

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 76



Introduced by Representative PAUL R. DAZA

**AN ACT ESTABLISHING THE RULES AND POLICIES ON THE DOMESTIC
ADMINISTRATIVE ADOPTION OF FILIPINOS AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Adoption is considered by societies as an important mechanism through which orphaned, abandoned, abused, or neglected children may have better chances in life. It also allows single individuals or couples to become parents even without biological siring of offspring.

However, the social and legal processes of adoption in the Philippines is considered by many as tedious and costly. Thus far, only 177 cases were issued Adoption Decree of which 60% were finalized within 1 to 3 years.¹ The current law, Republic Act No. 8552 or Domestic Adoption Act of 1998, requires a set of procedures—while founded on good intents—that often lead to emotional and financial strains on parties involved, not to mention clogging of cases in courts.

Adoption is a statutory mandate of the Department of Social Welfare and Development (DSWD). Since time immemorial, because of its expertise in knowledge, training, and experience, the DSWD has been the primordial body that sees to the implementation of adoption rules and procedures, allowing adoptive parents and adopted children to enjoy the fullness of blissful family life.

Thus, conformably to the Doctrine of Primary Jurisdiction², it is imperative, if not beneficial, to empower by law the DSWD to adopt and implement an administrative adoption procedure.

¹ The number could be higher because there are adoption cases that do not go through the DSWD even while many courts do not furnish DSWD of copies of decrees. Whereas, if adoption will become entirely administrative for all cases/categories, DSWD will have a concrete record of finalized adoptions in the country since through the Book of Adoptions, the 1-3 years' timeframe only refers to the adoption of children issued with CDCLAA. Many of the remaining cases took as long as five (5) years.

² The Doctrine of Primary Jurisdiction holds that if a case is such that its determination requires the expertise, specialized training and knowledge of an administrative body, relief must first be obtained in an administrative proceeding before resort to the courts is had even if the matter may well be within their proper jurisdiction. (*Euro-Med Laboratories, Phil., Inc., vs. The Province of Batangas*, G.R.No.148106, July 17, 2006; 495 SCRA 301, 304 [2006]).

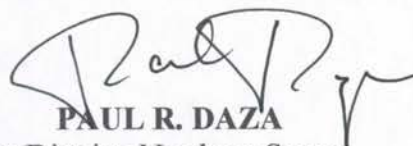
In fact, Congress has already recognized the doctrine through, at least, two statutes: Republic Act 9523 and Republic Act 11222.

Republic Act 9523 or the CDCLAA Law is "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, OTHERWISE KNOWN AS THE DOMESTIC ADOPTION ACT OF 1998, REPUBLIC ACT NO. 8043, OTHERWISE KNOWN AS THE INTER-COUNTRY ADOPTION ACT OF 1995, PRESIDENTIAL DECREE NO. 603, OTHERWISE KNOWN AS THE CHILD AND YOUTH WELFARE CODE, AND FOR OTHER PURPOSES." This law transferred to the DSWD from the courts the declaration of the abandonment of a child.

Republic Act No. 11222 or the Simulated Birth Rectification Act, entitled "AN ACT ALLOWING THE RECTIFICATION OF SIMULATED BIRTH RECORDS AND PRESCRIBING ADMINISTRATIVE ADOPTION PROCEEDING FOR THE PURPOSE." likewise transferred to the DSWD from the courts the rectification of simulated birth records and the resultant administrative adoption.

In brief, making the adoption process purely an administrative proceeding and empowering the DSWD to do it will save costs for intending adoptive parents, promote wholesome family life for disadvantaged children, and de-clog the already overburdened courts.

In view of the foregoing, the immediate approval of this bill is earnestly sought.


PAUL R. DAZA
First District, Northern Samar

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ARTICLE I
GENERAL PROVISIONS

Section 1. *Short Title.* – This Act shall be known as the *Domestic Administrative Adoption Act of the Philippines*.

