

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Thirteenth Congress
Second Regular Session

House Bill No. **5493**



Introduced by Representative **Imee R. Marcos**

EXPLANATORY NOTE

Adoption is for the benefit of the children to be adopted, the primary consideration thereof being the welfare of the child. While in the past, adoption used to be for the benefit of the adopter, it is now geared towards the promotion of the welfare of the child and the enhancement of his opportunities for a useful and happy life.

However, the changing trend in the considerations of adoption does not connote the utter disregard of the rights of both biological parents, whether or not the adoptive child is illegitimate. Safeguards must be placed to ensure that existing laws vesting substantive rights to biological parent(s) be respected while at the same time making sure that negligent and uncaring parents are penalized. This author seeks exactly to settle and/or clarify these concerns through the amendment of several provisions of Republic Act No. 8552, otherwise known as the Domestic Adoption Act.

At present, the Domestic Adoption Act mandates that a child of unmarried couple cannot be adopted without the consent of both parents. This is contradictory to the provision that illegitimate children are under the parental authority of the mother. The law should be clarified in that the consent of the unmarried couple to the adoption need only be obtained in cases where one or both parents has/have established a parent-child relationship with the child, or after doing so, has abandoned the child. A father who acknowledges the child or signs some form of paternity statement, provides support and maintains a relationship with the child should not fear the possibility of his child being adopted by another person.

Furthermore, our adoption law allows rectification of simulated births provided, *inter alia*, that rectification be done within five (5) years from the date of effectivity of the said law. The lapse of the five-year period provided by law granting amnesty to persons seeking rectification of simulated birth denies the people remedies and makes them liable for falsification if they seek to rectify the records even if the other conditions provided by law are present and notwithstanding their best intentions.

In view of the foregoing, passage of this bill is earnestly recommended.

Imee R. Marcos
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Representative
2nd District, Ilocos Norte

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AN ACT
AMENDING REPUBLIC ACT NO. 8552 OTHERWISE KNOWN AS THE DOMESTIC
ADOPTION ACT OF 1998 FOR THIS PURPOSE

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

SECTION 1. Section 7, paragraph (c) shall hereby be amended as follows:

Section 7. xxx

(c) xxx

(i) xxx

(ii) if one spouse seeks to adopt his/her own illegitimate son/daughter: Provided, However, that the other spouse has signified his/her consent thereto. **PROVIDED, FURTHER, THAT THE BIOLOGICAL PARENT OTHER THAN THE ADOPTING BIOLOGICAL PARENT SHALL BE RECOGNIZED AS A BIOLOGICAL PARENT AND SUCH FACT SHALL BE NOTED IN THE AMENDED BIRTH CERTIFICATE, WHICH SHALL BE SEALED IN THE CIVIL REGISTRY RECORDS PURSUANT TO SECTION 14 HEREOF.; or**

(iii) xxx.

SECTION 2. *Consent Necessary to the Adoption.* - Section 9 is hereby amended to read as follows:

Sec. 9. *Whose Consent is Necessary to the Adoption.* — After being properly counseled and informed of his/her right to give or withhold his/her approval of the adoption, the written consent of the following to the adoption is hereby required:

(a) xxx

(b) The biological parent(s) of the child, if known, or the legal guardian, or the proper government instrumentality which has legal custody of the child;

PROVIDED: THAT, WHERE THE PROSPECTIVE ADOPTEE IS AN ILLEGITIMATE CHILD, CONSENT OF THE BIOLOGICAL PARENT(S) SHALL BE OBTAINED ONLY IN CASES WHERE ONE, OR BOTH, BIOLOGICAL PARENTS HAS OR HAVE ESTABLISHED A PARENT-CHILD RELATIONSHIP WITH THE CHILD, OR AFTER DOING SO, HAS ABANDONED THE CHILD.

WHERE THE NON-CUSTODIAL PARENT IS THE BIOLOGICAL MOTHER, THE DEPARTMENT OF SOCIAL WELFARE AND

DEVELOPMENT (DSWD) OR ANY DULY-LICENSED CHILD PLACING OR CHILD-CARING AGENCY CAN EITHER CAUSE HER PARENTAL RIGHTS TO BE TERMINATED BY FILING A PETITION FOR DECLARATION OF ABANDONMENT, OR, OBTAIN HER CONSENT.

WHERE THE NON-CUSTODIAL PARENT IS THE BIOLOGICAL FATHER, THE DSWD OR A CHILD-CARING AGENCY SHALL DETERMINE IF HE HAS ABANDONED THE CHILD, OR, WHETHER HIS CONSENT IS NECESSARY.

(c) xxx

(d) xxx

(e) xxx.

SECTION 3. *Supervised Trial Custody.* - Section 12 shall be amended which shall read as follows:

Sec. 12. *Supervised Trial Custody.* — No petition for adoption shall be finally granted until the adopter(s) has been given by the court a supervised trial custody period for at least six (6) months within which the parties are expected to adjust psychologically and emotionally to each other and establish a bonding relationship. During said period, temporary parental authority shall be vested in the adopter(s).

xxx

xxx

THE 6-MONTH TRIAL CUSTODY MAY BE WAIVED WHERE THE ADOPTER HAS HAD CUSTODY OF THE PROPOSED ADOPTEE FOR MORE THAN A YEAR PRIOR TO THE FILING OF THE PETITION FOR ADOPTION.

SECTION 4. Section 14 is hereby amended to read as follows

Sec. 14. *Civil Registry Record.* — An amended certificate of birth shall be issued by the Civil Registry, as required by the Rules of Court, attesting to the fact that the adoptee is the child of the adopter(s) by being registered with his/her surname. The original certificate of birth shall be stamped "*cancelled*" with the annotation of the issuance of an amended birth certificate in its place, **AND STATING THEREIN THE COMPLETE NAME OF THE BIOLOGICAL PARENT(S). THE ORIGINAL AND BIRTH CERTIFICATE** shall be sealed in the civil registry records **AND SHALL NOT BE OPEN TO THE PUBLIC WITHOUT PRIOR COURT APPROVAL.** The new birth certificate to be issued to the adoptee shall not bear any notation that it is an amended issue. **NEITHER SHALL IT BEAR THE COMPLETE NAME OF THE BIOLOGICAL PARENT(S).**

SECTION 5. *Rectification of Simulated Births.* -

Sec. 22. *Rectification of Simulated Births.* — A PERSON WHO HAS, PRIOR TO THE EFFECTIVITY OF REPUBLIC ACT NO. 8552, SIMULATED THE BIRTH OF A CHILD SHALL NOT BE PUNISHED FOR SUCH ACT: *PROVIDED*, THAT THE SIMULATION OF BIRTH WAS MADE FOR THE BEST INTEREST OF THE CHILD AND THAT HE/SHE HAS BEEN CONSISTENTLY CONSIDERED AND TREATED BY THAT PERSON AS HIS/HER OWN SON/DAUGHTER: *PROVIDED*, *FURTHER*, THAT SUCH PERSON COMPLIES WITH THE PROCEDURE AS SPECIFIED IN ARTICLE IV OF REPUBLIC ACT NO.

**8552 AND OTHER REQUIREMENTS AS DETERMINED BY THE
DEPARTMENT.**

SECTION 6. *Separability Clause.* - If any provision, or part hereof, is held invalid, or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 7. *Repealing Clause.* - Any law, decree, executive order, or administrative order or rules and regulations contrary to, or inconsistent with the provision of this Act, are hereby repealed, modified or amended accordingly.

SECTION 8. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,