



Rec'd:
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20 April 2018

REPRESENTATIVE DIVINA GRACE C. YU
House Committee on the Welfare of Children
House of Representatives
Quezon City

Dear *Representative Yu*:

This refers to the proposed **House Bill 5090** entitled “**An Act Codifying the Alternative Child Care Laws of the Philippines**” or the “**Alternative Child Care Code**”, introduced by Representatives Gloria Macapagal-Arroyo, Karlo Alexei B. Nograles and Jericho Jonas B. Nograles, Ma. Lourdes Acosta-Alba, Evelina G. Escudero, and Manuel Jose “Mannix” M. Dalipe.

While we acknowledge the objective of the Committee to streamline the process of alternative child care in the Philippines by establishing the National Child Care Authority (NCCA) as DSWD attached agency that will implement all laws relative to it, we strongly believe that the Department of Social Welfare and Development (DSWD) is the competent authority in all matters pertaining to the provision of alternative care to children. Given this, **our position is to retain the implementation of alternative child care and placement under the DSWD** with the following justifications:

1. All matters on child welfare, particularly on alternative child care, should be retained under the DSWD’s mandate. This is to ensure that the rights of children-especially those from the poor and vulnerable sectors are promoted and protected as indicated under the DSWD’s Organizational Outcome No. 2 (OO 2) to be consistent with the Philippine Development Plan (PDP) 2017-2022. The creation of DSWD was based on the State’s commitment to provide alternative protection and assistance through foster care and/or adoption for every child who is neglected, orphaned or abandoned;
2. In 1991, the passage of Republic Act 7160 otherwise known as the Local Government Code of 1991 effected the devolution of DSWD basic service delivery functions to local government units. However, the alternative child care program was retained under the DSWD as implementing it requires the expertise and specialization of a competent authority. The DSWD, is the authority most capable of providing effective case management.
3. The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, which is an international convention dealing with international adoption, child laundering, and child trafficking, also recognizes the DSWD as the competent authority on intercountry adoption, through the Inter-Country Adoption Board (ICAB), the Central Authority in intercountry adoption in the Philippines;
4. With the recent implementation of Administrative Order No. 1 series of 2018 (Functional Structure of DSWD Field Offices) and Administrative Order No. 2 series of 2018 (Strengthening the DSWD Central Office), the DSWD aims to further strengthen its existing operations and support offices and increase the efficiency, effectiveness and

synchronicity of the different offices, bureaus, sections and units in achieving the Department's vision, mission and reform agenda.

Hence, the Protective Services Bureau (PSB) where alternative child care program is lodged now distinctly operates from other sectoral programs to intensify the monitoring of cases of children needing alternative care and placement;

5. Permanent placement of children is already being done efficiently with the DSWD's existing policies in place on alternative child care. These policies ensure the systematic and effective implementation of child placement either thru domestic or intercountry adoption and residential care as well as foster care. In the effort of the DSWD to strengthen its alternative child care programs, DSWD Field Office Regional Directors are directed to implement the memorandum directing social workers designated at the Adoption Resource and Referral Section (ARRS) and other unit covering foster care and other alternative child care at the Field Office (FO) to solely handle adoption and other forms of alternative child care program on a full-time basis. This is to ensure that issues and concerns pertaining to the program as well as adoption and foster care cases received by the Field Offices are acted upon on time. Further, the PSB has established the Monitoring and Evaluation (M&E) Unit on Child Placement Services to ensure timely and appropriate placement of children needing alternative family care;
6. The passage of Republic Act 10165 or the Foster Care Act of 2012 supports the DSWD's policy on de-institutionalization of children by virtue of Memorandum Circular 22 series of 2004. Under M.C. 22, children from institutions are provided alternative family care, independent living and other community-based services as facilitating schemes in the care, recovery, protection, rehabilitation and development of children. Institutionalization should also be resorted to as a temporary and/or last resort for these children;
7. Amendments to certain policies, as necessary, are being done continuously by the DSWD, in close coordination and consultation with concerned agencies/offices such as the Inter-Country Adoption Board (ICAB), Association of Child-Caring Agencies in the Philippines (ACCAP), Courts, adoptive and foster parents, and other stakeholders to address the issues and gaps in the implementation of alternative child care. We also have guidelines on Minors Traveling Abroad and anti-trafficking in persons as safety mechanisms to ensure the protection of children;
8. The Protective Services Bureau (PSB) of the Department created the Technical Working Group (TWG) on Alternative Family Care to lead in the identification of issues, gaps and other valuable information on emerging alternative child care-related challenges and how these may be addressed, including enhancing internal procedures or by a legislative proposal;
9. Compliance to the turn-around period on the issuance of CDCLAA and Inter-country Adoption (ICA) Clearance is achievable through streamlining of DSWD's processes and procedures. There is no need for the creation of a separate entity; and
10. DSWD periodically monitors as well as provide technical assistance on case management to government and non-government social workers in order to fast-track the movement of cases of children under their care based on the child's permanency plan.

Further, in several consultation dialogues with Family Court Judges from different regions nationwide, a strong suggestion was made to make the adoption proceedings administrative in nature and to transfer the function to the DSWD, which the Judges said has expertise on the said matter. Such recognition of DSWD's expertise strongly affirms its position.

There have been cases wherein the finalization of adoption in court takes a substantial amount of time due to certain factors. This prevents early placement of children for adoption. Also, there are cases wherein family courts and even court social workers to handle adoption cases are lacking in some areas.

With these circumstances, **we appeal for a substitute bill that will make the entire judicial adoption proceedings administrative in nature, and it should make the DSWD responsible for such**, similar to the declaration of abandonment, instead of creating a new DSWD attached agency as proposed on House Bill 5090, to address the tedious and costly process on the finalization of adoption in court.

By doing so, we believe that it will hasten the adoption process in the Philippines as adoption cases will be removed from the bulk of cases pending in court. Moreover, this effort will favor all prospective adoptive parents as the process will no longer be costly for them. This will encourage more individuals or couples to adopt children.

We also recommend the inclusion on the rectification of simulated births with the prescriptive period of ten (10) years from the effectivity of the law in the substitute bill, as there were few people who availed of the 5-year amnesty on the rectification of simulated births under Republic Act 8552 or the "Domestic Adoption Act", which ended in 2003. The 10-year period is recommended as DSWD has to work on the process on the administrative adoption proceedings which shall entail series of meetings and consultations and in setting the organizational mechanisms to ensure a seamless implementation of the law.

This will also encourage and enable more people with children under their care whom they treated as their own to legalize their relationship in a simple and reasonable process that would give these children all the benefits of adoption and ensure their status as well as their rights under the law and society.

Thank you.

Very truly yours,



EMMANUEL A. LEYCO
DSWD OIC-Secretary