

**IMPLEMENTING RULES AND REGULATIONS
OF REPUBLIC ACT NO. 11767,
THE FOUNDLING RECOGNITION AND PROTECTION ACT**

Pursuant to Section 21 of Republic Act No. 11767, otherwise known as the Foundling Recognition and Protection Act, the following Implementing Rules and Regulations are hereby promulgated:

ARTICLE I

GENERAL PROVISIONS

SECTION 1. Title. – These rules and regulations shall be known and cited as the

Implementing Rules and Regulations (IRR) of Republic Act No. 11767 (R.A. No. 11767), also known as the Foundling Recognition and Protection Act.

SECTION 2. Declaration of Policies. – The State values the dignity of every human being and guarantees full respect for human rights. A child has the same general human rights as an adult, with specific rights that recognize their specific needs. As such, the State shall protect their rights and ensure their access to assistance, including proper care, nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to the development of every child.

The State shall uphold the best interests of the child, including and especially the child with distinct vulnerabilities, such as the neglected, stateless, and abandoned or deserted, by proactively and diligently inquiring into the facts of the child's birth and parentage. It recognizes the generally accepted thrust of international law to reduce and prevent statelessness. It shall protect any child with no known parents by ensuring a natural-born citizen status consistent with the tenets set forth/enumerated under the Constitution, the United Nations Convention on the Rights of the Child, Hague Convention on Certain Questions Relating to Conflict, Convention on the Reduction of Statelessness and other relevant instruments, and the generally accepted principles of international law. The State shall also adopt measures to ensure that support services are provided to foundlings and acts inimical to their welfare are penalized.

In furtherance of the State policy to create one body to exercise all powers and functions relating to alternative child care, State services relating to the protection and welfare of foundlings shall be placed under the National Authority for Child Care (NACC).

SECTION 3. General Objectives. – These IRR shall recognize foundlings as presumed natural-born citizens, provide a streamlined process to expedite the issuance of a Certificate of Live Birth (COLB) under the Act; and to define the roles and functions of the concerned offices such as the NACC, Safe Haven providers, Local Government Units (LGU), and the Philippine Statistics Authority (PSA), in the care and registration of foundlings.

SECTION 4. Definition of Terms. – For purposes of R.A. No. 11767 and these IRR, the following terms are defined:

- (a) *Act* refers to Republic Act No. 11767, otherwise known as the Foundling Recognition and Protection Act;

- (b) *Alternative child care* refers to the provision of planned substitute parental care by a child-caring or child-placing agency to a child who is orphaned, abandoned, foundling, neglected, or surrendered. This may include foster care, kinship care, family-like care, and residential care. Alternative child care will also be provided to abused and exploited children, children with disabilities, children living with HIV/AIDs, victims of trafficking, physical, psychological and sexual abuse, offline and online sexual exploitation, children at risk, children in conflict with the law and children in situations of emergency or crisis and armed conflicts as defined in RA 11642;
- (c) *Case Study Report* refers to a written report as a result of a comprehensive assessment conducted by a licensed social worker as to a person's ethno-cultural, economic, medical, spiritual and psychosocial background, current functioning, and facts or circumstances of abandonment or neglect. The report shall also state the approximate age of the foundling, efforts of the social worker to locate the foundlings' biological parent/s, legal guardian/s, or relative/s. *Provided*, That for adult foundlings with no foundling certificate, no exhaustive case study report by the social worker shall be required but the LSWDO shall issue a case study report on his/her background and qualifications as a foundling under the Act;
- (d) *Certificate Declaring a Child Legally Available for Adoption (CDCLAA)* refers to the final written administrative order issued by the NACC declaring a child as legally available for adoption. The rights of the biological parents, guardian, or other custodians to exercise parental authority over the child shall cease upon issuance of the CDCLAA;
- (e) *Child* refers to a person below eighteen (18) years of age or a person eighteen (18) years of age or over but who is unable to fully take care or protect himself or herself from abuse, neglect, cruelty, exploitation, or discrimination because of physical or psychosocial disability or condition;
- (f) *Child-Caring agency* refers to a duly registered, licensed and accredited agency by the Department of Social Welfare and Development (DSWD), that provides twenty-four (24)-hour residential care services for abandoned, foundling, orphaned, neglected, voluntarily committed or involuntarily committed children and other children in need of alternative child care;
- (g) *Child-Placing agency* refers to a government or a private non-profit or charitable agency duly registered, licensed and accredited by the DSWD to provide comprehensive child welfare services including receiving and processing petitions for adoption and foster care, evaluating the prospective adoptive parent/s (PAP/s) or foster parents, preparing the child case study report and home study report and provide post placement services. The Local Social Welfare and Development Office (LSWDO) and accredited NGOs and Faith-Based Organizations (FBOs) are considered child-placing agencies;
- (h) *Finder* refers to a person of legal age who discovered the deserted or abandoned child. *Provided*, That if the actual finder is a minor, his or her parent or legal guardian shall assist in making the report of the circumstances. *Provided*, Further that if the infant/child is relinquished to a safe haven provider, the Head of the safe haven provider shall be the finder;
- (i) *Foundling* refers to a deserted or abandoned child or infant or person with unknown facts of birth and parentage. This shall also include those who have been duly registered as a foundling during his or her infancy/childhood but have reached the age of majority without benefiting from adoption procedures upon the passage of the Act;

