

October 18, 2019

Honorable MA. LUCILLE L. NAVA, M.D.
Chairperson
Population and Family Relations
House of Representatives
Quezon City

Dear Representative Nava:

The Department of Social Welfare and Development (DSWD) is pleased to submit to the Committee its Official Position Paper to HBN 76 entitled: "An Act Establishing the Rules and Policies on the Domestic Administrative Adoption of Filipinos and for Other Purposes" or the "**Domestic Administrative Adoption Act of the Philippines**", introduced by Rep. Paul R. Daza, and which is one of the Priority Legislations of the Department in the 18th Congress.

Enclosed is a copy of the Department's Official Position Paper for your information and reference.

We look forward to the deliberation of similar bills in the Committee.

Very truly yours,



ROLANDO JOSELITO D. BAUTISTA
Secretary

Enclosure a/s

*Received by: Estrella R. Magnaye
Nov. 4 '19*

September 06, 2019

Honorable PAUL R. DAZA
1ST District, Northern Samar
House of Representatives
Quezon City

Dear Representative Daza:

The Department of Social Welfare and Development (DSWD) **supports House Bill No. 76** entitled: An Act Establishing the Rules and Policies on the Domestic Administrative Adoption of Filipinos and for Other Purposes or the “**Domestic Administrative Adoption Act of the Philippines**” that you have introduced.

In general, we note that the proposed administrative adoption process would entail a review of the existing laws on domestic and inter-country adoption, as well as other related laws. It would also entail a drastic change of office structure and functions, systems and procedures since the adoption process would now be administrative in nature. Hence, we recommend that a Technical Working Group be created to discuss and deliberate in detail the substantive contents of the proposed bill to ensure a more defined bill for the ultimate purpose of protecting our children.

Further, to contribute to the bill’s enhancement, we are recommending the following:

1. Explanatory Note

To mention and highlight the “**best interest of the child**” as one of the purposes of the Bill.

2. Sec. 2 – Declaration of Policy

2.1 The last two (2) paragraphs should be clarified. Further, please specify who are covered by this Bill and who would be exempted, for clarity.

3. Sec. 4 – Definition of Terms

3.1 To cite the basis of the definition if the same is derived from a law or adopted from some other source.

3.2 On **letter (c)**, insert hyphen in **Child-caring Agency**...

3.3 On **letter (g)**, **Child-Placing Agency** is a duly licensed “**and accredited social welfare and development**” agency by the Department....

3.4 On **letter (n)**, to change the words "**Regional Director**" to "**Field Office Director**". This is in accordance to the Department's organizational structure (AO 1 s.2019).

3.5 On **letter (q)**, to insert the word "**deliberate**", which will be read as follows:

*"Simulation of birth refers to **deliberate** supplying of wrong information..."*

3.6 On **letter (r)**, **Social Welfare and Development Officer**

3.6.1 To change "**Social Welfare Development Officer**" to "**Local Social Welfare Development Officer**"; and

3.6.2 To change the definition of "**Social Welfare Development Officer**", which will be read as follows:

*"Social Welfare and Development Officer refers to a person who is a duly licensed social worker **employed by the Department.**"*

3.7 On **letter (t)**, **Step-Parent**

For clarity, we recommend rephrasing it, which will be read as follows:

*"**Stepparent** refers to a person who is not the biological parent of the child but who is married to the child's biological mother or father."*

3.8 On **letter (v)**, **Surrendered Child**

To revisit the definition for possible consideration of those children surrendered to the SWDO.

3.9 To include **letter (w)** for **Pre-Adoption and Placement Authority** which will read as follows:

***Pre-Adoption and Placement Authority** refers to a document issued by the Department to an approved prospective adoptive parent that will provide him temporary parental authority over the child while the adoption process is on-going.*

3.10 To include definitions for "**Voluntarily committed child**" and "**Deed of Voluntary Commitment**" as defined in Art. II, Sec. 3 of RA 8552 or the Rules and Regulations to Implement the Domestic Adoption Act of 1998, which will be read as follows:

3.7.1 "**Voluntarily Committed Child** refers to one whose parent(s) knowingly and willingly relinquishes parental authority to the Department"; and

3.7.2 **"Deed of Voluntary Commitment"** refers to the written and notarized instrument relinquishing parental authority and committing the child to the care and custody of the Department executed by the 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."

4. Sec. 5 – Services

4.1 On letter (a), Biological Parents

- ✓ To specify the treatment for wards of the state and the duty of the DSWD.
- ✓ To insert the word "Department" in the 1st paragraph, which will read as follows:

"It shall be the duty of the Department, Local Government Unit...

- ✓ In paragraph (2) it provides that "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. xxx" This provision technically provides a period when biological parents may withdraw the Deed of Voluntary Commitment.
- ✓ Further, to specify the procedures for restoration of parental authority.

4.2 On letter (b), Prospective Adoptive Parent(s), to revise the provision, which will be read as follows:

"Counselling sessions, adoption fora and seminars, among others, shall be provided to prospective adoptive parent(s) to understand the process, benefits and issues on adoption 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 based on his/her age and level of understanding in a manner that will strengthen the parent-child relationship."

5. Sec. 6 – Location of Parent(s), to mention the Department of Interior and Local Government (DILG) and to include the phrase "legally available for adoption" in the provision, which will be read as follows:

"It shall be the duty of the Department, Local Government Unit (LGU), or child-placing or the child-caring agency, which has custody of the 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 **legally available for adoption.***"

6. **Sec. 7 – Who May Adopt**

On **letter (e)**, to include a prescribed period of custody before the actual custodian may be eligible for adoption.

7. **Sec. 8 – Who May Be Adopted**

To include the treatment and procedures to be undertaken for adult adoptees.

