

December 11, 2019

Honorable RISA HONTIVEROS

Chairperson

Committee on Women, Children, Family Relations

and Gender Equality

Senate of the Philippines

Pasay City

Dear **Senator Hontiveros**:

The Department of Social Welfare and Development (DSWD) **supports** Senate Bill No. 1070 entitled: “**Domestic Administrative Adoption Act**”, introduced by Senator Grace Poe, which seeks to hasten the process, minimize the cost on the part of the petitioners and de-clog numerous court cases, thus, benefiting the public in general and encourage more individuals or couples to adopt children.

To contribute to the bill's enhancement, we are recommending the following:

1. On **Sec. 2 – Declaration of Policy, 2nd paragraph**, to **insert** the word “**best**” before the word “interest”, to read as:

*“In all matters relating to the care, custody and adoption of a child, his/her **best** interest shall be the paramount consideration...”*

2. On **Sec. 3 – Objectives**, to **add** the word “**expeditious**”, to read as:

*“This Act shall provide for and allow simpler, **expeditious** and inexpensive....”*

3. On **Sec. 4 – Definition of Terms**

3.1 On **letter (d): Adoption**, to **rephrase** to read as: “the social process of **providing** a permanent family to a child whose parents have voluntarily or involuntarily relinquished parental authority over the child”;

3.2 On **letter (f): Child-Placing Agency**, to **rephrase** to read as: “a private, non-profit or charitable institution or government agency duly licensed and/or accredited by the Department to provide comprehensive child welfare services, including but not limited to receiving applications for adoption/foster care, evaluating the Prospective Adoptive Parents/Foster Parents, preparing the home study report and all other processes required for adoption”;

- 3.3 On **letter (g): Child-caring Agency**, to **delete** the word “**regular**”, to read as: “A duly licensed and accredited agency by the Department that provides twenty-four (24)-hour residential services for children”;
- 3.4 On **letter (i): Domestic Adoption**, to **include** the word, “**eligible**” before the word, “adoptive parents”, to read as: “xxx Filipino child and “**eligible**” adoptive parent xxx”;
- 3.5 On **letter (j): Foundling**, to **revise** the definition to read as: “an infant/child that has been abandoned by its parents/guardian and is discovered and cared for by others and whose facts of birth are unknown”;
- 3.6 On **letter (o): Relative**, to read as: “someone **who is** within the fourth degree of consanguinity or affinity”;
- 3.7 On **letter (u): Surrendered Child**, to read as: “a child whose parent(s) knowingly and voluntarily relinquished parental authority to the Department **or to a duly licensed Child-Placing/Child-Caring Agencies**”;
- 3.8 To **adopt** the terms and definitions provided for under **Section 3 (Definition of Terms) of the Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9523 or “Child Legally Available for Adoption”**;
- 3.9 To **include** definitions of the following terms:
- 3.9.1 **Deed of Voluntary Commitment**, to read as: “a written and notarized instrument relinquishing parental authority and committing the child to the care and custody of the Department executed by child’s biological parent(s) or by the child’s legal guardian in their absence, mental incapacity or death, to be signed in the presence of an authorized representative of the Department after counseling and other services have been made available to encourage the child’s biological parent(s) to keep the child”; and
- 3.9.2 **Prospective Adoptive Parents (PAPs)**, to read as: “a person mentioned under Section 7 of the RA 8552 who have filed an application for adoption”; and
4. **Sec. 5 – Services**, to **rephrase** to read as:

*“It shall be the duty of the Local Government Unit, **Child Caring/Placing Agencies and Department** to ensure that necessary counseling services by licensed social workers to the following shall be conducted...”*

5. **Sec. 6 – Location of Unknown Parent(s)**, to rephrase to read as:

*“It shall be the duty of the Department, **Local Government Unit** or the Child-Placing/Child-Caring Agencies which has custody of **the** child to exert **diligent efforts** using, but not limited to tri-media and any other possible means to locate his/her unknown biological parent(s) **or immediate relatives in order to determine his/her/their permanency plan over the child.**”*