Provided, That only cases of foundlings found within the premises of the Philippine Embassies/Consulates, offices and within the territories abroad shall be covered by the Act. Foundling shall also be used interchangeably with a person with no known parents;

- (j) *Infant* refers to a foundling thirty (30) days old and younger;
- (k) *Local Civil Registrar (LCR)* refers to the Office of the Local Civil Registry responsible for the civil registration program of the city or municipality pursuant to the Civil Registry Law and files, keeps and preserves the books required by law and issues certified transcripts or copies of the registered documents;
- (l) *Local Social Welfare Development Officer (LSWDO)* refers to a person who is a duly licensed social worker and appointed by the local chief executive to head the provincial, city, or municipal social welfare development office which serves as the frontline of the Local Government Unit (LGU) in the delivery of social welfare and development programs and services. The LSWDO shall designate a senior registered social worker to manage cases of adoption, foster care, and other alternative child care programs;
- (m) *Media* refers to traditional media (newspaper of general circulation in the locality), radio in the locality, television, and social media platform;
- (n) *National Authority for Child Care (NACC)* refers to the one-stop quasi-judicial agency on domestic and alternative child care, attached to the DSWD and acts as the Central Authority for all alternative child care programs including domestic and intercountry adoption. It is composed of a Council and a Secretariat headed by an Executive Director;
- (o) *Philippine Statistics Authority (PSA)* refers to the agency which enforces the civil registration functions in the country. It is headed by the National Statistician and Civil Registrar General who provides overall direction in the implementation of the Civil Registry Law and related issuances and exercise technical supervision over the civil registrars;
- (p) *Regional Alternative Child Care Office (RACCO)* refers to the Regional Offices of the NACC created from the Adoption Resource and Referral Units (ARRU) of the DSWD Field Offices. They are tasked to ensure a well-functioning system of receipt of local applications to adopt or to foster, local petitions for CDCLAA and adoption, and other requests regarding alternative placement and well-being of children;
- (q) *Relinquishment* For the purposes of the Act, refers to the act of placing an infant 30 days old and younger to a safe haven provider by the parent or finder;
- (r) *Residential Care Facilities (RCF)* refer to government facilities that provide 24-hour residential group care to children on a temporary basis whose needs cannot, at the time, be adequately met by their biological parents and other alternative child care family arrangements;
- (s) *Safe Haven* refers to a person, non-government or government facility charged with the custody of an infant or child;
- (t) *Social Worker* refers to a licensed practitioner by the Professional Regulations Commission (PRC) who, by academic training and social work professional experience, possesses the skills to achieve the objectives as defined and set by the

social work profession, through the use of the basic methods and techniques of social work (casework, group work, and community organization) which are designed to enable individuals, groups and communities to meet their needs and to solve the problems of adjustment to a changing pattern of society and, through coordination with an organized social work agency which is supported partially or wholly from government or community solicited funds;

- (u) *Stateless Person* refers to a person who is not considered as a national by any State under the operation of its law;

ARTICLE II

SAFE HAVEN

SECTION 5. Safe Haven. – Notwithstanding Articles 276 and 277 of the Revised Penal Code and Republic Act No. 7610, any parent who relinquishes/entrusts an infant thirty (30) days old and younger to the following persons or entities shall be exempted from criminal liability:

- (a) A licensed child-caring agency;
- (b) A licensed child-placing agency;
- (c) A church: *Provided*, That, for purposes of these rules, a church and other places known/recognized shall be defined as a place devoted to religious worship held with regularity;
- (d) Department of Health (DOH)-accredited health facilities including hospitals, infirmaries, city health offices, birthing homes, rural health units, lying-in clinics and barangay health stations;
- (e) A Local Social Welfare and Development Office (LSWDO); and
- (f) DSWD managed residential care facilities and LGU managed residential care facilities.

