

Republic of the Philippines
HOUSE OF REPRESENTATIVES

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3689**



Introduced by Representative Gloria Macapagal-Arroyo

**AN ACT ALLOWING THE RECTIFICATION OF SIMULATED BIRTH RECORDS
AND PRESCRIBING ADMINISTRATIVE ADOPTION PROCEEDINGS**

EXPLANATORY NOTE

It is a fact that most "adoptions" in the Philippines have been and continue to be handled through simulation of birth. It is estimated that there have been several hundred thousand Filipinos who have been informally adopted in this manner. In these cases, because the assumed filiation under simulated births have no legal basis, the child is deprived of the benefits of legally adopted children.

The Domestic Adoption Act of 1998 which was signed into law on February 25, 1998 and took effect on March 22, 1998, provides for an amnesty from pecuniary and penal sanctions for those who have falsified the birth certificates of minors in their custody through the registration of simulated birth certificates.

Since 1998 to 2001, only a total of 364 applicants have availed of the amnesty against the estimated number of those who simulated the birth registration of minors.

The low number of applicants can be attributed to the unpreparedness of the "parents" to legalize the adoption and their ambivalence to tell the child of his/her status. Also, it was known that the parents complained about the tedious process in the rectification of the simulated birth. Further, the public has a misconception towards the amnesty provide by law.

In view of the above, educating and informing the public on the facts of rectification of the simulated birth requires time, effort and money. For those who have falsified birth certificates, the amnesty given to them expired in March of year 2003. The information dissemination efforts of the concerned agencies to encourage the people to avail of the amnesty was ineffective. Hence, allowing the rectification of simulated births for a certain number of years is hereby proposed.

For this reason, the approval of this bill is earnestly sought.

REP. GLORIA MACAPAGAL-ARROYO
Second District, Pampanga

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

SECTION 1. *Rectification of Simulated Birth Record.* - Notwithstanding any provision of law to the contrary, a person who, prior to the effectivity of this Act, simulated the birth of a child shall not be criminally liable for such act: *Provided*, That the simulation of birth was made for the best interest of the child and that the child had been consistently considered and treated by the person as one's son or daughter: *Provided, further*, That such person has filed a petition for adoption with an application for rectification of simulated birth record within ten (10) years from the effectivity of this Act.

For purposes of this Act, simulation of birth refers to the tampering of the civil registry 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.

SEC. 2. *Administrative Adoption and Rectification of Simulated Birth Record.* - A person who simulated the birth of a child under the conditions provided under Section 1 of this Act may avail of administrative proceedings for the adoption and rectification of the simulated birth record of the child: *Provided*, That the child has been living with the person for at least five (5) years before the effectivity of this Act.

Article III on Eligibility, Article V on Effects of Adoption, and Article VI on Rescission of Adoption of Republic Act No. 8552, otherwise known as the "Domestic Adoption Act of 1998", shall apply to administrative adoption under this Act. An administrative adoption decree obtained under this Act shall have the same effect as a decree of adoption issued pursuant to Republic Act No. 8552.

SEC. 3. *Procedure.* - The petition for adoption with application for rectification of simulated birth record shall be in the form of an affidavit and shall be subscribed and sworn to before any person authorized by law to administer affirmations and oaths. It shall state the facts necessary to establish the merits of the petition and the circumstances surrounding the simulation of the birth of the child. The petition shall be supported by the following:

- (a) The simulated birth certificate of the child;
- (b) A social case study report prepared by the Social Welfare and Development Office of the city or municipality where the child resides;
- (c) Information on the identities, background, and location of the biological parents of the child;

(d) The affidavits of at least two (2) disinterested persons, who reside in the same barangay where the child resides, attesting that the child has been living with the petitioner for at least five (5) years prior to the effectivity of this Act;

(e) Proof of publication of the petition in at least one (1) newspaper of general circulation in the region where the child resides and of posting in at least three (3) conspicuous places in the city or municipality where the child resides; and

(f) Recent photographs of the child and the petitioner.

The petition shall be filed with the Office of the Social Welfare and Development Officer (SWDO) of the city or municipality where the child resides. The SWDO shall have three (3) days to examine the petition and its supporting documents and determine whether the same is sufficient in form and substance. If the SWDO finds that the petition is insufficient in form or substance, the SWDO shall return the same to the petitioner with a written explanation of its insufficiency. If the SWDO finds the petition sufficient in form and substance, the SWDO shall forward the petition and the supporting documents within seven (7) days to the Regional Director of the Department of Social Welfare and Development (DSWD) Field Office (hereinafter referred to as the Regional Director) exercising jurisdictional responsibility over the city or municipality where the child resides.

The Regional Director shall act and decide on the petition within thirty (30) days from receipt thereof. The Regional Director may require the petitioner to submit additional information or evidence to support the petition. The failure of the petitioner to comply with the request for additional evidence of the Regional Director shall not preclude the Regional Director from deciding the petition based on the evidence on hand.

The decision of the Regional Director may be appealed to the Secretary of Social Welfare and Development, hereinafter referred to as the Secretary, within ten (10) days from receipt thereof. The Secretary shall act and decide on the appeal within thirty (30) days from receipt thereof.

The SWDO, DSWD, and the Office of the Local Civil Registrar may charge socialized fees to those who avail of the administrative adoption proceedings under this Act.

SEC. 4. *Decree of Adoption.* - If the Regional Director or the Secretary determines that the adoption shall redound to the best interests of the child, a decree of adoption shall be issued which shall take effect on the date the petition was filed, even if the petitioner dies before its issuance.

SEC. 5. *Civil Registry Record.* - Upon the finality of the decree of adoption, the Regional Director shall immediately transmit the same to the Local Civil Registrar of the place with custody over the simulated birth record of the child. The record of simulated birth shall be stamped "cancelled" with an annotation of the issuance of a new certificate of birth in its place and shall be sealed in the civil registry records. The new certificate of birth to be issued shall not bear any notation that it is a new or amended issue.

SEC. 6. *Confidentiality.* - All petitions, documents, records, and papers relating to administrative adoption proceedings in the files of the City or Municipal Social Welfare and Development Offices, 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.

SEC. 7. *Regular Adoption Proceedings.* - Persons who are not qualified to avail of administrative proceedings for the adoption and rectification of the simulated birth record of a child under Section 2 of this Act may initiate adoption proceedings only in accordance with Republic Act No. 8552 and Administrative Matter No. 02-6-02-SC, otherwise known as the Rule on Adoption.

SEC. 8. *Information Dissemination.* - The DSWD, in coordination with the Department of the Interior and Local Government, shall disseminate information regarding this Act to the public.

SEC. 9. *Implementing Rules and Regulations.* - The Secretary shall issue such rules and regulations for the effective implementation of this Act within thirty (30) days from its approval.

SEC. 10. *Repealing Clause.* - Section 22 of Republic Act No. 8552, otherwise known as the "Domestic Adoption Act of 1998", is hereby amended. All other 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.

SEC. 11. *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.

SEC. 12. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,