Section 2. *Declaration of Policy.* – It is hereby declared the policy of the State to ensure that every child remains under the care and custody of their parents or relative and be provided with love, care, understanding, and security towards the full and healthy development of the child's personality. Only when such efforts prove insufficient and no appropriate placement or adoption within the child's biological family or relative is available shall adoption by an unrelated person be considered.

It shall also be the State policy to:

- (i) Safeguard the biological parents from making hasty decisions to relinquish his/her parental authority over his/her child;
- (ii) Prevent unnecessary separation of the child from his/her biological parent(s);
- (iii) Protect the adoptive parent(s) from attempts to disturb his/her parental authority and custody over his/her adopted child;
- (iv) Conduct public information and educational campaigns to promote a positive environment for adoption;
- (v) Ensure that sufficient capacity exists within government and private sector agencies to handle adoption inquiries, process domestic adoption applications, and offer adoption-related services including, but not limited to pre/post-adoption services for the biological parent(s), child, and adoptive parent(s);
- (vi) Encourage domestic adoption so as to preserve the child's identity and culture in his/her native land, and only when this is not available shall intercountry adoption be considered.

No child shall be a subject of administrative adoption unless the status of the child has been declared legally available for adoption either in a judicial or administrative proceeding except in cases of relative or step-parent adoption where such declaration is not required.

It is hereby recognized that the administrative adoption processes under the jurisdiction of the Department of Social Welfare and Development for the cases of legally available children adult adoptees, relative within the fourth degree of consanguinity or affinity are the most expeditious proceedings that will redound to their best interest.

Section 3. Objectives. - This Act shall provide for and allow a simpler and inexpensive domestic administrative adoption proceedings.

Section 4. Definition of Terms. – As used in this Act:

- (a) **Abandoned Child** refers to one who has no proper parental care or guardianship or whose parent(s) has deserted him/her for a period of at least three (3) continuous months;
- (b) **Actual Custodian** refers to the guardian or spouses who raised a child/person and consistently treated him/her as his/her/their own child.
- (c) **Adoption** is a socio-legal process of giving a permanent family to a child whose parents have voluntarily or involuntarily given up their parental rights;
- (d) **Child** refers to a person below eighteen (18) years of age or a person 18 years or over but is unable to fully take care or protect himself/ herself from abuse, neglect, cruelty, exploitation, or discrimination because of physical or psycho-social disability or condition;
- (e) **Childcaring agency** is a duly licensed and accredited agency by the Department that provides twenty-four (24)- hour residential care services for legally available children;
- (f) **A child legally available for adoption** refers to a child or person, whose case is abandoned, neglected or surrendered and who has been voluntarily or involuntarily committed to the Department or to a duly licensed child-caring/child-placing agency and issued with a Certification declaring him/her available for adoption;
- (g) **Childplacing agency** is a duly licensed and/or accredited agency by the Department to provide comprehensive child welfare services including but not limited to facilitating applications for adoption, evaluating the prospective adoptive parents and preparing the home study report;
- (h) **Department** refers to the Department of Social Welfare and Development;
- (i) **Domestic Adoption** refers to adoption proceeding, which is undertaken between a Filipino child and adoptive parents who are permanently residing in the Philippines;
- (j) **Foundling** refers to a person whose facts of birth are unknown;
- (k) **Involuntarily Committed Child** is one whose parent(s), known or unknown, has been permanently and judicially deprived of parental authority due to abandonment; substantial, continuous or repeated neglect; abuse or incompetence to discharge parental responsibilities;
- (l) **Matching** refers to the judicious selection from the regional or interregional levels of a family for a child based on the child's needs and in his/her best interest as well as the capability and commitment of the adoptive parents to provide such needs and promote a mutually satisfying parent-child relationship;
- (m) **Neglected** is one whose basic needs have been deliberately unattended or inadequately attended within a period of three (3) continuous months;