Provided, That such relinquishment/entrustment did not result in gross negligence or death of the infant.

SECTION. 6. Duties and Responsibilities of the Safe Haven Provider. – The Safe Haven provider shall:

- (a) Act appropriately to provide care to the infant;
- (b) Act as a temporary custodian of the infant;
- (c) Inform the parent that they may, but is not required to answer questions regarding the identity and medical history of the infant;
- (d) Confirm, if practicable, that the parent wishes to permanently relinquish parental rights and release the infant for adoption; and
- (e) Within forty-eight (48) hours from the time of relinquishment of the child by the birth parent/s to the safe haven provider or from the report by a finder that a foundling was discovered, as applicable, inform the NACC through the RACCO that a child has been relinquished in its custody, including all information surrounding the identity and

circumstances of abandonment of the child. The safe haven provider may use the fastest means available in reporting the case and in sending a written report.

SECTION 7. *Status of Infants Relinquished under the Safe Haven Provisions.* – Infants relinquished under the safe haven provisions of the Act shall be considered foundlings. *Provided, That* facts of birth and parentage could not be ascertained.

SECTION 8. *Immunity for the Safe Haven Provider.* – A safe haven that receives an infant pursuant to the Act shall not be liable for any civil damages for any act or omission done in maintaining custody of the infant: *Provided, That* the safe haven provider acts in good faith without gross negligence.

SECTION 9. *Duties and responsibilities of the finder.* The finder shall:

- a) Immediately report within forty-eight (48) hours, the discovery of the foundling to either the LSWDO, or Punong Barangay or police station or any safe haven provider where the foundling was discovered. *Provided, That* in the event that the foundling is found in a different barangay from the residence of the finder, both Punong Barangays or police stations shall be informed. The finder may use the fastest means available in reporting the case. *Provided, Further that* if the foundling was relinquished to a safe haven provider, the Head of the safe haven provider shall, within forty eight (48) hours, report the circumstances of the foundling to the LSWDO, or Punong Barangay or police station;
- b) Execute an affidavit attesting to the facts of the case of the foundling; and
- c) Cooperate in any way possible with the proper authorities in the conduct of a proactive and diligent search and inquiry to establish the identity of a foundling.

In case the finder/s apply/ies to become foster parent/s of the foundling, the NACC, through the RACCO, or LSWDO, or a child-placing agency shall be assessed in accordance to the provisions under Republic Act 10165, as amended.

SECTION 10. *Duties and responsibilities of the LSWDO, Barangay Officials, Community Police Assistance Center (COMPAC) or Police Stations and DOH accredited health facilities.*

Provided, That whoever receives the initial report on the foundling, refer the foundling to a health/medical facility for immediate medical care that the foundling may require.

A. Barangay Officials:

1. Take custody of the foundling until referral to the LSWDO, conduct a search and inquiry into the circumstances surrounding the discovery of the foundling within twenty-four (24) hours;
2. Report and refer the case of the foundling to the LSWDO who shall within forty-eight (48) hours submit an initial report to the NACC through the RACCO regarding the presence of a foundling within their jurisdiction. The barangay officials may use the fastest means available in reporting and referring the case;
3. Ensure and/or follow-up with the finder on the execution of an affidavit;
4. Issue a blotter report on the result of the search and inquiry and endorse the same to the LSWDO; and

5. Submit a Quarterly report to the LSWDO with a summary of cases of foundlings reported to their office on or before the 5th day of the succeeding month.

B. COMPAC/Police Stations

1. Upon receipt of the report of the finder regarding the foundling, conduct a search and inquiry to investigate the circumstances of the foundling within twenty-four (24) hours;
2. Report and refer the case of the foundling to the LSWDO who shall within forty-eight (48) hours, submit an initial report to the NACC through the RACCO regarding the presence of a foundling within their jurisdiction. The COMPAC/Police stations may use the fastest means available in reporting and referring the case;
3. Assist the barangay officials and the LSWDO in the conduct of search and inquiry on the circumstances of the foundling;
4. Issue a blotter report on the result of the search and inquiry and endorse the same to the barangay officials and/or LSWDO;
5. Issue a certification on the circumstances surrounding the foundling's discovery, and the results of the search and inquiry conducted; and
6. Submit a Quarterly report to the LSWDO with a summary of cases of foundlings reported to their office on or before the 5th day of the succeeding month.