6. **Sec. 7 – Who May Adopt**

6.1 On **letter (a)**

6.1.1 To **change “at least twenty-five (25) years of age” to “of legal age”**;

6.1.2 Under exceptions, to **add “if the adopter is a relative of the child within the 4th degree of consanguinity”**; and

6.1.3 To **consider the additional exception included in Section 7 of the IRR of RA 8552** on the 16-year age difference if the adopter is the biological sibling of the adoptee, to wit:

“(b) Is at least sixteen (16) years older than the adoptee; Provided, however that the minimum age gap between the adopter and the adoptee may not be required if the adopter is the biological parent or sibling of the adoptee, or the spouse of the adoptee’s parent;”

6.2 On **letter (e)**, to **add a timeline** under which the child has been continuously under the care of the actual custodian.

6.3 To **clarify** whether “**gender**” of the PAP is a qualification criterion.

7. **Sec. 8 – Who May Be Adopted**

To include a timeline for adult adoptees (or of legal age) who have been under the consistent care and guardianship of the adoptive family.

8. **Sec. 10 – Documentary Requirements**

8.1 On **item 3**, to rephrase to read as:

*“Marriage Certificate, if the PAPs **are** married; or Court Decision/Certificate of Finality, if annulled, divorced or legally separated;”*

8.2 On **item 7**, to **rephrase** to read as:

*“**Original copy of the Certification Declaring a Child Legally Available for Adoption (CDCLAA)**, as applicable;”*

8.3 On **item 9: Result of Psychological Evaluation of the PAPs**, to **consider** making this a **mandatory requirement** under this Bill to be consistent with RA 8552 since psychological evaluation of PAPs is being required when applicable, and requiring this document will put additional safety net for the child.

8.4 On **item 10: Result of Psychological Evaluation of the child, as applicable**, to **consider** making this a **mandatory requirement** for children 5 years old and above for consistency with RA 8552.

8.5 On the **last paragraph**, to read as:

*“The social worker of the Department, **Local Government Unit and Child-Caring/Placing Agencies** are not precluded from asking for additional documents **deemed** necessary as proof of facts alleged in the petition or to establish a factual claim.”*

9. **Sec. 11 – Case Study and Home Study Report**

9.1 On the **1st paragraph**, to **rephrase**, to read as:

*“A **trained** 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 three (3) years’ experience in handling adoption cases, as certified by the Department** shall conduct a child study report of the prospective 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.”*

9.2 On the **2nd paragraph**, to **change** the term **"regular child"** to a **"child legally available for adoption"**.

10. **Sec. 12 – Matching Process**

10.1 On the **1st paragraph**, to **rephrase** to read as:

*“The matching of a child to an approved **prospective** adoptive parent/s shall be carried out during the regular matching conference by the Matching Conference in the regional level otherwise called the Child Welfare Specialist Group (CWSG)...and procedures. However, **the** records of children and approved **prospective** adoptive parent/s not matched after two (2) presentations in the*

*regional level shall be forwarded to the Department's Central Office for **inclusion in the** interregional matching **presentation**.*"

- 10.2 To **include a procedure** in cases of **step-parent, relative and adult adoptions** under this bill, to read as:

"Cases of step-parent adoption, relative adoption within the 4th degree of consanguinity and affinity, and adult adoption shall not undergo the matching process, instead, the Department shall automatically issue the PAPs with Pre-adoption Placement Authority (PAPA), as assessed and recommended by the social worker."

11. **Sec. 14 – Supervised Trial Custody**

- 11.1 On **2nd paragraph**, to **rephrase** to read as:

*"The trial custody may be waived in cases of step-parent, relative and adult adoptions, **as assessed and recommended by the social worker**.*

Further, for regular cases, the Supervised Trial Custody may be reduced or lengthened or waived depending on the assessment and recommendation of the social worker."