- (n) **Regional Director** refers to the head of the regional office of the Department of Social Welfare and Development
- (o) **Relative** refers to a relative within the fourth degree of consanguinity or affinity;
- (p) **Secretary** refers to the Secretary of the Department of Social Welfare and Development;
- (q) **Simulation of birth** refers to supplying of wrong information to the birth record of a child making it appear in the birth records that a certain child was born to a person who is not the biological mother, causing the loss of the true identity of the child;
- (r) **Social Welfare Development Officer** 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 in the delivery of social welfare and development programs and services;
- (s) **Social worker** any person who practices social work in the Philippines and who is registered or exempted from registration in accordance with the provisions of relevant laws or mandate of governing professional regulatory agency (e.g., Professional Regulation Commission).
- (t) **Step-Parent** is a parent who is married to the father or mother of a child, but who is not that child's biological father or mother;
- (u) **Supervised trial custody** is a period of six (6) months within which the social worker oversees the adjustment and emotional readiness of both the adopter(s) and adoptee in stabilizing their filial relationship;
- (v) **Surrendered Child** refers to a child whose parent(s) knowingly and voluntarily relinquished parental authority to the Department.

ARTICLE II PRE-ADOPTION SERVICES

Section 5. Services. - It shall be the duty of the Local Government Unit, child caring agencies or child placing agencies to ensure that necessary services are provided to the biological parents of the child to prevent the child's separation from them. In cases where adoption is being considered or might be considered, counselling services by a licensed social worker to the following shall be conducted:

(a) *Biological Parent(s)* - Counselling shall be provided to the parent(s) before and after the birth of his/her child. No binding commitment to an adoption plan shall be permitted before the birth of his/her child. In all proceedings for adoption, the Department shall require proof that the biological parent(s) has been properly counselled to prevent him/her from making hurried decisions caused by strain or anxiety to give up the child, and to sustain that all measures to strengthen the family have been exhausted and that any prolonged stay of the child in his/her own home will be inimical to his/her welfare and interest.

A period of three (3) months after the signing of the Deed of Voluntary Commitment shall be allowed for the biological parent(s) to reconsider any decision to relinquish his/her child for adoption. Counselling and rehabilitation services shall also be offered to the biological parent(s) after he/she relinquished his/her child for adoption.

(b) *Prospective Adoptive Parent(s)* - Counselling sessions, adoption fora and seminars, among others, shall be provided to prospective adoptive parent(s) to resolve possible adoption issues and to prepare him/her for effective parenting.

Adoption telling shall be one of the central themes of the fora/seminar to equip the prospective adoptive parents with the ability to divulge the adoption to the adoptee in a manner that will strengthen the parent-child relationship.

(c) *Prospective Adoptee* - Counselling sessions shall be provided to ensure that he/she understands the nature and effects of adoption and is able to express his/her views on adoption in accordance with his/her age and level of maturity.

Early disclosure of adoption as a proven helpful practice shall be mandatory for children four (4) years old and above. A licensed social worker must conduct adoption-themed activities to such children, which in turn will inculcate the positive aspects of adoption in their young minds.

Section 6. Location of Parent(s). - It shall be the duty of the Department or the child-placing or the child-caring agency, which has custody of a child to exert all efforts using, but not limited to tri-media and any other possible means to locate the biological parent(s) of the child and seek his/her/their consent. If such efforts fail and if applicable, the child shall be registered as a foundling and subsequently be the subject of administrative proceedings where he/she shall be declared abandoned.

ARTICLE III ELIGIBILITY

Section 7. Who May Adopt. – The following may adopt:

(a) Any Filipino citizen of legal age, in possession of full civil capacity and legal rights, of good moral character, has not been convicted of any crime involving moral turpitude, emotionally and psychologically capable of caring for children, at least sixteen (16) years older than the adoptee, and who is in a position to support and care for his /her children in keeping with the means of the family. The requirement of sixteen (16) year difference between the age of the adopter and the adoptee may be waived when the adopter is the biological parent of the adoptee, or is the spouse of the adoptee's parent or older sibling of the adoptee;

(b) A foreigner who seeks to adopt the legitimate son/daughter of his/her Filipino spouse; or

(c) A foreigner who is married to a Filipino citizen and seeks to adopt jointly with his/her spouse a relative within the fourth (4th) degree of consanguinity or affinity of the Filipino spouse, provided the spouses are habitually residing in the Philippines; or