C. LSWDO:

1. Within twenty-four (24) hours from receipt of the report from the finder, barangay officials or COMPAC/Police stations, submit an initial report to the NACC through the RACCO regarding the presence of a foundling within their jurisdiction. The LSWDO may use the fastest means available in reporting and referring the case;
2. Coordinate with the NACC through the RACCO and facilitate the provision of appropriate care and services in line with the foundling's needs and best interests, including but not limited to placement to licensed foster parent or, if a foster parent is not available, referral to the nearest safe haven provider, consistent with existing laws;
3. Within fifteen (15) working days, prepare a comprehensive and exhaustive report on the foundling describing the manner by which the foundling was found, when and where the foundling was found, who is the finder, and efforts done including television, radio or print media or tri-media or social media to locate the biological parent/s of the foundling and submit the report to the NACC through the RACCO;
4. Coordinate and facilitate the provision to foundlings of appropriate government care and services, including but not limited to assistance in registration, facilitation of documents for adoption, education, legal and police protection, proper nourishment, medical care for survival and development, and admission to safe and secure child care centers, in their respective local government units, and

5. Submit a Quarterly report to the NACC through the RACCO with a summary of cases of foundlings reported to their office on or before the 15th day of the succeeding month.

D. DOH Accredited Health facilities – Within twenty-four (24) hours, report and refer the foundling to the LSWDO, residential care facilities and/or registered, licensed and accredited child caring agency/child-placing agencies together with the medical report on the foundling.

E. Child-Caring/Child-Placing Agency

1. Within 24 hours from receipt of the foundling, report to the LSWDO regarding the admission of the foundling in their facility. The child-caring/child-placing agency may use the fastest means available in reporting the case;
2. Provide appropriate care and services in line with the foundling's needs and best interest, including but not limited to placement to licensed foster parent consistent with existing laws;
3. Within fifteen (15) working days, prepare a comprehensive and exhaustive report on the foundling describing the manner by which the foundling was found, when and where the foundling was found, who is the finder, and efforts done including television, radio or print media or tri-media or social media to locate the biological parent/s of the foundling and submit the report to the NACC through the RACCO;
4. Coordinate and facilitate the provision to foundlings of appropriate government care and services, including but not limited to assistance in registration, facilitation of documents for adoption, education, legal and police protection, proper nourishment, medical care for survival and development; and
5. Submit a Quarterly report to the NACC through the RACCO with a summary of cases of foundlings admitted in their facility on or before the 5th day of the succeeding month.

F. Department of Foreign Affairs (DFA) – Coordinate with the Philippine Embassy/Consulate or Offices abroad for the return of the foundling to the Philippines, and to the NACC for the referral of the foundling to a registered, licensed and accredited child caring agency or a residential care facility.

SECTION 11. Duties and responsibilities of the Philippine Embassies (PE) / Philippine Consulates (PC), Offices and Territories Abroad:

- (a) Conduct investigation as to the facts of birth of the foundling found within the premises of the Embassy/Consulate or office and within the territories and report the foundling's circumstances to the head of the embassy/consulate or office;
- (b) Within fifteen (15) working days, prepare a comprehensive and exhaustive report on the foundling describing the manner by which the foundling was found, when and where the foundling was found, who is the finder, and efforts done to locate the biological parent/s of the foundling;
- (c) Facilitate the registration and issuance of the COLB of the foundling; and

- (d) Coordinate with the DFA for the return of the foundling to the Philippines, and to the NACC for the referral of the foundling to a licensed and accredited child caring agency or a residential care facility.

ARTICLE III

STATUS AND LEGITIMACY

SECTION 12. *Citizenship Status of a Foundling Found in the Philippines and/or in Philippine Embassies, Consulates, Offices and Territories Abroad.* – A foundling found in the Philippines and/or in Philippine Embassies, Consulates, offices and territories abroad is presumed a natural-born Filipino citizen regardless of the status or circumstances of birth. As a natural-born citizen of the Philippines, a foundling is accorded with rights and protections at the moment of birth equivalent to those belonging to such a class of citizens whose citizenship does not need perfection or any further act.