- 11.2 On the **last paragraph**, to **rephrase** to read as:

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

12. **Sec. 15 – Petition**

- 12.1 To **change** the title to **"Petition for Administrative Adoption"**; and

- 12.2 To **rephrase 2nd paragraph** to read as:

*"The petition for adoption shall be prepared and signed...and is in a position to support and care for **his/her/their** children...."*

- 12.3 To **rephrase 3rd paragraph** to read as:

*"No subsequent petition for **administrative** adoption **involving the same PAPs** shall be entertained unless the prior petition has attained finality."*

13. **Sec. 16 – Where to File the Petition**, to rephrase to read as:

*“The petition **together with complete and original supporting documents shall be filed by the petitioner(s)** with the DSWD Field Office where the PAP(s) resides.”*

14. **Sec. 17 – Administrative Adoption Process**

14.1 To **consider** that the 10-day period for Social Welfare Development Office (SWDO) be added to the period for the Regional Director since the filing will be at the DSWD Field Office;

14.2 To rephrase the 2nd paragraph to read as:

*“The identity of the child and the petitioner including the motivation to adopt shall be **personally** determined by **him or her through the supporting documents of the petition and interview with the petitioner(s) and the child.** The **personal appearance of the petitioner and the child before the Regional Director shall likewise be mandatory.** He/She shall render a recommendation not later than thirty (30) calendar days from receipt of such documents.”*

14.3 To **revise line 30** to read as:

“In the course of the review, additional information or document/s may be required from the petitioner to support the petition. The failure of the petitioner to comply with such request shall not preclude the Regional Director from acting on the petition based on the evidence at hand.”

14.4 To **revise 3rd paragraph** to read as:

*“The Regional Director shall transmit a copy of his/her recommendation and records to the **“Office of the Secretary of the Department”.**”*

15. **Sec. 18 – Objection to the Petition**, to **revise line 11** to read as:

*“xxx interpose an objection to the petition and file a complaint supported by evidence to that effect, with the **Office of the Secretary of the Department, through the Office of the Regional Director of the DSWD-Field Office where the petition was filed.**”*

16. **Sec. 19 – Order of Adoption**,

16.1 To **revise the Section** to read as:

*"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 **and** that the petition shall redound to the best **interest** of the child or prospective adoptee, **the Secretary shall issue an Order of Adoption which is a registrable civil registry document stating the name by which the child shall be known and shall likewise direct the concerned local civil registrar the:***

- a. The adopter to submit...*
- b. The Civil Registrar of the place...*
- c. To seal the original birth...*
- d. To submit to the Department proof...*

The Order shall take effect on the date the petition was filed with the DSWD Field Office, even if the petitioner dies before its issuance. It shall become final upon the expiration of fifteen (15) days from notice thereof to all parties."

16.2 To include a separate Section on the following:

16.2.1 Transmittal of the Order of Adoption;

16.2.2 Finality of the Order; and

16.2.3 **Remedy for Denial of Petition for Administrative Adoption** by referring to Section 30 of the IRR of RA 11222 or the **"Simulated Birth Rectification Act"**.

17. **Sec. 20 – Benefits of Prospective Adoptive Parent(s)**

17.1 To **clarify** whether or not the **maternity and paternity leave** will be in a form of **"paid leave"**; and

17.2 To **clarify** whether **female adoptive parents can avail of the "maternity leave"** under RA 11210 or the **"105-Day Expanded Maternity Leave Law"**. This is to establish the parent-child relationship especially when the child is 7 years old or younger.

18. **Sec. 23 – Confidentiality**, to **include** the following under this Section:

"In any event, the disclosure of any information shall only be allowed upon the Order of the Secretary, based on the written request of the adoptee. In the case of a minor adoptee, his or her legal guardian or the Adoptive Parent or upon order of any lawful authority.

Any violation of the confidential nature of the records above-mentioned shall be punishable pursuant to the penal provisions of

the Act, RA No. 10173 or the “Data Privacy Act of 2012” or other relevant laws.”