(d) The legal guardian with respect to the ward after the termination of the guardianship and clearance of his/her financial accountabilities;

(e) The actual custodian with respect to the child or person who has been under his/her care and whom he/she genuinely and consistently treated as son or daughter;

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

- (i) if one spouse seeks to adopt the legitimate son/ daughter of the other;
- (ii) if one spouse seeks to adopt his/her own illegitimate son/daughter; Provided, however, that the other spouse has signified his/her consent thereto;
- (iii) if the spouses are legally separated from each other. In case husband and wife jointly adopt, or one spouse adopts the illegitimate son/daughter of the other, joint parental authority shall be exercised by the spouses.

Section 8. *Who May Be Adopted.*- The following may be adopted:

- (a) Any Filipino child below eighteen (18) years of age who has been administratively or judicially declared available for adoption;
- (b) The legitimate son/daughter of one spouse by the other spouse;
- (c) An illegitimate son/daughter by a qualified adopter to improve his status to that of legitimacy;
- (d) A Filipino of legal age if, prior to the adoption, said person has been consistently considered and treated by the adopter(s) as his/her own child since minority;
- (e) A child whose adoption has been previously rescinded; or
- (f) A child whose biological or adoptive parent(s) has died: *Provided*, That no proceedings shall be initiated within six (6) months from the time of death of said parent(s).
- (g) A relative within the 4th degree of affinity or consanguinity of the adopter.

Section 9. *Whose Consent is Necessary to the Adoption.* – After being properly counseled and informed of the right to give or withhold approval of the adoption, the written consent of the following to the adoption is hereby required:

- (a) the adoptee, if ten (10) years of age or over;
- (b) the biological parent of the child, if known, or the legal guardian who has legal custody of the child;
- (c) the legitimate and adopted sons/ daughters, ten (10) years of age or over, of the adopter and adoptee, if any;
- (d) the illegitimate sons/ daughters, ten (10) years of age or over, of the adopter if living with said adopter and the latter's spouse, if any; and
- (e) the spouse, if any, of the person adopting or to be adopted.

Section 10. *Documentary Requirements.* - The Prospective Adoptive Parent(s) (PAPs) shall attach the following to the Petition for Adoption:

1. Home Study and Child Study Report duly prepared by a licensed social worker;
2. Authenticated birth record of the PAPs and the child;
3. NBI/Police Clearance; if a foreigner married to a Filipino, clearance from the international police and police authorities of the country or countries where he has been a resident.

4. Written consent to the adoption by the biological parent(s) or the person(s) exercising substitute parental authority over the child and the written consent of the child if at least ten (10) years old, signed in the presence of the social worker of the Department or child caring agency after proper counseling as prescribed in this Act;
5. Authenticated Death Certificate of biological parent(s), as applicable;
6. Certification Declaring a Child Legally Available for Adoption (CDCLAA), as applicable;
7. Result of recent medical evaluation of the child and PAPs;
8. Result of Psychological Evaluation of the PAPs;
9. Result of Psychological Evaluation of the child, as applicable;
10. Child care plan with list of at least three temporary custodians of the child in order of preference in case of death, absence, or incapacity of the PAPs;
11. Letter attesting to the character and general reputation of the PAPs from at least three (3) non-related character references, of whom one must preferably come from an employer/supervisor or with whom the PAP(s) have business dealings. The other two recommendation could come from neighbor, community leader or anyone who could vouch for the PAPs' reputation and moral standing. The contact details of the person attesting must be so indicated in the letter;
12. Recent close-up and full body pictures of the child and PAPs taken within the last six (6) months.
13. For cases of relative within the 4th degree of consanguinity or affinity, genogram must be attached to establish the relationship between the prospective adoptee and adopter/s.

The social worker of the Department is not precluded from asking additional documents he may deem necessary as proof of facts alleged in the petition or to establish a factual claim.

ARTICLE IV PROCEDURE

Section 11. Case Study and Home Study Report. – A licensed social worker from the social service office of the local government unit, or any child-placing or child-caring agency or an adoption social worker with at least 3 years experience in handling adoption cases, as certified by the Department shall conduct a case study of the adoptee, his/her biological parent(s), as well as the adopter(s), and shall submit the report and recommendations on the matter to the Department as among the supporting documents of the petition.