The presumption of the natural-born status of a foundling may not be impugned in any proceeding unless substantial proof of foreign parentage is shown, and that the foreign citizenship may be transmitted from the parent/s to the foundling. The natural-born status of a foundling shall not also be affected by the fact that the birth certificate was simulated, or the person was legally adopted or that there was an absence of a legal adoption process, or that there was inaction or delay in reporting, documenting, or registering a foundling.

SECTION 13. *Administrative Adoption and Status of Legitimacy.* – The foundling, if still a minor, shall be declared legally available for adoption by the NACC subject to existing laws, rules, and regulations and taking into consideration the best interest of the child. The COLB shall be the sole basis in declaring a Foundling as legally available for adoption.

The relevant provisions of Republic Act No. 11642, otherwise known as the "Domestic Administrative Adoption and Alternative Child Care Act", shall apply in the adoption of foundlings.

Consistent with Section 41 of Republic Act 11642, once the adoption is finalized, the adopted foundling shall be considered the legitimate child of the adopter for all intents and purposes and, as such, is entitled to all the rights and obligations provided by law to legitimate children born to them without discrimination of any kind. To this end, the adoptee is entitled to love, guidance, and support in keeping with the means of the family. The legitimate filiation that is created between the adopter and adopted foundling shall be extended to the adopter's parents, legitimate siblings, and legitimate descendants.

The adopter is also given the right to choose the name by which the adopted foundling is to be known, consistent with the best interest of the child.

SECTION 14. *Alternative Child Care Options.* – The NACC, LSWDO, and any accredited child-caring or child-placing agency shall ensure that foundlings are provided with alternative child care options, such as but not limited to foster care, or even residential care, consistent with existing laws, while the search and inquiry into the facts of birth and parentage of the foundling is ongoing.

SECTION 15. *Right to Government Programs and Services.* – A foundling shall, as a matter of right, be entitled to every available government programs or services, including registration, facilitation of documents for adoption, education, legal and police protection, proper nourishment, and medical/health care for survival and development, and admission to safe and secure residential care facility, child-caring/child-placing agencies.

The NACC, through the RACCO, all relevant government agencies, the concerned LGU, police authorities and the finder shall, at all times, consider the child's best interests in all actions or support services provided for a foundling.

ARTICLE IV

REGISTRATION

SECTION 16. *Conduct of Search and Inquiry.* – Within fifteen (15) working days after relinquishment or reporting, submission of the affidavit of the finder or other concerned person or the information that there is a probable foundling was brought to the attention of the NACC unless more time is needed in view of significant developments, the NACC, through the RACCO, a social worker of the safe haven provider that has temporary custody of the foundling child shall conduct a proactive and diligent search and inquiry into the facts of birth and parentage of the foundling.

SECTION 17. *Procedures in the Conduct of Search and Inquiry.* – The RACCO, a social worker of the safe haven provider that has temporary custody of the foundling shall, within fifteen (15) working days upon receipt of the comprehensive and exhaustive case study report from the LSWDO, child-caring/child placing agency, the NACC, through the RACCO, prepare an official report attesting that the facts of birth and parentage of the foundling remain unknown despite the proactive and diligent search and inquiry conducted. The report must be comprehensive, and exhaustive and must include all the facts regarding the parents and the birth of the foundling: *Provided, That*, for adult foundlings with no foundling certificate, no exhaustive case study report by the social worker shall be required but the LSWDO shall issue a case study report on his/her background and qualifications as a foundling under the Act. The NACC report shall be used for the application for and issuance of the COLB.

For children found abroad, the Philippine Embassy/Consulate and Offices or the DFA must attest that the facts of birth and parentage of the foundling remain unknown despite the proactive and diligent search and inquiry conducted. The case study report must be comprehensive, and exhaustive and must include all the facts regarding the foundling.

SECTION 18. *Proof of Biological Parent Search.* – The following shall be sufficient proof that such efforts to locate the biological parents, guardians, or relatives have been made:

- (a) Certification from radio/or TV stations or proof of publication in newspapers of general circulation or tri-media whichever is applicable that the case was aired on three (3) different occasions;
- (b) Proof of search through the official social media account of the concerned LGU, and safe haven twice in two (2) consecutive weeks; and
- (c) If the foundling is found abroad, certification from the finder, or Head of the Philippine Embassy/Consulate or Office that the biological parent/s have not been found despite diligent search and inquiry.

