

Republic of the Philippines

HOUSE OF REPRESENTATIVES

Quezon City, Metro Manila

FIFTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 1079

Introduced by Rep. BERNADETTE HERRERA-DY

EXPLANATORY NOTE

This bill seeks to codify the existing laws on alternative child care, such as the law on domestic adoption and inter-country adoption, the foster care law, and guardianship law leading to adoption, to a single deposit of law to be known as "The Alternative Child Care Code of 2010". Moreover, this bill seeks to establish the "National Child Care Authority (NCCA)" to implement laws relevant to alternative child care in the country.

It is the policy of the State to ensure that every child remains under the care and custody of his/her parent(s) and be provided with love, care, understanding and security towards the full and harmonious development of his/her personality. Only when such efforts prove insufficient and no appropriate placement or adoption within the child's extended family is available, shall adoption by an unrelated person be considered.

Moreover, in all matters relating to the care, custody, guardianship and adoption of a child, his/her interest shall be the paramount consideration in accordance with the tenets set forth in the United Nations (UN) Convention on the Rights of the Child; UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption, Nationally and Internationally; and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. Toward this end, the State shall provide alternative protection and assistance through foster care or adoption for every child who is neglected, orphaned, or abandoned.

Meanwhile, the government has to step up its drive to solve the worsening problem of "unadoptable" and overage children "not fit for adoption" due to the long and complicated process of domestic and inter-country adoption. This bill seeks to address this problem by creating a "one-stop-shop" code whereby those who seek to adopt and/or foster care will be easily facilitated to the best interest of every child available for adoption and/or foster care.

The establishment of the "National Child Care Authority (NCCA)", implementing the various alternative child care laws, to be known as "Alternative Child Care Code", will not only improve and speed up the process of adoption, foster care and guardianship, but will also increase its' fiscal capacity thereby improving its services offered to the stakeholders.

In view of the foregoing, approval of this bill is earnestly sought.



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An Act Codifying the Alternative Child Care Laws of the Philippines

BOOK I

GENERAL PROVISIONS

ARTICLE I

SECTION 1. *Short Title* – This Act shall be known as the “**Alternative Child Care Code of 2010.**”

SECTION 2. *Declaration of Policies* –

- a) It is hereby declared the policy of the State to ensure that every child remains under the care and custody of his/her parent(s) and be provided with love, care, understanding and security towards the full and harmonious development of his/her personality. Only when such efforts prove insufficient and no appropriate placement or adoption within the child's extended family is available, shall adoption by an unrelated person be considered.
- b) In all matters relating to the care, custody and adoption of a child, his/her interest shall be the paramount consideration in accordance with the tenets set forth in the United Nations (UN) Convention on the Rights of the Child; UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption, Nationally and Internationally; and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. Toward this end, the State shall provide alternative protection and assistance through foster care or adoption for every child who is neglected, orphaned, or abandoned.
- c) The State shall systematize and enhance foster caring in the country. Towards this end, the State shall ensure that foster families promote and motivate the foster child to relate with his/her biological or adoptive family, as the case may be, and shall provide the wholesome atmosphere to encourage bonding. The State shall also protect the rights of the

biological child of foster families and ensure that in no case shall he/she be disadvantaged as a result of the placement of a foster child.

- d) It shall also be a State policy to:
 - (i) Safeguard the biological parent(s) from making hurried decisions to relinquish his/her parental authority over his/her child;
 - (ii) Prevent the child from unnecessary separation from his/her biological parent(s);
 - (iii) Protect adoptive parent(s) as well as foster parent(s) from attempts to disturb his/her parental authority and custody over his/her adopted/fostered child.
- e) It is the policy of the State that efforts shall be exerted to place every child who is legally free for adoption with an adoptive family in the Philippines. The State shall take measures and safeguards to ensure that inter-country adoption is allowed when the same shall prove beneficial to the child's interests and shall serve and protect his/her fundamental rights.
- f) The State shall establish a system of cooperation with the other States, through their respective Central/Competent Authorities and accredited bodies to prevent the sale, trafficking and abduction of children.