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

8.1 On **Item No. (4)**, for brevity, we recommend rewording it which will be read as follows:

"For cases of relative or adoption of adult person, written consent to the adoption by the persons enumerated in Section 9 and 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;"

8.2 On **Item No. (10)**, we recommend deleting the entire statement as this could be included in the Case Study Report.

8.3 On **Item No. (12)**, for clarity, to include the reckoning point for the period *"within the last six (6) months."*

8.4 On **Item No. 10**, last paragraph, to specify *"the social worker of the Department"* as those *"who are actually handling the adoption case."*

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

9.1 On paragraph 2, second sentence, to delete the word **"regular"** and to insert the phrase **"in the effort to improve their situation and prevent unnecessary separation of the child"** in the provision, which will be read as follows:

"It shall also be established that a child is legally available for adoption and various interventions were extended to the child's biological family in the effort to improve their situation and prevent unnecessary separation of the child."

9.2 On paragraph 3

9.2.1 The home study of the adoptive parent(s) must also assess the parental values, belief and practices, their physical, cognitive and psychological functioning and other support within the family system.

9.2.2 Insert the phrase "**capacity to care for the child**" after the word "intentions", which will be read as follows:

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

9.3 On paragraph 4, we recommend that the proper recommendation be "**supported with documents evidencing the newly discovered information.**"

10. **Sec. 12 – Matching Process**

To revise the 2nd paragraph, which will be read as follows:

*"Cases of relative adoption **within the fourth (4th) degree of consanguinity and adoption of adult persons shall not undergo the matching process, instead, the PAPs shall automatically be issued with Pre-Adoption Placement Authority, if assessed and recommended by the social worker that placement of the child to the PAPs would redound to the child's best interest and welfare.**"*

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

To revise the 1st paragraph, which will be read as follows:

*"**During the six (6) month-supervised trial custody, monitoring through home, school, and community visits shall be performed every other month or as need arises by the social worker who prepared the home study report and submit a report regarding the placement.**"*

12. **Sec. 15 – Petition for Administrative Adoption**

12.1 On paragraph 2, to enumerate the contents of the petition for easy understanding of the concerned public.

12.2 On last paragraph, to revise the provision which will be read as follows:

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

13. Sec. 17 – Administrative Adoption Process

13.1 To provide a reckoning point for the 30-day and the 7-day period.

13.2 To change the reference to the **"Office of the Secretary of Social Welfare and Development"** in the 3rd sentence of the 1st paragraph to **"Office of the Secretary of the Department"**.

13.3 To add the phrase **"without prejudice to refiling"** after the last word of the sentence in the 2nd paragraph in the provision, which will be read as follows:

*"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 **without prejudice to refiling.**"*

14. Sec. 18 – Objection to the Petition

14.1 For propriety, to change the word "complaint" into **"opposition"** which must be under oath.

14.2 To provide how to or who will determine which will be considered **"information, which by ordinary diligence could not be discovered."**

15. Sec. 23 – Confidentiality

To provide a prescriptive period for the filing of the petition, for clarity.

16. Sec. 24 – Alternative Family Care Bureau

16.1 To change the section from **"Alternative Family Care Bureau"** to **"Child Placement Bureau"**.

16.2 To insert the word **"Department"** in the provision, which will be read as follows:

"Child Placement Bureau. An office within the Department dedicated...."

17. Sec. 25 – Fees

To add a statement on the second sentence to this effect: **"and cost recovery fees may only be availed of by these adoption social workers certified and/or accredited by the Department."** Further, please ensure that these are reasonable fees.

18. Sec. 35 - Decision

15.1 On paragraph 1, to revise the provision, which will be read as follows:

"If the Department finds that the allegations in the petition are false and without merit, it shall dismiss the petition. However, if the Department finds that the allegations in the petition are true, it shall rescind the Order of the adoption, with or without costs, as justice requires."

19. Sec. 36 – Service of Decision

19.1 To provide a reckoning point for the first 30-day period mentioned therein.

19.2 To include a provision on the remedies once the Adoption Order is issued.

20. Sec. 37 – Violations and Penalties

17.1 To make the penal provisions specifically applicable to this Act, we recommend to revise the whole provision, which will be read as follows:

"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 (P50,000.00), 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 **administrative** 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 **administrative** adoption; or*
- (iii) subjecting or exposing the child, to be adopted under this Act, to danger, abuse, or exploitation."*

*(b) Any person who **after the effectivity of RA 11222 or the Simulated Birth Rectification Act** shall violate established regulations relating to the confidentiality and integrity of records, documents, and communications of **administrative** adoption applications, cases, and processes shall suffer the penalty of imprisonment ranging from 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 (PhP10,000.00), 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 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 **under this Article** 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 filing of a case, either administrative or criminal, said government official, employee, or functionary concerned shall automatically suffer suspension until the resolution of the case."

As can be observed, Sec. 37, item (b) paragraphs 1 and 2 are recommended removed as the same are only exact reproduction of the acts or omissions already penalized under a special law or the Republic Act No. 8552 entitled the "Domestic Adoption Act of 1998", which are also penalized under the RPC, and such acts or omissions seemed not treated differently under this Bill/Act.

21. Other Comments

Lastly, kindly include a Section on Media Protection with the following provision:

"... before the start of the tele-drama, the public shall be informed on the legal adoption process and other existing policies and laws being implemented by the DSWD, to ensure the full protection of adoptive children and adoptive parents. This will ensure that the adoptive parents will be protected from any attempt to disturb the parental authority and custody of the child."

For the Committee's consideration.

Very truly yours,



ROLANDO JOSELITO D. BAUTISTA

Secretary

Date: _____

LCI/CR/MBMVI/MCL