SECTION 19. *Procedure for Reporting of a Foundling.* – The following procedure shall be followed:

A. If found within the Philippines

1. The finder shall report within forty-eight (48) hours upon discovery of the foundling to the Barangay Officials or COMPAC/Police Stations. *Provided, That*

in informing the Barangay officials or COMPAC/Police Stations, the finder may use the fastest means available to report and the date of reporting shall be the date when the initial report was made.

2. The finder shall also execute an Affidavit of the Finder stating the circumstances of the discovery of the foundling within forty-eight (48) hours.

B. If found Abroad

1. The finder shall, within forty-eight (48) hours upon discovery of the foundling, report to the Philippine Consulate/Embassy or Office regarding the foundling and his/her circumstances.
2. The finder shall execute an Affidavit of the Finder stating the circumstances of the discovery of the foundling within forty-eight (48) hours before the head of the Philippine Consulate/Embassy or Office and endorse the same to the latter.
3. Within forty-eight (48) hours upon receipt of the report of the finder, the Philippine Consulate/Embassy or Office shall report to the DFA Office regarding the foundling. The DFA shall coordinate with NACC for the referral of the foundling to a registered, licensed and accredited child-caring agency or a residential care facility.

SECTION 20. Requirements for the Registration of Foundling. – The following documents shall be required before the foundling may be registered with the LCR:

A. Infant/Child

- (a) Affidavit of the finder;
- (b) Certification/blotter from the barangay captain or police authority on the circumstances surrounding the foundling's discovery: *Provided, That*, in the event that the child is found in a different barangay from the residence of the finder, both barangay officials shall issue a certification/blotter; and
- (c) Report of the NACC duly signed by the authorized officer.

B. Adult Foundling

- (a) Affidavit of the finder; and
- (b) LSWDO case study report on the foundlings' background, including the estimated age of the foundling, and qualifications as a foundling under the Act.

SECTION 21. Procedure for the Registration of a Foundling. – The following procedure shall be followed:

- (a) The NACC through the RACCO or social worker of the safe haven provider shall fill out and submit the application for registration to the LCR which shall issue the COLB of the foundling after receipt of the requirements: *Provided, That* one who has an existing certificate of foundling or a similar official document issued before the implementation of the Act may secure a COLB before the LCR, which shall immediately issue one, without cost, on the basis of such document alone: *Provided, Further, That* a certificate of foundling or a similar official document shall continue to have the same legal effect as a COLB.

For adult foundlings, they shall fill out and submit the application for registration to the LCR which shall issue the COLB after receipt of the requirements.

- (b) The LCR shall review and prepare the COLB based on the initial draft of the COLB prepared by the registrant. Four (4) copies of the COLB shall be prepared by the LCR.
- (c) Thereafter, the LCR shall cause the registration of the COLB of a person with no known parent/s in the Registry of Book of Foundlings
- (d) Within five (5) working days from the registration in the Registry of Book of Foundlings Live Birth of the COLB of a person with no known parent/s, the LCR shall provide the copies of the COLB bearing the civil registry number as follows:
 1. The first copy shall be given to the registrant.
 2. The second copy shall be given to the document owner.
 3. The third copy together with a copy of the Case Study Report shall be forwarded to the PSA-Office of the Civil Registrar General (OCRG).
 4. The fourth copy shall be retained by the LCR Office for safekeeping.
- (e) The PSA-OCRG, upon receipt of all the required documents, shall verify the authenticity, accuracy, and completeness of the documents.
- (f) Thereafter, the PSA-OCRG shall either upload the COLB in the Civil Registration Service database or, if applicable, provide feedback to the LCR Office, the registrant and the document owner.

The concerned agencies shall streamline the registration process for a foundling, regardless of age and circumstances, in order to expedite the issuance of a COLB and without placing any unnecessary burden on the foundling: *Provided*, That the foundling has the right to access all the documentary requirements submitted for registration: *Provided*, Further, that in the COLB and succeeding public documents, the foundling shall not be referred to as such, or in any other discriminatory manner. *Provided*, Furthermore, that the foundling shall not be considered stateless between the period of finding or discovery and the issuance of the order of confirmation of citizenship: *Provided*, Finally, that the privacy and the best interest of the foundling shall be protected at all times.