SECTION 3. *Definition of Terms*

- a) **"Abandoned child"** – shall refer to one who has no proper parental care or guardianship or whose parent(s) has deserted him/her for a period of at least three (3) continuous months and has been issued certification by the Department of Social Welfare and Development (DSWD) and upon the adoption of this act, by the Authority that such child is abandoned.
- b) **"A child legally available for adoption"** – shall refer to a child who has been voluntarily or involuntarily committed to the Authority or to a duly licensed and accredited child-placing or child-caring agency, freed of the parental authority of his/her biological parent(s) or guardian or adopters in case of rescission of adoption;
- c) **"Adoption"** – shall refer to a socio-legal process of providing a permanent family to a child whose parents have voluntarily or involuntarily relinquished parental authority over the child;
- d) **"Agency"** – shall refer to the licensed and accredited child placement institutions tasked to implement the foster care program.
- e) **"Agency Adoption"** – shall refer to the mode of adoption wherein a licensed adoption agency finds and develops adoptive families for children who are voluntarily or involuntarily committed. The adoptive families go through the process from application to finalization of the child's adoption under the

auspices of The National Child Care Authority (NCCA) or a licensed/ accredited child-placing agency.

- f) **“Accreditation of Local Child Caring Agency/ Child Placing Agency”** – shall refer to the recognition by the NCCA that such agency is in compliance with appropriate standards evidenced by a certificate of accreditation issued by the Authority.
- g) **“Application”** – shall refer to the duly accomplished application form, home study report including its supporting documents.
- h) **“Authority”** – shall refer to The National Child Care Authority.
- i) **“Biological Parents”** – shall refer to the child's mother and father by nature or the mother alone if the child is illegitimate.
- j) **“Case Study Report”** – shall refer to the case study of the minor and all the prospective guardians made and submitted by the social worker in-charge, to be submitted to the Authority, in view of guardianship leading to adoption.
- k) **“Child”** – shall refer to a person below eighteen (18) years of age or over but is unable to fully take care of him/herself or protect him/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.
- l) **“Child-caring agency”** – shall refer to a private non-profit or government agency duly accredited by the Authority that provides twenty four (24) hour residential care services for abandoned, orphaned, neglected, or voluntarily committed children.
- m) **“Child legally available for adoption”** – shall refer to a child in whose favor a certification was issued by the DSWD, and upon the adoption of this act, by the Authority, that he/she is legally available for adoption after the fact of abandonment or neglect has been proven through the submission of pertinent documents.
- n) **“Child-placing agency”** – shall refer to a private non-profit institution or government agency duly accredited agency by the Authority that receives and processes applicants to become foster or adoptive parents and facilitate placement of children eligible for foster care or adoption.
- o) **“Child Study Report”** – shall refer to a study of a child's legal status, placement history, psychological, social, spiritual, medical, ethno-cultural background, and that of his/her biological family as basis in determining the most desirable placement for him/her.
- p) **“Child with Special Needs”** – shall refer to any child who is difficult to place in view of some physical, psychological, and/or social limitations including but not limited to being an older child, belonging to a sibling group or those who may be under such analogous circumstances.
- q) **“Code”** –shall refer to the ***Alternative Child Care Code of 2009***.

- r) **"Competent Authority"** – shall refer to any State entity which performs all or most of the functions under Chapter II of the Convention;
- s) **"Contracting State"** – shall refer to any State Party to the Convention;
- t) **"Convention"** – shall refer to The Hague Convention on Protection of Children and Co-operation in Respect to Inter-Country Adoption;
- u) **"Certificate of Abandonment"** – shall refer to the final written administrative order declaring a child to be dependent, abandoned, and neglected and committing such child to the care of the Authority through a person or duly licensed child caring/placing agency or institution. The rights of the biological parents, guardian or other custodian to exercise authority over the child shall cease upon issuance of the certificate of abandonment.
- v) **"Deed of Voluntary Commitment"** – shall refer to the notarized instrument relinquishing parental authority and committing the child to the care and custody of the Authority 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 Authority, after counseling and other services have been made available to encourage the child's biological parent(s) to keep the child;
- w) **"Department"** – shall refer to the Department of Social Welfare and Development;
- x) **"Domestic adoption"**- shall refer to the placing of a child within the same country as the child's birth.
- y) **"Extended Family"** – shall refer to a relative of a child both on the paternal and maternal side within the fourth degree of consanguinity.
- z) **"Executive Director"** – shall refer to the Executive Director of the National Child Care Authority.
- aa) **"Fostercare"** – shall refer to provision of planned substitute parental care to a child by a foster family, licensed by the Authority when his/her biological parents are unable to care for him/her temporarily or permanently.
- bb) **"Foster family"** – shall refer to a family or person/s, duly licensed by the Authority, who provide foster care to a child placed with them/him/her for planned, goal-directed services which will help realize the permanent life plan of the child. A foster family may either be one of the following:
 - a. **Regular family** – shall refer to a foster family, which receives material provisions from the agency in order to help meet the basic needs of the child;
 - b. **Volunteer Family** – shall refer to a foster family, which does not receive any material provision or incentive from the agency.
- cc) **"Foster Placement Certificate (FPC)"**- shall refer to the document issued by the Authority, authorizing foster care.

