

H. No. 5675
S. No. 2081

Republic of the Philippines
Congress of the Philippines
Metro Manila
Seventeenth Congress
Third Regular Session

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

[REPUBLIC ACT NO. 11222]

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

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

ARTICLE I

GENERAL PROVISIONS

SECTION 1. *Short Title.* — This Act shall be known as the “Simulated Birth Rectification Act”.

SEC. 2. *Objectives.* — This Act shall have the following objectives:

(a) To grant amnesty and allow the rectification of the simulated birth of a child where the simulation was made for the best interest of the child, and that such child has been consistently considered and treated by the person or persons who simulated such birth as her, his, or their own daughter or son;

(b) To fix the status and filiation of a child whose birth was simulated by giving such child all the benefits of adoption and ensuring that the child shall be entitled to all the rights provided by law to legally adopted children, without any discrimination of any kind, as well as to love, guidance, and support from the child's adoptive family;

(c) To exempt from criminal, civil, and administrative liability those who simulated the birth record of a child prior to the effectivity of this Act: *Provided*, That a petition for adoption with an application for the rectification of the simulated birth record is filed within ten (10) years from the effectivity of this Act;

(d) To provide for and allow a simpler and less costly administrative adoption proceeding where the child has been living with the person or persons who simulated her or his birth record for at least three (3) years before the effectivity of this Act; and

(e) To educate and inform the public about the rectification of simulated births, and to encourage people to avail of the benefits of this Act.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Certification Declaring a Child Legally Available for Adoption (CDCLAA)* refers to a document issued by the Secretary of the Department of Social Welfare and Development (DSWD) or the Secretary's duly authorized representative as provided for by Republic Act No. 9523, otherwise known as "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; and Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, and for Other Purposes", administratively declaring that a child is legally available for adoption which terminates the rights of the biological parents, guardian, or other custodian to exercise authority over the child upon issuance of the certificate;

(b) *Child* refers to a person below eighteen (18) years of age, or a person eighteen (18) years of age or over who is unable to fully take care of herself or himself or protect herself or himself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition, whose birth was simulated;

(c) *Foundling* refers to a child who is abandoned and whose parentage is unknown;

(d) *Regional Director* refers to the head of a field office of the DSWD;

(e) *Secretary* refers to the Secretary of the DSWD;

(f) *Simulation of birth record* refers to the tampering of the civil registry to make it appear in the record of birth that a child was born to a person who is not such child's biological mother, causing the loss of the true identity and status of such child; and

(g) *Social Welfare and Development Officer* refers to the head of a city or municipal social welfare and development office, which serves as the frontline of a city or municipal government in the delivery of social welfare and development programs and services.

ARTICLE II

RECTIFICATION OF SIMULATED BIRTHS

SEC. 4. *Rectification of Simulated Birth Record.* — Notwithstanding any provision of law to the contrary, a person or persons who, prior to the effectivity of this Act, simulated the birth of a child, and those who cooperated in the execution of such simulation, shall not be criminally, civilly, or administratively liable for such act: *Provided*, That the simulation of birth was made for the best interest of the child and that the child has been consistently considered and treated by such person or persons as her, his, or their own daughter or son: *Provided, further*, That such person or persons has or have filed a petition for adoption with an application for the rectification of the simulated birth record within ten (10) years from the effectivity of this Act: *Provided, finally*, That all the benefits of this Act shall also apply to adult adoptees.

SEC. 5. *Administrative Adoption and Rectification.* — A person or persons who simulated the birth of a child under the conditions provided under Section 4 of this Act may avail of administrative proceedings for the adoption and rectification of the simulated birth record of such child: *Provided*, That the child has been living with the person for at least three (3) years before the effectivity of this Act: *Provided, further*, That a certificate declaring the child legally available for adoption (CDCLAA) is issued by the DSWD in favor of such child.

SEC. 6. *Inadmissible Evidence.* — All petitions, documents, records, and papers relating to adoption and rectification of simulated births under this Act cannot be used as evidence against those who simulated the birth of a child or who cooperated in the execution of such simulation in any criminal, civil, or administrative proceeding.

ARTICLE III

ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE ADOPTION

SEC. 7. *Personal Qualifications.* – Adopters must:

- (a) Be Filipino citizens;
- (b) Be of legal age;
- (c) Possess full civil capacity and legal rights;
- (d) Be of good moral character;
- (e) Have not been convicted of any crime involving moral turpitude;
- (f) Be emotionally and psychologically capable of caring for children; and
- (g) Be in a position to support and care for the child in keeping with the means of the family.

In case of adoption by a married couple, where one of the adopters is a foreign national married to a Filipino, the foreign national must have been residing in the Philippines for at least three (3) continuous years prior to the filing of the petition for adoption and application for rectification of simulated birth record.