The case study of the adoptee shall establish that he/she is eligible for adoption and that the documents to support this fact are valid and authentic. It shall also be established that a regular child is legally available for adoption and various intervention were extended to the child's biological family.

Further, the home study of the prospective adoptive parent(s) shall ascertain his/her genuine intentions and that the adoption is in the best interest of the prospective adoptee.

If after the conduct of the case studies, the social worker discovered new information that would warrant denial of the petition, he shall make the proper recommendation to the Department, furnishing a copy thereof to the petitioner.

The case studies and other relevant documents and records pertaining to the adoptee and the adoption shall be preserved by the Department.

Section 12. Matching Process. - There shall be a matching process for cases of legally available children, thirty (30) days after the issuance of the CDCLAA or the next matching conference, whichever is applicable. The matching of the child to an approved adoptive parent/s shall be carried out during the regular matching conference by the Matching Committee in the regional level otherwise called the Child Welfare Specialist Group (CWSG) where the social workers of the child and family are present. Subject to the approval of the Department, the CWSG shall fix its own internal rules and procedures. However, it is provided that records of children and approved adoptive parent/s not matched after two (2) presentations in the regional level shall be forwarded to the Department's Central Office for interregional matching; provided further that children with special needs shall be immediately forwarded if not matched in the first meeting, except under special circumstances. The matching proposal made by the CWSG shall be approved by the Department.

Cases of relative adoption shall not undergo the matching process, instead, the PAPs shall automatically be issued with Pre-Adoption Placement Authority.

Section 13. Issuance of Pre-Adoption Placement Authority. - Once a child is matched to an approved prospective adoptive parent(s) and was subsequently accepted, except for cases of relative adoption, the Department shall authorize the pre-adoption placement of the child to the PAPs.

Section 14. Supervised Trial Custody. - After the matching process and issuance of Pre-Adoption Placement Authority (PAPA), the Department shall give the adopter(s) trial custody of the adoptee for a period of at least six (6) months within which the parties are expected to adjust psychologically and emotionally to each other and establish a bonding relationship. The trial custody shall be monitored bi-monthly by the social worker who prepared the home study report and submit a report regarding the placement.

During said period, temporary parental authority shall be vested in the adopter(s). The trial custody may be waived in cases of step-parent, relative, and adult adoptions.

In case the placement did not prosper, the social worker must provide the necessary intervention to ensure that the child is protected and his/her needs are adequately responded.

Section 15. Petition for Administrative Adoption. - The thriving parent-child relationship during the Supervised Trial Custody period as substantiated by the bi-monthly monitoring report of the social worker shall give rise to the filing of a Petition for Administrative Adoption.

The petition for administrative adoption shall be notarized and state the facts necessary to establish the merits of the petition. The petitioner must specifically allege that he/she is of legal age, in possession of full civil capacity and legal rights; is of good moral character; has not been convicted of any crime involving moral turpitude; is emotionally and psychologically capable of caring for children; is at least sixteen (16) years older than the adoptee, unless the adopter is the biological parent of the adoptee or is the spouse of the adoptee's parent or is the sibling of the adoptee; and is in a position to support and care for his children in keeping with the means of the family and has undergone pre-adoption services.

No subsequent petition for adoption shall be entertained unless a prior petition has attained finality.

Section 16. *Where to file the Petition for Administrative Adoption.* - The petition shall be filed with the DSWD Field Office where the PAPs reside.

Section 17. *Administrative Adoption Process.* - The Regional Director shall review the petition and the supporting documents. The identity of the child and the petitioner including the motivation to adopt shall be personally determined by him through the documents and interview with the petitioner and the child. The RD shall have thirty (30) days to examine the petition and its supporting documents and determine whether the same is sufficient in form and substance, he shall render a recommendation thereof and forward the petition and the supporting documents within seven (7) days to the Office of the Secretary of Social Welfare and Development, from the date of the recommendation. The Secretary shall act and decide on the recommendation within thirty (30) days from receipt thereof.