- dd) **"Foundling"** – shall refer to a deserted or abandoned infant or a child found, with unknown parents, guardian, or relatives, or a child committed in a child caring agency or similar institution with unknown facts of birth and parentage and registered in the Civil Register as a "foundling".
- ee) **"Foreign Adoption Agency"** – shall refer to the State Welfare Agency or the licensed and accredited agency in the country of the foreign adoptive parents that provides comprehensive social services and is duly recognized by the Authority.
- ff) **"Foreign National"** – shall refer to any person, not a Filipino citizen, who enters and remains in the Philippines and in possession of a valid passport or travel documents and visa.
- gg) **"Guardian"** – shall refer to a person in whom the law has entrusted the custody and control of the person or estate or both of an infant, insane or other person incapable of managing his own affairs.
- hh) **"Guardianship"** – shall refer to the relationship between the guardian and the ward.
- ii) **"Home Study Report"** – shall refer to a study of the motivation and capacity of the prospective adoptive parents to provide a home that meets the needs of a child or of the prospective foster parent/s to provide foster care that meets the needs of a child available for foster care.
- jj) **"Illegal Adoption"** – shall refer to an adoption that is effected in any manner contrary to the provisions of this Code, these Rules, established Stated policies, Executive Agreements and other laws pertaining to adoption.
- kk) **"Inter-country Adoption"** – shall refer to the socio-legal process of adopting a child by a foreign national or a Filipino citizen permanently residing abroad where the petition for adoption is filed, the supervised trial custody is undertaken, and the decree of adoption is issued in the foreign country where the applicant resides thereby creating a permanent parent-child relationship between the child and the adoptive parents.
- ll) **"Involuntarily committed child"** – shall refer to the one whose parent(s), known or unknown, has been permanently and judicially deprived of parental authority due to abandonment, substantial, continuous, or repeated neglect, abuse; or incompetence to discharge parental responsibilities;
- mm) **"Licensing"** – shall refer to the process conducted by the National Child Care Authority in assessing qualification and authorizing a registered social welfare and development agency to operate as a social work agency.
- nn) **"Matching"** – shall refer to the judicious pairing of the applicant and the child to promote a mutually satisfying parent-child relationship.

- oo) **"Neglected Child"** – shall refer to a child whose basic needs have been deliberately unattended or inadequately attended within a period of three (3) continuous months. Neglect may occur in two ways:
- a. There is physical neglect when the child is malnourished, ill-clad, and without proper shelter. A child is unattended when left by him/herself without the proper provisions and/or proper supervision.
 - b. There is emotional neglect when the child is maltreated, raped, seduced, exploited, overworked, or made to work under conditions not conducive to good health; or are made to beg in the streets or public places; or when children are in moral danger, or exposed to gambling, prostitution, and other vices.
- pp) **"Non-Contracting State"** – shall refer to any State not party to the Convention which the Authority has established working relations.
- qq) **"Permanency Plan"** – shall refer to the best plan arrived at by the Social Worker with the participation of the child, if applicable, and other significant persons/agencies for the child's best welfare and interest. This shall include activities for the child, foster family and the biological parents, if available, and shall have a specific time frame until such time a permanent placement is arrived at.
- rr) **"Placement"** – shall refer to the physical transfer of the child with the foster family.
- ss) **"Pre-Adoption Services"** – shall refer to psycho-social services provided by professionally trained social workers of the Authority, the social service units of local governments, private and government health facilities, Family Courts, licensed and accredited child-caring and child-placing agency and such other individuals or entities involved in adoption as may be authorized by the Authority.
- tt) **"Post-Adoption Services"** – shall refer to psycho-social services and support services provided by professionally trained social workers after the issuance of the Certificate of Adoption.
- uu) **"Residence"** – shall refer to a person's actual and legal stay in the Philippines for two (2) continuous years immediately prior to the filing of application for adoption decree is entered; Provided, that temporary absences for professional, business or emergency reasons not exceeding sixty (60) day in one (1) year shall not be considered as breaking the continuity requirement; Provided, further that the Authority may extend this period in meritorious cases.
- vv) **"Secretary"** – shall refer to the Secretary of the Department.
- ww) **"Special Home Finding"** – shall refer to the process of recruiting or identifying suitable adoptive parents for children with special needs through the Central Authority or a Foreign Adoption Agency of the State if there is no available family in the Roster of Approved Families.