19. **Sec. 26 – Parental Authority**, to adopt item 3 of Section 33 of the IRR of RA 8552 providing reciprocal rights and obligations arising from the relationship of parent and child, to wit:

“Sec. 33 Effects of Adoption – Adoption shall have the following effects:

- 3. Give the adopter and adoptee reciprocal rights and obligations arising from the relationship of parent and child, including but not limited to:***

- i. The right of the adopter to choose the name the child is to be known; and***
- ii. The right of the adopter and adoptee to legal and compulsory heirs of each other.”***

20. **Sec. 27 – Succession**

To clarify whether this relationship would extend to the blood relatives of the adopter, given that Section 25 of the Bill provides that the adoptee is entitled to all the rights and obligations provided by law to legitimate sons/daughters born to them without discrimination of any kind.

21. **Sec. 29 – Search for Biological Parents**, to revise this Section to read as:

“Section 29. Searching/Tracing of Biological Family. The adoption triad consented to and received adequate preparation from a licensed social worker regarding the said meet-up.”

22. **Sec. 30 – Monitoring and Submission of Report**, to revise the Section to read as:

“Section 30. After-care Monitoring and Submission of Report. A Closing Summary Report should be prepared by the handling social worker and submitted to the Office of the Secretary of the Department after completing the after-care monitoring to the adopters and adoptee as stated in the bill.”

23. **Article VII – Rescission of Adoption and Sec. 31 Grounds for Rescission of Adoption**, to revise the titles of these Sections to read as:

23.1 “Article VII. Rescission of **Administrative** Adoption”; and

23.2 “Section 31. Grounds for Rescission of **Administrative** Adoption”

24. **Sec. 35 – Decision**, to **revise the 1st paragraph** to read as:

*“xxx it shall render decision ordering the rescission of **administrative adoption**...”*

25. **Sec. 37 – Violation and Penalties**, to **consider the provisions of RA 11222** or the **“Simulated Birth Rectification Act”** under this Section.

26. **Sec. 39 – Implementing Rules and Regulations**

26.1 To **include the following agencies** in the crafting of the IRR:

1. Civil Service Commission (CSC);
2. Government Social Security System (GSIS);
3. Association of Child-Caring Agencies in the Philippines (ACCAP); and
4. League of Cities and Municipalities in the Philippines

27. **Other Comments:**

27.1 To **include a separate Article entitled “Certification Declaring a Child Legally Available for Adoption (CDCLAA)”** discussing it as a requirement, except for cases of adult and relatives within the 4th degree of consanguinity or affinity, since it will not amend Republic Act 9523;

27.2 To **add a Section** on the following as well as its composition and functions:

- Regional Child Placement Committee;
- Interregional Child Placement Committee;
- National Child Placement Committee, the body to review the petition of Administrative Adoption for endorsement to the Secretary

27.3 To **include measures** to prevent/deter Licensed Child Caring and Child Placing Agencies to engage in pre-identified placement of a child to a particular family;

27.4 To **include a Section on “Suspension, revocation of license/accreditation** of child caring and placing agencies on the following grounds:

- Imposing or accepting directly or indirectly, any consideration, money, goods or services in exchange of the placement;
- Engaging in matching arrangement or any contact to pre-identify a child in violation of the Rules, or;
- Any other act in violation of the provisions of this Act, the Rules and other related laws.

27.5 To **include a Section** that requires the script writer, film makers, and directors to flash a specific disclaimer that:

***"The show or movie may not reflect the real Legal Adoption processes"** whenever the topic of a particular movie, show or teledrama is adoption and to refrain from depicting children with simulated birth as **"adopted"** because this misleads the public.*

27.6 To **include a section** mandating Department of Education (DepEd) to include in the curriculum **"Edukasyon sa Pagpapakatao"**;

27.7 To **include a provision on monitoring and evaluation** of the domestic administrative adoption to assess and measure the objectives of the adoption act;

27.8 To **consider establishing a databank** of prospective adoptive parents and children eligible for adoption to hasten the process of adoption with due consideration to policies on data privacy;

27.9 To **add a provision on the applicability of this law to countries** where there are DSWD Social Welfare Attaches assigned. The provision would include its own administrative adoption process considering the following:

1. There will only be one licensed Philippine government worker in that country;
2. The child had grown up in the said family/country; and
3. The place of livelihood of the PAP

For the Committee's consideration.

Very truly yours,



ROLANDO JOSELITO D. BAUTISTA
Secretary