If the RD finds that the petition is insufficient in form or substance, the RD shall return the same to the petitioner with a written explanation of its insufficiency.

Section 18. *Objection to the Petition.* - Any person who has personal knowledge of any information, which by ordinary diligence could not be discovered, and which when introduced and admitted, would result in the denial of the Petition and protect the child from possible harm or abuse may at anytime during the STC or before the issuance of the Order of Adoption, interpose an objection to the petition and file a complaint supported by evidence to that effect, with the Office of the Regional Director or Office of the Secretary. The complaint will be subjected to verification and further investigation.

Section 19. *Order of Adoption.* - If the supervised trial custody is satisfactory to the parties and the Department is convinced from the trial custody report, the petition and its supporting documents that the adoption shall redound to the best interests of the adoptee, a decree of adoption shall be issued, which shall take effect as of the date the original petition was filed even if the petitioner(s) die before its issuance. The same shall be final and executory.

The order shall:

A. State the name by which the child is to be known and registered;

B. Order:

1) the adopter to submit a certified true copy of the order of adoption to the Civil Registrar where the child was originally registered within thirty (30) days from receipt of the Order of Adoption.

2) the Civil Registrar of the place where the adoptee was registered:

a. to annotate on the adoptee's original birth record the order of adoption within thirty (30) days from receipt of the Adoption Order;

b. to issue a new certificate of birth which shall not bear any notation that it is a new or amended certificate and which shall show, among others, the following: registry number, date of registration, name of child, sex, date of birth, place of birth, name and citizenship of adoptive mother and father, and the date and place of their marriage, when applicable;

c. to seal the original birth record in the civil registry records which can be opened only upon order of the Secretary of the Department; and

d. to submit to the Department proof of compliance with all the foregoing within thirty (30) days from receipt of the decree.

Section 20. *Benefits of Prospective Adoptive Parent(s).* When the child is seven (7) years old or below, the issuance of PAPA shall entitle the PAPs to the rights and privileges of a biological parent under the existing laws.

Section 21. *Civil Registry Record.* – An amended certificate of birth shall be issued by the Civil Registry, pursuant to the Order of Adoption, attesting to the fact that the adoptee is the child of the adopter(s) by being registered with his/her surname. The original birth record shall be stamped "*cancelled*" with the annotation of the issuance of an amended birth certificate in its place and shall be sealed in the civil registry records. The new birth certificate to be issued to the adoptee shall not bear any notation that it is an amended issue.

Section 22. *Book of Adoptions.* - The Department shall keep a book of adoptions showing the date of issuance of the Order in each case, compliance by the Civil/Municipal Registrar with the preceding section and all incidents arising after the issuance of the decree.

Section 23. *Confidentiality.* – All petitions, documents, records, and papers relating to administrative adoption proceedings in the files of the city or municipal SWDOs, the DSWD Central and Field Offices, or any other agency or institution participating in such proceedings shall be kept strictly confidential. If the disclosure of certain information to a third person is necessary for security reasons or for purposes connected with or arising out of the administrative adoption and will be for the best interest of the adoptee, the Secretary may, upon appropriate request, order the necessary information released, restricting the purposes for which it may be used and in accordance with the existing laws on data privacy.

Section 24. *Alternative Family Care Bureau.* An office dedicated for alternative family care to which adoption belongs shall be created including the required staff complement.

Section 25. *Fees.* - The city or municipal SWDO, DSWD, the Office of the Local Civil Registrar, Child Caring/Placing Agencies may charge socialized fees to those who avail of the

administrative adoption proceedings under this Act subject to the rate to be determined by the Department.

A social worker handling cases of adoption for at least three (3) years, as certified by the Department, may also charge cost recovery fee to be determined by the DSWD for the conduct of home visits, monitoring visits and child and home study report. However, three years after the effectivity of this Act and onwards, adoption social workers must be accredited by the Department.