- xx) **“Social Worker”** – shall refer to one who possesses a bachelor of science in social work degree as a minimum education requirement and must have passed the government licensure examination for social workers as required by Republic Act 4373.
- yy) **“Supervised trial custody”** – shall refer to a period of time within which a social worker oversees the adjustment and emotional readiness of both adopter(s) and adoptee in stabilizing their filial relationship;
- zz) **“Voluntarily committed child”** – shall refer to the one whose parent(s) or legal guardian knowingly and willingly relinquished parental authority to the Authority, or any duly accredited child-placement or child-caring agency or institution.

ARTICLE II

THE NATIONAL CHILD CARE AUTHORITY

SECTION 4. The NATIONAL CHILD CARE AUTHORITY – There shall be established The National Child Care Authority (NCCA) attached to the Office of the Secretary of the Department of Social Welfare and Development. The Authority shall consist of two (2) divisions, the Domestic Child Care Division (DCCD), and the Inter-country Child Care Division (ICCD) and will be manned by the Executive Director and the common staff support system.

SECTION 5. Composition of the National Child Care Authority and its Divisions – The National Child Care Authority (NCCA) shall be composed of two (2) divisions, the Domestic Child Care Division (DCCD) and the Inter-country Child Care Division (ICCD). The Authority shall be headed by the Executive Director who shall be appointed by the President and shall maintain a set of staff support system as necessary.

The Domestic Domestic Child Care Division (DCCD) shall be headed by the Division Chief appointed by the Executive Director and shall maintain a child placement committee and a set of other staff support system as may be deemed necessary. Foster Care and Guardianship leading to adoption shall be among the programs included in this Division.

The Inter-country Child Care Division (ICCD) shall be headed by the Division Chief appointed by Executive Director and shall maintain a child placement committee and a set of other staff support system as may be deemed necessary.

SECTION 6. Functions of the National Child Care Authority – The functions of the National Child Care Authority shall include the following:

1. Formulate and develop policies on adoption, foster care, guardianship leading to adoption and other alternative child care policies such as but not limited to programs and services that will protect the Filipino child from abuse, exploitation, trafficking and adoption practice that is harmful, detrimental and prejudicial to the best interests of the child;
2. Implement adoption, foster care, guardianship leading to adoption policies, programs and services;
3. Set standards and guidelines on adoption including pre and post legal adoption services. Accredit and authorize foreign private adoption agencies which have demonstrated professionalism and have consistently pursued non-profit objectives to engage in the placement of Filipino children in their own country;
4. Monitor and assess compliance of all agencies/stakeholders both local and foreign involved in adoption. Gauge the progress and identify gaps in the implementation of the law and come up with policy recommendation;
5. Conduct national information dissemination and advocacy campaign on adoption, foster care and other alternative child care policies;
6. Keep records of all adoption cases, foster care cases and cases of guardianship leading to adoption and provide periodic information and reports on the performance of the Office;
7. Conduct researches on adoption, foster care and other alternative child care policies or in related fields to further improve and strengthen the Office programs and services and for policy formulation and development;
8. Provide technical assistance and conduct capability building activities to all concerned agencies and stakeholders.
9. Accreditation of child placing and liaison agencies involved in the process of adoption and foster care.

SECTION 7. Functions of Domestic Child Care Division and the Inter-country Child Care Division

A. DOMESTIC CHILD CARE DIVISION (DCCD)

1. To develop and promote local adoption services, including pre and post legal adoption services.
2. To establish and maintain database of children available for local adoption and prospective adoptive parents.
3. To establish and maintain database of children available for local foster care and prospective foster parent/s.
4. To keep records of all adoption and foster care proceedings as well as all guardianship proceedings leading to adoption.