SEC. 8. *Required Consent.* – After being properly counseled and informed of the right to give or withhold approval of the adoption, the written consent of the following shall be required:

- (a) The adoptee, if ten (10) years of age or over;
- (b) The legitimate and adopted daughters and sons, ten (10) years of age or over, of the adopter and adoptee, if any;

(c) The illegitimate daughters and sons, ten (10) years of age or over, of the adopter if living with said adopter and the latter's spouse, if any; and

(d) The spouse, if any, of the adoptee.

ARTICLE IV

ADMINISTRATIVE ADOPTION PROCEDURE

SEC. 9. *Petition.* – The petition for adoption with an application for rectification of simulated birth record shall be in the form of an affidavit and shall be subscribed and sworn to by the petitioner or petitioners 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) A copy of simulated birth or foundling certificate of the child;

(b) Affidavit of admission if the simulation of birth was done by a third person;

(c) Certification issued and signed by the punong barangay attesting that the petitioner or petitioners is a resident or are residents of the barangay, and that the child has been living with the petitioner or petitioners for at least three (3) years prior to the effectivity of this Act;

(d) 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 three (3) years prior to the effectivity of this Act;

(e) CDCLAA issued by the DSWD; and

(f) Photographs of the child and the petitioner or petitioners taken within the last three (3) months prior to the filing of the petition.

A CDCLAA shall no longer be required if the adoptee is already an adult or a relative of the adopter within the fourth degree of consanguinity or affinity.

SEC. 10. *Adoption Process.* – 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 seven (7) 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 three (3) days to the Regional Director.

The Regional Director shall review the petition, establish the identity of the child, and prepare the recommendation on the petition not later than 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 such request shall not preclude the Regional Director from acting on the petition based on the evidence on hand.

The Regional Director shall transmit to the Secretary the recommendation on the petition together with a copy of the petition and supporting documents.

The Secretary shall act and decide on the petition within thirty (30) days from receipt of the recommendation of the Regional Director.

SEC. 11. *Order of Adoption.* – If the Secretary determines that the adoption shall redound to the best interest of the child, an order of adoption shall be issued which shall take effect on the date the petition was filed with the Office of the SWDO, even if the petitioner dies before its issuance.

The order of adoption shall state the name by which the adoptee shall be known and shall likewise direct the:

- (a) Cancellation of the simulated birth record of the child;
- (b) Issuance of the rectified birth record bearing the names of the biological parents of the child or the issuance of a founding certificate; and
- (c) Issuance of a new birth certificate.

An administrative adoption order obtained under this Act shall have the same effect as a decree of adoption issued pursuant to Republic Act No. 8552, otherwise known as the "Domestic Adoption Act of 1998".

SEC. 12. *Civil Registry Record.* – The Secretary shall immediately transmit the order of adoption to the concerned DSWD Regional Office, which shall in turn provide copies to the petitioners, the concerned agencies and the appropriate local civil registrar.

The Local Civil Registrar shall stamp the simulated birth record "cancelled" with an annotation of the issuance of a new rectified certificate of birth in its place. The rectified birth certificate bearing the names of the biological parents of the child or the founding certificate shall then likewise be stamped "cancelled" with the annotation of the issuance of a new birth record in its place, and shall be sealed in the civil registry records. Thereafter, the Local Civil Registrar shall record, register, and issue a new certificate of birth which shall not bear any notation that it is a new or amended issue.

SEC. 13. *Socialized Fees.* – The city or municipal SWDO, the Regional Director, and the Office of the Local Civil Registrar may charge socialized fees to those who avail of the administrative adoption proceedings under this Act. Fees shall be waived if the petitioner is indigent.

SEC. 14. *Confidentiality.* – All petitions, documents, records, and papers relating to administrative adoption proceedings in the files of the city or municipal SWDOs, the DSWD central and field offices, or any other agency or institution participating in such proceedings shall be strictly confidential.

The disclosure of any information shall be allowed only upon the written request of the adoptee or in the case of a minor adoptee, her or his guardian.

ARTICLE V

EFFECTS OF ADMINISTRATIVE ADOPTION

SEC. 15. *Legitimacy.* – The adoptee shall be considered the legitimate daughter or son of the adopter for all intents and purposes and as such is entitled to all the rights and obligations provided by law to legitimate daughters or sons born to them without discrimination of any kind. To this end, the adoptee is entitled to love, guidance, and support in keeping with the means of the family.

SEC. 16. *Parental Authority.* – Except where a biological parent is the spouse of the adopter, all legal ties between the biological parents and the adoptee shall be severed and the same shall then be vested in the adopter.