ARTICLE V EFFECTS OF ADOPTION

Section 26. *Legitimacy.* – The adoptee shall be considered the legitimate son/daughter of the adopter for all intents and purposes and as such is entitled to all the rights and obligations provided by law to legitimate sons/ daughters 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.

Section 27. *Parental Authority.* – Except in cases where the biological parent is the spouse of the adopter, all legal ties between the biological parents and the adoptee shall be severed and the same shall then be vested on the adopter.

Section 28. *Succession.* – In legal and intestate succession, the adopter and the adoptee shall have reciprocal rights of succession without distinction from legitimate filiation. However, if the adoptee and his/her biological parents had left a will, the law on testamentary succession shall govern.

ARTICLE VI POST-ADOPTION SERVICES

Section 29. *Preliminaries to Adoption Telling.*– It shall be the duty of the social worker who handled the child's case to conduct activities to adoptees four (4) years old or above, that will trigger or provide them inkling about the adoption. This is based on the principle that in adoption, the earlier the child knows about it, would be to his/her advantage. However, nothing in this Act shall be construed as mandatory for the social worker to divulge the adoption. His/her role is merely to incite the adoption telling by the adoptive parent(s).

Section 30. *Tracing the Roots.*–Upon reaching the age of majority, an adoptee may seek the assistance of the Department, Local Government Unit or the Child Caring/Placing Agency to trace his/her biological family and eventually have a face to face meet-up, provided, the adoption triad received adequate preparation from a licensed social worker regarding the said meet-up.

Section 31. - *Monitoring and Submission of Report.* Upon finalization of the adoption, the social worker of the adoptive parents is hereby mandated to conduct post-placement monitoring to ensure that the adoption redounded to the best interest of the child. A semestral report shall be submitted to the Department during the first two (2) years of the issuance of the order of adoption. Depending on the age and/or circumstances of the child, DSWD shall require additional visit/reporting (i.e., annual) after the two-year period.

ARTICLE VII RECISSION OF ADOPTION

Section 31. *Grounds for Rescission of Adoption.* — Upon petition of the adoptee with the Department of Social Welfare and Development, or with the assistance of the SWDO if he is a minor, or if he is over eighteen (18) years of age but is incapacitated or by his guardian, the adoption may be rescinded on any of the following grounds committed by the adopter:

- (a) repeated physical or verbal maltreatment by the adopter despite having undergone counselling;
- (b) attempt on the life of the adoptee;
- (c) sexual abuse or violence; or
- (d) abandonment and failure to comply with parental obligations.

Adoption, being in the best interest of the child, shall not be subject to rescission by the adopter. However, the adopter may disinherit the adoptee for causes provided in Article 919 of the Civil Code.

SECTION 32. *Venue.*— The petition shall be filed with the DSWD Field Office where the adoptee resides.

SECTION 33. *Time within which to file petition.*— Upon existence of any ground, the adoptee or the SWDO, must file the petition for rescission or revocation of adoption.

SECTION 34. *Order to Answer.*— The Department shall issue an order requiring the adverse party to answer the petition within fifteen (15) days from receipt of a copy thereof. The order and copy of the petition shall be served on the adverse party in such manner as the Department may direct.

SECTION 35. *Decision.*— If the Department finds that the allegations of the petition are true, it shall render decision ordering the rescission of adoption, with or without costs, as justice requires.

The Department shall order that the parental authority of the biological parent of the adoptee, if known, or the legal custody of the Department shall be restored if the adoptee is still a minor or incapacitated and declare that the reciprocal rights and obligations of the adopter and the adoptee to each other shall be extinguished.

The Department shall further declare that successional rights shall revert to its status prior to adoption, as of the date of decision. Vested rights acquired prior to administrative rescission shall be respected.

It shall also order the adoptee to use the name stated in his original birth or foundling certificate.

The Department shall further order the Civil Registrar where the adoption order was registered to cancel the new birth certificate of the adoptee and reinstate his original birth or foundling certificate.

SECTION 36. *Service of Decision.*— A certified true copy of the decision shall be served by the petitioner upon the Civil Registrar concerned within thirty (30) days. The Civil Registrar shall forthwith enter the rescission order in the register and submit proof of compliance to the Department within thirty (30) days from receipt of the order.