5. To maintain a national information and educational campaign on domestic adoption and foster care.
6. To conduct researches on adoption, foster care and other related fields.
7. To provide secretariat, records keeping and other services to the Child Placement Committee
8. To prepare periodic accomplishment/performance and recommendation for the improvement of the office.
9. Conduct training needs assessment and provide technical assistance to stake holders involved on domestic adoption and foster care.
10. Monitor the existence, number and flow of children administratively available for adoption and prospective adopter(s), so as to facilitate their matching.
11. Monitor the existence, number and flow of children administratively available for foster care and prospective foster parent (s), so as to facilitate their matching.
12. Maintain regular communications, linkages with Child Caring Agency, Child Placement Agency, Social Workers and Local Government Unit/s involved on adoption, foster care and guardianship leading to adoption.
13. Provide technical assistance to stakeholders along case management.
14. Generate resources to help child caring and child placing agencies to ensure viability and sustainability of operations.
15. To organize and assist adoption support group. Provide parent family life education sessions and referral for specialized services.
16. Conduct researches in collaboration with Child Caring Agencies / Child Placement Agencies.

B.INTER-COUNTRY CHILD CARE DIVISION (ICCD)

1. To develop and promote inter-country adoption services, including pre and post legal adoption services.
2. To establish and maintain database of children available for inter-country adoption and prospective adoptive parents.
3. To keep records of all inter-country adoption proceedings.
4. To maintain a national information and educational campaign on inter-country adoption.
5. To conduct researches on adoption and other related fields.
6. To provide secretariat, records keeping and other services to the Child Placement Committee.
7. To prepare periodic accomplishment/performance and recommendations for the improvement of the office.

8. Establish and maintain a Roster of Children available for Inter-country Adoption and approved Applicants to be updated on a monthly basis.
9. Review and process Inter Country Adoption applications, matching proposals, placements, and all documents requiring action by the Director.
10. Implement the guidelines for the manner by which selection/matching of prospective adoptive parents can be made.
11. Maintain and facilitate communication with the Child Placement Committee for Inter-country and the different government offices, non-governmental agencies, Central Authorities, Foreign Adoption Agencies in proper cases through the Department of Foreign Affairs or the Philippine Foreign Service Post and the general public.
12. Review and process accreditation and authorization applications and status of agencies for action by the Director.
13. To manage the operations and implementation of Inter Country Adoption programs, services, procedures, special projects & events relative to inter-country adoption.
14. Promote and ensure enforcement /compliance of law, policies and procedures pertaining to Inter Country Adoption.
15. Monitor, follow-up and facilitate completion of adoption of the child through authorized and accredited agency.
16. Coordinate the formulation of policies to enhance the Inter Country Adoption programs and services.

SECTION 8. Composition of Child Placement Committee. - The Child Placement Committee in both the Domestic Child Care Division and the Inter-country Child Care Division shall be composed of members consisting of the following representations: a child psychiatrist or clinical psychologist, a medical doctor, a lawyer, a registered social worker, and a representative of a non-governmental organization engaged in alternative child care. Provided, that in every matching conference, there must be a quorum.

The Executive Director shall appoint qualified persons who shall serve in the Committee for a term of two (2) years and may be renewed at the discretion of the Executive Director.

SECTION 9. Functions of the Committee- The Committee shall have the following functions:

- a) Carry-out an integrated system and network of selection and matching of applicants and children;
- b) Recommend to the Executive Director approval of applications and matching proposals;

- c) Act as consultants to the Executive Director in their area/field of expertise;
- d) Initiate, review and recommend changes in policies concerning selection, matching and placement and other matters related to child welfare.
- e) Perform such other functions and duties as may be determined by the Authority.

SECTION 10. Allowances of Committee Members. A Committee member shall receive a reasonable per diem subject to allowable government practices for each meeting actually attended, and remuneration for other functions as may be determined by the Authority subject to the usual accounting and auditing rules and regulations.

SECTION 11. Rules and Procedures of the Committee. The Committee shall submit, for the approval of the Executive Director, its internal rules and procedures and any amendments thereafter.