SEC. 17. *Succession.* – In legal and intestate succession, the adopter and the adoptee shall have reciprocal rights of succession without distinction from legitimate filiation. However, if the adoptee and her or his biological parents left a will, the law on testamentary succession shall govern.

ARTICLE VI

RESCISSION OF ADMINISTRATIVE ADOPTION

SEC. 18. *Grounds for Rescission.* – Upon petition of the adoptee, with the assistance of the city or municipal SWDO or the DSWD if a minor or if over eighteen (18) years of age but is incapacitated, the adoption may be rescinded on any of the following grounds committed by the adopter:

- (a) Repeated physical or verbal maltreatment by the adopter;
- (b) Attempt on the life of the adoptee;
- (c) Sexual assault or violence;
- (d) Abandonment and failure to comply with parental obligations; or
- (e) Other acts that are detrimental to the psychological and emotional development of the adoptee.

Adoption, being in the best interest of the child, shall not be subject to rescission by the adopter. However, the adopter may disinherit the adoptee for causes provided in Article 919 of the Civil Code.

SEC. 19. *Rescission of Administrative Adoption.* – The process for administrative adoption as provided under Section 10 of this Act shall apply to the rescission of administrative adoption: *Provided*, That the concerned SWDO, Regional Director, and the Secretary shall act immediately on the petition for rescission bearing in mind the best interest of the child.

The Secretary shall furnish a copy of the order of rescission to the concerned DSWD Regional Office, which shall in turn provide copies to the petitioner, the concerned agencies

and the concerned local civil registrar. Thereafter, the concerned local civil registrar shall cancel the new certificate of birth of the adoptee, and restore the adoptee's rectified birth certificate bearing the name/s of the biological parents, or the founding certificate, as the case may be.

SEC. 20. *Effects of Rescission.* – If the petition for rescission of administrative adoption is granted by the Secretary, the parental authority of the adoptee's biological parents, if known, shall be restored if the adoptee is still a minor or incapacitated. The reciprocal rights and obligations of the adopter and the adoptee to each other shall be extinguished.

Successional rights shall revert to its status prior to adoption, but only as of the date of judgment of administrative rescission. Vested rights acquired prior to administrative rescission shall be respected.

All the foregoing effects of rescission of adoption shall be without prejudice to the penalties imposable under the Revised Penal Code if the criminal acts are proven.

ARTICLE VII

VIOLATIONS AND PENALTIES

SEC. 21. *Violations and Penalties.* – The penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and/or a fine not less 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:

(a) Obtaining consent for an adoption through coercion, undue influence, fraud, improper material inducement, or other similar acts;

(b) Noncompliance with the procedures and safeguards provided by law for the adoption; or

(c) Subjecting or exposing the child to be adopted to danger, abuse, or exploitation.

ARTICLE VIII

FINAL PROVISIONS

SEC. 22. *Information Dissemination.* – The DSWD, in coordination with the Department of the Interior and Local Government (DILG), the Department of Education (DepEd), the Department of Health (DOH), various national leagues of local government units, the Council for the Welfare of Children (CWC), and the Philippine Statistics Authority (PSA), shall disseminate to the public information regarding this Act and its implementation.

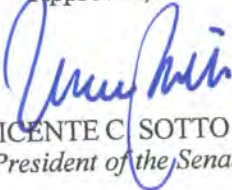
SEC. 23. *Implementing Rules and Regulations.* – The Secretary, after due consultation with the PSA, the DILG, the Department of Justice (DOJ), and the CWC, together with representatives from the Association of Local Civil Registrars, child-caring and child-placing agencies, and child's rights civil society organizations, shall issue rules and regulations for the effective implementation of this Act within sixty (60) days from its effectivity.

SEC. 24. *Repealing Clause.* – Section 22 of Republic Act No. 8552 is hereby repealed. 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. 25. *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. 26. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

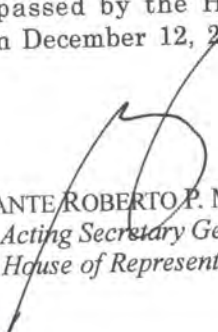
Approved,


VICENTE C. SOTTO III
President of the Senate


GLORIA MACAPAGAL-ARROYO
Speaker of the House of Representatives

This Act which is a consolidation of House Bill No. 5675 and Senate Bill No. 2081 was passed by the House of Representatives and the Senate on December 12, 2018 and December 13, 2018, respectively.


MYRA MARIE D. VILLARICA
Secretary of the Senate


DANTE ROBERTO P. MALING
Acting Secretary General House of Representatives

Approved: FEB 21 2019


RODRIGO ROA DUTERTE
President of the Philippines



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