All the foregoing effects of rescission of adoption shall be without prejudice to the penalties imposable under the Penal Code if the criminal acts are properly proven.

ARTICLE VIII VIOLATION AND PENALTIES

Section 37. *Violations and Penalties.* – (a) The penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and/or a fine not less than Fifty Thousand Pesos (PhP 50,000.00), but not more than Two Hundred Thousand Pesos (P200,000.00) at the discretion of the court shall be imposed on any person who shall commit any of the following acts:

- (i) obtaining consent for an adoption through coercion, undue influence, fraud, improper material inducement, or other similar acts;
- (ii) non-compliance with the procedures and safeguards provided by the law for adoption; or
- (iii) subjecting or exposing the child to be adopted to danger, abuse, or exploitation.

(b) Any person who shall cause the fictitious registration of the birth of a child under the name(s) of a person(s) who is not his/her biological parent(s) shall be guilty of simulation of birth, and shall be punished by prision mayor in its medium period and a fine not exceeding Fifty Thousand Pesos (PhP50,000.00).

Any physician, midwife or nurse or hospital personnel who, in violation of his/her oath of office, shall cooperate in the execution of the above-mentioned crime shall suffer the penalties herein prescribed as well as the penalty of permanent disqualification from the practice of profession following relevant prescriptions of the law and governing authorities (e.g., Professional Regulation Commission).

Any person who shall violate established regulations relating to the confidentiality and integrity of records, documents, and communications of adoption applications, cases, and processes shall suffer the penalty of imprisonment ranging from one (1) year and one (1) day to two (2) years, and/or a fine of not less than Five Thousand Pesos (PhP5,000.00) but not more than Ten Thousand Pesos (P10,000.00), at the discretion of the court.

A penalty lower by two (2) degrees than that prescribed for the consummated offense under this Article shall be imposed upon the principals of the attempt to commit any of the acts herein enumerated. Acts punishable under this Article, when committed by a syndicate or where it involves two (2) or more children shall be considered as an offense constituting child trafficking and shall merit the penalty of *reclusion perpetua*.

Acts punishable under this Article are deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any of the unlawful acts defined under this Article. Penalties as are herein provided, shall

be in addition to any other penalties which may be imposed for the same acts punishable under other laws, ordinances, executive orders, and proclamations.

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

Any government official, employee or functionary who shall be found guilty of violating any of the provisions of this Act, or who shall conspire with private individuals shall, in addition to the above-prescribed penalties, be penalized in accordance with existing civil service laws, rules and regulations: *Provided*, That upon the filing of a case, either administrative or criminal, said government official, employee, or functionary concerned shall automatically be suspended until the resolution of the case.

ARTICLE IX FINAL PROVISIONS

Section 38. *Information Dissemination.* - The DSWD, in coordination with the Department of the Interior and Local Government (DILG), the Department of Education (DepEd), the Department of Justice (DOJ), the Department of Health (DOH), the Council for the Welfare of Children (CWC) shall disseminate information regarding this Act and its implementation to the public.

Section 39. *Implementing Rules and Regulations.* - The Secretary, after due consultation with the Philippine Statistics Authority, DOJ, DILG, DepEd, DOH, NBI, Association of the LCR, NCDA, DFA, Child's Rights Network, PhilHealth, SSS, CWC and Office of the Solicitor General, and two (2) private individuals representing child-placing and child-caring agencies shall formulate the necessary guidelines to make the provisions of this Act operative.

Section 40. *Appropriations.* - Such sum as may be necessary for the implementation of the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

Section 41. *Repealing Clause.* - All laws, decrees, letters of instruction, executive issuances, resolutions, orders or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, modified, or amended accordingly.

Section 42. *Saving Clause.* - Nothing in this Act shall affect any right of an adoptee acquired by judicial proceeding or otherwise before the commencement of this Act.

Section 43. *Separability Clause.* - If any provision or part of this Act is declared unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full force and effect.

Section 44. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,