SECTION 22. Revocation of Issued COLB. – The biological parent/s, the NACC through its RACCO or the LSWDO or the safe haven provider may at any time file a petition for the revocation of the COLB before the LCR where the COLB was originally registered based on the following grounds:

- (a) The parentage of the foundling has been established; or
- (b) Fraud to conceal the material facts of birth or parentage of the person that would otherwise not render the person as a foundling.

If the parentage of one foundling is established but cannot acquire the citizenship of the parents which will result in statelessness, the foundling shall retain Philippine citizenship until such time that it can be established that the foundling is able to benefit from the citizenship of either parent.

SECTION 23. Recovering Legal Custody and Restoring Parental Authority. – The biological parent/s or legal guardian of a foundling may petition the NACC to recover the legal custody and restore parental authority over the foundling child: *Provided*, That if the child was voluntarily committed, or if any of the following is pending with the NACC:

- (a) Petition for issuance of Certificate Declaring a Child Legally Available for Adoption (CDCLAA);
- (b) Supervised Trial Custody, or
- (c) Petition for Adoption,

The relevant provisions of Republic Act No. 11642 specifically, Section 27 of the Implementing Rules and Regulations of the Republic Act No. 11642, otherwise known as the "Domestic Administrative Adoption and Alternative Child Care Act" shall apply.

The NACC through its RACCO or the LSWDO or the safe haven provider shall provide counseling and other necessary programs and services to the biological parents, and the intervention/assistance to authorities when the biological parents of a foundling are identified and express the desire to take custody or exercise parental authority over the foundling.

SECTION 24. Requirements and procedures for recovering legal custody and restoring parental authority. The following requirements and procedures shall apply:

A. Requirements

- (a) Genetic test result;
- (b) Parenting Capability Assessment Report duly signed by the LSWDO;
- (c) Notarized petition for recovering legal custody and restoring parental authority; and/or
- (d) Court Decision of Legal Guardianship

B. Procedures

- (a) The petition for recovering legal custody and restoring parental authority shall be filed only by the biological parent/s or legal guardian to the RACCO not later than three (3) months after relinquishment to the safe haven provider or knowledge that the child has been relinquished to a safe haven provider;
- (b) The biological parent/s shall submit a result of genetic testing, which shall mean deoxyribonucleic acid tests, from a government laboratory. The cost of the genetic testing shall be shouldered by the biological parent/s or legal guardian. If the petition is filed by the legal guardian, submission of a court decision granting legal guardianship shall be submitted.
- (c) Within fifteen (15) working days from receipt of the petition, the RACCO shall investigate the merits of the petition for recovering legal custody and restoring parental authority; render a recommendation, and transmit a copy of such recommendation, together with the supporting documents to the NACC Executive Director.
- (d) Within ten (10) working days from receipt of the petition and recommendation from the RACCO, the NACC social worker shall review the petition and endorse recommendation to the NACC Executive Director for approval.

- (e) Within ten (10) working days from receipt of the recommendation of the social worker, the NACC Executive Director shall approve the recommendation and endorse the same to the Secretary of the DSWD for approval during the transition period. If no action was taken by the DSWD Secretary or his representative within ten (10) calendar days from receipt of the endorsement, the NACC Executive Director's Decision shall be deemed approved. After the transition period, all recommendations shall be signed by the NACC Executive Director.

SECTION 25. Standard Forms, documentation and reporting Requirements. – The NACC, together with the PSA, shall formulate and produce official, uniform, and standard forms of the documentary requirements that will be easily used and submitted.

ARTICLE V

VIOLATIONS AND PENALTIES

SECTION 26. Violations and Penalties. – The following penalties shall be imposed:

