b) Proof that efforts were made to locate the parent(s) or any known
12 relatives of the child. The following shall be considered sufficient proof:

13 (1) Written certification from a radio or television station that the case
14 was aired on three different occasions;

15 (2) Publication in two newspapers of general circulation;

16 (3) Returned registered mail to the last known address of the parent(s)
17 or known relatives if applicable; and

18 (4) Police and/or barangay report.

19 (c) Birth certificate/foundling certificate; and

20 (d) Recent photograph of the child.

1 The petition shall be filed in the Regional Office of the DSWD where
2 the child was found or abandoned.

3 *The Regional Director shall act on the same and shall render a*
4 *recommendation not later than five working days from receipt thereof. He/she*
5 *shall transmit a copy of his/her recommendation and records to the Office of*
6 *the Secretary of the DSWD within five working days from the date of the*
7 *recommendation.*

8 The Secretary shall review the petition and the supporting documents.
9 Upon finding merit in the petition, he/she shall issue a certification declaring
10 the child legally available for adoption within ten (10) working days from
11 receipt of the recommendation.

12 *The decision of the Secretary shall be appealable to the regular courts:*
13 *Provided, That the child has not been placed for adoption.*

14 SEC. 4. *Voluntary Commitment.* – In case of voluntary commitment,
15 the certification declaring the child legally available for adoption shall be
16 issued by the Secretary within ten (10) days from receipt of the Deed of
17 Voluntary Commitment (DVC) and other supporting documents. The DVC
18 shall be submitted to the Office of the Secretary only after the completion of
19 the three months prescriptive period following its signing by the
20 parent(s)/guardian(s)/any relative having custody of the child.

1 Any petition for restoration of parental authority may be filed by the
2 parent(s)/guardian(s)/any relative with the DSWD or child caring/child placing
3 agency having custody of the child within three months after the signing of the
4 DVC.

5 SEC. 5. *Certification.* – The certification that a child is legally available
6 for adoption issued by the DSWD shall be considered a prerequisite in all
7 adoption proceedings. For all intents and purposes, it shall be the primary
8 evidence that the child is legally available in a domestic adoption proceeding,
9 as provided in Republic Act No. 8552 and in an inter-country adoption
10 proceeding, as provided in Republic Act No. 8043.

11 SEC. 6. *Implementing Rules and Regulations.* – The DSWD, together
12 with the Council for the Welfare of Children, the National Statistics Office and
13 two private individuals representing child placing and child caring agencies, is
14 hereby tasked to draft the implementing rules and regulations of this Act within
15 sixty (60) days following its effectivity.

16 SEC. 7. *Penalty.* – The penalty of Fifty thousand pesos (P50,000.00)
17 but not more than Two hundred thousand pesos (P200,000.00) shall be
18 imposed on any person who shall place out a child for adoption or any form of
19 alternative home placement without a DSWD certification that the child is
20 legally available for adoption.

1 Any agency found violating any provision of this Act shall cause the
2 revocation of its license to operate without prejudice to the criminal
3 prosecution of its officer(s) and/or employees(s).

4 SEC. 8. *Repealing Clause.* – Sections 2(c) (iii), 3(e), (h) and 8(a) of
5 Republic Act No. 8552, Section 3(f) of Republic Act No. 8043, Title VIII,
6 Chapter 1 of Presidential Decree No. 603 and any law, presidential decree,
7 executive order, letter of instruction, administrative order, rule or regulation
8 contrary to or inconsistent with the provisions of this Act are hereby repealed,
9 modified or amended accordingly.

10 SEC. 9. *Separability Clause.* – If any provision of this Act is held
11 invalid or unconstitutional, the other provisions not affected thereby shall
12 remain valid and continue in full force and effect.

13 SEC. 10. *Effectivity.* – This Act shall take effect fifteen (15) days
14 following its complete publication in the *Official Gazette* or in at least two
15 newspapers of general circulation, whichever comes earlier.

Approved,