

**Fourteenth Congress
Second Regular Session**

Begun and held in Metro Manila, on Monday, the twenty-eight day of July, two thousand eight.

REPUBLIC ACT No. 9523 **March 12, 2009**

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

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

Section 1. Declaration of Policy. – It is hereby declared the policy of the State that alternative protection and assistance shall be afforded to every child who is abandoned, surrendered, or neglected. In this regard, the State shall extend such assistance in the most expeditious manner in the interest of full emotional and social development of the abandoned, surrendered, or neglected child.

It is hereby recognized that administrative processes under the jurisdiction of the Department of Social Welfare and Development for the declaration of a child legally available for adoption of abandoned, surrendered, or neglected children are the most expeditious proceedings for the best interest and welfare of the child.

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

(1) Department of Social Welfare and Development (DSWD) is the agency charged to implement the provisions of this Act and shall have the sole authority to issue the certification declaring a child legally available for adoption.

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

(3) Abandoned Child refers to a child who has no proper parental care or guardianship, or whose parent(s) have deserted him/her for a period of at least three (3) continuous months, which includes a founding.

(4) Neglected Child refers to a child whose basic needs have been deliberately unattended or inadequately attended within a period of three (3) continuous months. Neglect may occur in two (2) ways:

(a) There is physical neglect when the child is malnourished, ill-clad, and without proper shelter. A child is unattended when left by himself/herself without proper provisions and/or without proper supervision.

(b) There is emotional neglect when the child is maltreated, raped, seduced, exploited, overworked, or made to work under conditions not conducive to good health; or is made to beg in the streets or public places; or when children are in moral danger, or exposed to gambling, prostitution, and other vices.

(5) Child Legally Available for Adoption refers to a child in whose favor a certification was issued by the DSWD that he/she is legally available for adoption after the fact of abandonment or neglect has been proven through the submission of pertinent documents, or one who was voluntarily committed by his/her parent(s) or legal guardian.

(6) Voluntarily Committed Child is one whose parent(s) or legal guardian knowingly and willingly relinquished parental authority to the DSWD or any duly accredited child-placement or child-caring agency or institution.

(7) Child-caring agency or institution refers to a private non-profit or government agency duly accredited by the DSWD that provides twenty-four (24) hour residential care services for abandoned, neglected, or voluntarily committed children.

(8) Child-placing agency or institution refers to a private non-profit institution or government agency duly accredited by the DWSD that receives and processes applicants to become foster or adoptive parents and facilitate placement of children eligible for foster care or adoption.

(9) Petitioner refers to the head or executive director of a licensed or accredited child-caring or child-placing agency or institution managed by the government, local government unit, non-governmental organization, or provincial, city, or municipal Social Welfare Development Officer who has actual custody of the minor and who files a certification to declare such child legally available for adoption, or, if the child is under the custody of any other individual, the agency or institution does so with the consent of the child's custodian.

(10) Secretary refers to the Secretary of the DSWD or his duly authorized representative.

(11) Conspicuous Place shall refer to a place frequented by the public, where by notice of the petition shall be posted for information of any interested person.

(12) Social Case Study Report (SCSR) shall refer to a written report of the result of an assessment conducted by a licensed social worker as to the social-cultural economic condition, psychosocial background, current functioning and facts of abandonment or neglect of the child. The report shall also state the efforts of social worker to locate the child's biological parents/relatives.

Section 3. *Petition.* – The petition shall be in the form of an affidavit, subscribed and sworn to before any person authorized by law to administer oaths. It shall contain facts necessary to establish the

merits of the petition and shall state the circumstances surrounding the abandonment or neglect of the child.

The petition shall be supported by the following documents:

- (1) Social Case Study Report made by the DSWD, local government unit, licensed or accredited child-caring or child-placing agency or institution charged with the custody of the child;
- (2) Proof that efforts were made to locate the parent(s) or any known relatives of the child. The following shall be considered sufficient:
 - (a) Written certification from a local or national radio or television station that the case was aired on three (3) different occasions;
 - (b) Publication in one (1) newspaper of general circulation;
 - (c) Police report or barangay certification from the locality where the child was found or a certified copy of a tracing report issued by the Philippine National Red Cross (PNRC), National Headquarters (NHQ), Social Service Division, which states that despite due diligence, the child's parents could not be found; and
 - (d) Returned registered mail to the last known address of the parent(s) or known relatives, if any.
- (3) Birth certificate, if available; and
- (4) Recent photograph of the child and photograph of the child upon abandonment or admission to the agency or institution.

Section 4. Procedure for the Filing of the Petition. – The petition shall be filed in the regional office of the DSWD where the child was found or abandoned.