SECTION 12. Meetings. The Committee shall meet regularly or upon the call of the Executive Director.

SECTION 13. The Adoption Resource and Referral Units (ARRU). There shall be an Adoption Resource and Referral Unit established in all regional offices of the Domestic Child Welfare Division (DCWD) who shall act as secretariat to the Child Placement Committee during conferences in addition to its major functions. It shall be headed by the Regional Director appointed by the Executive Director and shall have a set of other staff support system as may be deemed necessary.

SECTION 14. Functions of the ARRU. The ARRU of the respective regions shall have the following functions:

- a) Keeps files on child and home study reports;
- b) Keep minutes of the matching conferences;
- c) Keeps data profile of children and families ready for the conferences;
- d) Follow-up the submission of documents; and
- e) Follow-up attendance to conference/s
- f) Such other functions that the Authority may delegate from time to time.

SECTION 15. Allowances of the members of the ARR.U. Members of the ARR.U shall receive a reasonable per diem subject to allowable government practices for each meeting actually attended, and remuneration for other functions as may be determined by the Authority subject to the usual accounting and auditing rules and regulations.

SECTION 16. Rules and Procedures of the ARR.U. The ARR.U shall submit, for the approval of the Executive Director, its internal rules and procedures and any amendments thereafter. There must, however, be a uniform procedure that shall be observed in all the ARR.U offices in all respective regional offices.

SECTION 17. Meetings of the ARR.U. The ARR.U shall meet regularly or upon the call of the Regional Director.

BOOK II ADOPTION

ARTICLE I PROCEDURES FOR ADOPTION

A. PROCEDURE FOR DOMESTIC ADOPTION

SECTION 18. Pre-Adoption Program – The Authority shall provide the services of licensed social workers to the following:

a) **Biological Parent(s)** – Counseling shall be provided to the parent(s) before and after birth of his/her child. No binding commitment to an adoption plan shall be permitted before the birth of his/her child. A period of three (3) months shall be allowed for the biological parent(s) to reconsider any decision to relinquish his/her child for adoption before the decision become irrevocable. Counseling and other appropriate social service interventions and services shall also be offered to the biological parent(s) after he/she has relinquished his/her child for adoption.

Steps shall be taken by the Authority to ensure that no hurried decisions are made and all alternatives for the child's future and the implications of each alternative have been provided.

b) **Prospective Adoptive Parent(s)** – Counseling sessions, adoption fora and seminars, among others shall be provided to prospective adoptive parent(s) to resolve possible adoption issues and to prepare him/her for effective parenting.

- c) **Prospective Adoptee** – Counseling sessions shall be provided to ensure that he/she understands the nature and effects of adoption and is able to express his/her views on adoption in accordance with his/her age level of maturity.

It shall be the duty of the Authority or the child-placing or child-caring agency which has custody of the child to exert all efforts to locate his/her unknown biological parent(s). If such efforts fail, the child shall be registered as a founding and subsequently be declared abandoned.

The Authority shall develop a pre-adoption program which shall include, among other, the above-mentioned services.

In all proceeding for adoption, the Authority shall decide on the basis of all the documents presented to it, including, but not limited to, a proof that the biological parent(s) has been properly counseled to prevent him/her from making hurried decision caused by strain or anxiety to give up the child and to sustain that all measures to strengthen the family have been exhausted and that any prolonged stay of the child in his/her own home will be inimical to his/her welfare and interest. There shall be no adversarial proceedings in adoption and shall be decided to within thirty (30) days upon submission of all the complete documents required by the Authority.

SECTION 19. Who May Be Adopted – The following may be adopted:

- a) Any person below eighteen (18) years of age who has been administratively declared available for adoption;
- b) The legitimate son/daughter of one spouse by the other spouse
- c) An illegitimate son/daughter by a qualified adopter to improve his/her status to that of legitimacy;
- d) A person of legal age if, prior to the adoption, said person has been consistently considered and treated by the adopter(s) as his/her own child since minority;
- e) A child whose adoption has been previously rescinded; or
- f) A child whose biological or adoptive parent(s) has died: Provided, that no proceedings shall be initiated within six (6) months from the time of death of said parent(s).
- g) A child not otherwise disqualified by law.