- (a) The penalty of imprisonment of not less than six (6) months but not more than six (6) years shall be imposed on any person who falsifies or is involved in the falsification of the registration of the supposed foundling, including the documents required therefor: *Provided*, That a public officer found to have been involved in such act of falsification shall be punished by the penalty next higher in degree;
- (b) The penalty of imprisonment of not less than six (6) months but not more than five (5) years shall be imposed on the finder, the concerned NACC or RACCO employees, staff of child-caring and child-placing facilities, safe haven providers, police officers, city, municipality and barangay officers, health employees, hospital staff and any other concerned person who refuses, delays, or obstructs the conduct of search and inquiry into the facts of birth and parentage of the foundling;
- (c) A fine ranging from Five Hundred thousand pesos (P500,000.00) to One million pesos (1,000,000.00) shall be imposed on a safe haven provider that does not report within forty-eight hours that an infant was relinquished within its premises;
- (d) Without prejudice to criminal liability under other laws, a fine ranging from One million pesos (1,000,000.00) to Five Million pesos (P5,000,000.00) or imprisonment of not less than three (3) months but not more than two (2) years, or both, shall be imposed on any person who falsifies or is involved in the falsification of the registration of the supposed foundling, including the documents required therefor, to facilitate the crime of kidnapping or trafficking in persons: *Provided*, That a public officer found to have been involved in such act of falsification shall be punished by the penalty next higher in degree and shall be perpetually disqualified from office.

The penalties under this section are without prejudice to other liabilities arising from existing civil, administrative, and criminal laws for the same act or violation.

ARTICLE VI

FINAL PROVISIONS

SECTION 27. *Advocacy and Information Dissemination.* – The NACC, in coordination with the Philippine Statistics Authority (PSA), together with LSWDOs, Local Council for the Protection of Children (LCPC), Department of Interior and Local Government (DILG), and other relevant stakeholders shall conceptualize, conduct, and coordinate the information dissemination and advocacy campaigns which includes but not limited to the provisions and implementation of this Act, and the issues and concerns affecting a foundling through the different media platforms.

SECTION 28. *Data Collection.* – In order to develop and implement more responsive policies, plans, and programs for foundlings, regular and synchronized data collection shall be conducted by the LGUs in coordination with the PSA, NACC, and other relevant stakeholders. The collection, preservation, and sharing of data shall be conducted pursuant to Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012".

SECTION 29. *Retroactive Application.* – The Act shall have retroactive effect for any foundling insofar as it does not prejudice or impair vested or acquired rights pursuant to existing laws.

SECTION 30. *Implementing Rules and Regulations.* – Within ninety (90) days from the approval of the Act, the Secretary of the Department of Social Welfare and Development (DSWD) and the Executive Director of the Inter-Country Adoption Board shall, in consultation with the Secretary of the Department of Justice, Secretary of the Department of Interior and Local Government (DILG), Philippine Statistics Authority (PSA), Council for the Welfare of Children (CWC) and two (2) representatives from child-caring agencies catering to abandoned children and foundlings, formulate the rules and regulations to implement the Act.

SECTION 31. *Transitory Provision.* – All the benefits of this Act shall also apply to foundlings duly registered as such during their childhood, but have reached the age of majority without benefiting from adoption procedures: *Provided*, That such foundling shall undergo the procedure and comply with the requirements outlined in the IRR within ten (10) years from its effectivity.

Before the establishment of the NACC as provided under Section 56 of Republic Act No. 11642, the functions of the NACC relating to foundlings shall remain with the DSWD. The functions of the RACCO shall, during the three (3) year period, be performed by the DSWD field offices in coordination with the LSWDOs.

SECTION 32. *Repealing Clause.* – All other laws, decrees, executive orders, issuances, rules, and regulations, or parts thereof inconsistent with this Act are hereby likewise repealed or amended accordingly.

SECTION 33. *Separability Clause.* – If for any reason, any section or provision of these IRR is declared unconstitutional or invalid, the other sections or provisions not affected thereby shall remain in full force and effect.

SECTION 34. *Suppletory Clause.* – Republic Act No. 11642, otherwise known as the "Domestic Administrative Adoption and Alternative Child Care Act", Republic Act No. 11222 or the "Simulated Birth Rectification Act", Executive Order No. 209, s. 1987 or "The Family Code of the Philippines", and other existing and applicable laws on adoption and on child welfare, care and protection shall have a suppletory application to these IRR.

SECTION 35. Effectivity. - These IRR shall take effect fifteen (15) days after the completion of the publication in at least two (2) newspapers of general circulation or the Official Gazette. Three (3) certified true copies must be filed with the University of the Philippines Law Center's Office of the National Administrative Register (UPLC-ONAR).

Approved in the City of Manila this 9th day of September 2022.



ERWIN T. TULFO

Secretary

Department of Social Welfare and Development



JANELLA MARIE V. EJERCITO

Executive Director

National Authority for Child Care



BENJAMIN C. ABALOS JR.

Secretary

Department of Interior and Local Government



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