The Regional Director shall examine the petition and its supporting documents, if sufficient in form and substance and shall authorize the posting of the notice of the petition conspicuous place for five (5) consecutive days in the locality where the child was found.

The Regional Director shall act on the same and shall render a recommendation not later than five (5) working days after the completion of its posting. He/she shall transmit a copy of his/her recommendation and records to the Office of the Secretary within forty-eight (48) hours from the date of the recommendation.

Section 5. Declaration of Availability for Adoption. – Upon finding merit in the petition, the Secretary shall issue a certification declaring the child legally available for adoption within seven (7) working days from receipt of the recommendation.

Said certification, by itself shall be the sole basis for the immediate issuance by the local civil registrar of a founding certificate. Within seven (7) working days, the local civil registrar shall transmit the founding certificate to the National Statistic Office (NSO).

Section 6. Appeal. – The decision of the Secretary shall be appealable to the Court of Appeals within five (5) days from receipt of the decision by the petitioner, otherwise the same shall be final and executory.

Section 7. Declaration of Availability for Adoption of Involuntarily Committed Child and Voluntarily Committed Child. – The certificate declaring a child legally available for adoption in case of an involuntarily committed child under Article 141, paragraph 4(a) and Article 142 of Presidential Decree No. 603 shall be issued by the DSWD within three (3) months following such involuntary commitment.

In case of voluntary commitment as contemplated in Article 154 of Presidential Decree No. 603, the certification declaring the child legally available for adoption shall be issued by the Secretary within three (3) months following the filing of the Deed of Voluntary Commitment, as signed by the parent(s) with the DSWD.

Upon petition filed with the DSWD, the parent(s) or legal guardian who voluntarily committed a child may recover legal custody and parental authority over him/her from the agency or institution to which such child was voluntarily committed when it is shown to the satisfaction of the DSWD that the parent(s) or legal guardian is in a position to adequately provide for the needs of the child: *Provided*, That, the petition for restoration is filed within (3) months after the signing of the Deed of Voluntary Commitment.

Section 8. Certification. – The certification that a child is legally available for adoption shall be issued by the DSWD in lieu of a judicial order, thus making the entire process administrative in nature.

The certification, shall be, for all intents and purposes, the primary evidence that the child is legally available in a domestic adoption proceeding, as provided in Republic Act No. 8552 and in an inter-country adoption proceeding, as provided in Republic Act No. 8043.

Section. 9. Implementing Rules and Regulations. – The DSWD, together with the Council for Welfare of Children, Inter-Country Adoption Board, two (2) representatives from licensed or accredited child-placing and child-caring agencies or institution, National Statistics Office and Office of the Civil Registrar, is hereby tasked to draft the implementing rules and regulations of this Act within sixty (60) days following its complete publication.

Upon effectivity of this Act and pending the completion of the drafting of the implementing rules and regulations, petitions for the issuance of a certification declaring a child legally available for adoption may be filled with the regional office of the DSWD where the child was found or abandoned.

Section 10. Penalty. – The penalty of One hundred thousand pesos (P100,000.00) to Two hundred thousand pesos (P200,000.00) shall be imposed on any person, institution, or agency who shall place a child for adoption without the certification that the child is legally available for adoption issued by the DSWD. Any agency or institution found violating any provision of this Act shall have its license to operate revoked without prejudice to the criminal prosecution of its officers and employees.

Violation of any provision of this Act shall subject the government official or employee concerned to appropriate administrative, civil and/or criminal sanctions, including suspension and/or dismissal from the government service and forfeiture of benefits.

Section 11. Repealing Clause. – Sections 2(c)(iii), 3(b), (e) and 8(a) of Republic Act No. 8552, Section 3(f) of Republic Act No. 8043, Chapter 1 of Title VII, and VIII of Presidential Decree No. 603 and any law, presidential decree, executive order, letter of instruction, administrative order, rule, or

regulation contrary to or inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

Section 12. Separability Clause. – If any provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 13. Effectivity. – This Act shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation or in the *Official Gazette*.

Approved,

(Sgd.) **PROSPERO C.
NOGRALES**
Speaker of the House of
Representatives

(Sgd.) **JUAN PONCE
ENRILE**
President of the Senate

This Act which is a consolidation of Senate Bill No. 2391 and House Bill No. 10 was finally passed by the Senate and the House of Representatives December 17, 2009.

(Sgd.) **MARILYN B. BARUA-
YAP**
Secretary General
House of Representatives

(Sgd.) **EMMA LIRIO-REYES**
Secretary of Senate

Approved: **MAR 12, 2009**

(Sgd.) **GLORIA MACAPAGAL-ARROYO**
President of the Philippines

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