SECTION 20. Who May Adopt – The following may adopt:

- a) Any Filipino citizen of legal age, in possession of full civil capacity and legal rights, of good moral character, has not been convicted of any crime

involving moral turpitude which may affect the adopted child's healthy social interactions, appropriate character development and modeling, emotionally and psychologically capable of caring for children at least sixteen (16) years older than the adoptee, who is in a position to support and care for his/her children in keeping with the means of the family. The requirement of sixteen (16) year difference between the age of the adopter and the adoptee maybe waived when the adopter is the biological parent of the adoptee, or is the spouse of the adoptee's parent;

- b) The guardian with respect to the ward after the termination of the guardianship and clearance of his/her financial accountabilities.

Husband and wife shall jointly adopt, except in the following cases:

- (i) if one spouse seeks to adopt the legitimate son/daughter of the other, or
- (ii) if one spouse seeks to adopt his/her own illegitimate son/daughter: Provide, However, that the other spouse has signified his/her consent thereto: or
- (iii) if the spouses are legally separated from each other.

In case husband and wife jointly adopt or one spouse adopts the illegitimate son/daughter of the other, joint parental authority shall be exercised by the spouses.

SECTION 21. 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) The adoptee, if ten (10) years of age or over;
- b) The biological parent(s) of the child, if known, or the legal guardian, or the proper government instrumentally which has legal custody of the child;
- c) The legitimate and adopted sons/daughters, ten (10) of age or over, of the adopters(s) and adoptee, if any;
- d) The illegitimate sons/daughters, ten (10) years of age or over of the adopter if living with said adopter or over whom the adopter exercises parental authority and latter's spouse, if any; and
- e) The spouse, if any, of the person adopting or to be adopted.

SECTION 22. Where to File Application - A person eligible to adopt under article III, Section 20 of this Act who desires to adopt a child in the Philippines and has attended adoption fora and seminar, shall file their application for adoption with the Authority or with any licensed accredited child placing agency/s.

SECTION 23. Case Study – No petition for adoption shall be forwarded to the Authority unless a licensed social worker of the Authority, the social service office of the local government unit, or any child-placing or child-caring agency has made a case study of the adoptee, his/her biological parent(s) as well as the adopter(s) and has submitted the report and recommendations on the matter to the Authority for the issuance of the adoption certificate.

At the time of preparation of the adoptee's case study, the concerned social worker shall confirm with the National Statistics Office (NSO) - Civil Registry the real identity and registered name of the adoptee. If the birth of the adoptee was not registered with the National Statistics Office- Civil Registry, it shall be responsibility of the concerned social worker to ensure that the adoptee is registered.

The case study on the adoptee shall establish that he/she is legally available for the adoption and that the documents to support this fact are valid and authentic. Further, the case study of the adopter(s) shall ascertain his/her genuine intentions and that the adoption is in the best interest of the child.

The case studies and other relevant documents and records pertaining to the adoptee and the adoption shall be preserved by the Authority.

SECTION 24. Fees, Charges and Assessments – The following fees, charges and costs may be imposed, subject to reasonable rates as determined by the Authority to cover expenses in providing adoption services. The applicant(s) shall be apprised of the fees at the start.

- a) Adoption Fee/s – accredited child caring and child placing agencies may charge reasonable fee/s as determined by the Authority to cover expenses in providing adoption services. In the determination of fee/s, paramount consideration shall be given to the financial capability, especially of middle and lower income applicants to encourage adoption even for middle and lower income families. Provided further, that government agencies involved in the process, including the courts, if applicable, shall not charge any fee/s for the services they rendered in the process.
- b) Publication Fee/s – the Authority shall determine the cost of the publication of the petition for adoption for three (3) consecutive weeks in a publication of general circulation.
- c) Legal and other court fee/s, as may be applicable – All legal actions which may arise from all adoption applications where the child to be adopted is certified as abandoned, neglected and dependent by the

NCWA and considered as ward of the State, shall be handled by the Authority, the lawyers of the NCCA and other volunteer lawyers as counsel for petition. All court fees shall be "de-officio."

SECTION 25. Family Selection/Matching – The matching of the child to an approved adoptive parent/s shall be carried out during the regular matching conference by the matching Committee otherwise called the Domestic Child Care Division Child Placement Committee (DCCD-CPC) in the regional level where the social workers of the child and family are present. Subject to the approval of the Authority, the DCCD-CPC shall fix its own internal rules and procedures in accordance with this Code; provided, however, that records of children and approved adoptive parent/s not matched within thirty (30) days in the regional level shall be forwarded to the Authority's Central office for inter-country matching; Provided further that the children with Special needs shall be immediately forwarded within twenty (20) days if not matched in the first meeting, except under special circumstances. The matching proposal made by the DCCD-CPC shall be approved by the Authority.

SECTION 26. Supervised Trial Custody – No petition for adoption shall be granted until the adopter(s) has undergone 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 established a bonding relationship. During said period, temporary parental authority shall be vested in the adopter(s).

The Authority may motu proprio or upon motion of any party reduce the trial period if it finds the same to be in the best interest of the adoptee, stating the reasons for the reduction of the period.

If the child is below seven (7) years of age and is placed with prospective adopter(s) through a pre-adoption placement authority issued by the Authority, the prospective adopter(s) shall enjoy all the benefits to which biological parent(s) is entitled from the date the adoptee is placed with the prospective adopter(s).

SECTION 27. Certificate of Adoption – If, after the submission of the required documents for adoption by the Domestic Child Care Division, and no opposition has been interposed to the petition, the Authority is convinced that the petitioners are qualified to adopt, and that the adoption would redound to the best interest of the adoptee, a certificate of adoption shall be entered which shall be effective as of the date the original petition was filed. This provision shall also apply in case the petitioner(s) dies before the issuance of the certificate of adoption to protect the interest of the adoptee. The certificate shall state the name by which the child is to be known. The certificate of adoption shall be issued within thirty (30) days upon the fulfillment of all the requirements set by the NCCA.

SECTION 28. The Birth Certificate – 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 the amended birth certificate in its place and shall be sealed in the civil registry records. The new birth certificate to be issued to the adoptee shall not bear any notation that it is an amended issue or that he/she is an orphan, abandoned or foundling.

B. PROCEDURE FOR INTER-COUNTRY ADOPTION:

SECTION 29. Inter-country Adoption as the Last Resort- The National Child Care Authority shall ensure all possibilities for adoption of the child under the Family Code have been exhausted and that inter-country adoption is in the best interest of the child. Towards this end, the Authority shall set up the guidelines to ensure that steps will be taken to place the child in the Philippines before the child is placed for inter-country adoption.

SECTION 30. Who may be Adopted- All persons legally free for domestic adoption may be the subject of inter-country adoption.

SECTION 31. Documents of Prospective Adoptive Child –In order that such child may be considered for placement, the following documents must be submitted to the Inter-Country Child Care Division (ICCD):

- a) child study report;
- b) Security Paper (SECPA) Birth certificate/foundling certificate;
- c) Certified True Copy of the Certification that the child is administratively available for adoption;
- d) Medical evaluation/history including that of the child's biological parent/s, if available, and updated medical abstract;
- e) Certified True Copy of the Death Certificate of child's birthparent/s, if applicable;
- f) Psychological evaluation as may be necessary;
- g) Child's own written consent to adoption, if he/she is ten (10) years or older witnessed by a social worker of the Authority or Child Caring/Placing Agency and after proper counseling; and
- h) Most recent whole body size picture of the child, if applicable. Any physical impairment of the child should be visible in the picture.

SECTION 32. Who may adopt – Any foreign national or a Filipino citizen permanently residing abroad may file an application for inter-country adoption of a Filipino child if he/she:

- a) Comes from a country:
 - (i) With whom the Philippine has diplomatic relations;
 - (ii) Whose government maintain a foreign adoption agency; and
 - (iii) Whose laws allow adoption; and
- b) Is at least twenty-seven (27) years of age and at least sixteen (16) years older than the child to be adopted at the time of application unless the adopter is the parent by nature of the child to be adopted or the spouse of such parent.
- c) Has the capacity to act and assume all rights and responsibilities of parental authority under his laws, and has undergone the appropriate counseling from an accredited counselor in his/her country.
- d) Has not been convicted of a crime involving moral turpitude.
- e) Is eligible to adopt under his/her national law.
- f) Is in a position to provide the proper care and support and to give the necessary moral values and example to all his children, including the child to be adopted.
- g) Files jointly with his/her spouse, if any, who shall have the same qualification and none of the disqualification to adopt as prescribed above.

SECTION 33. Where to File Application - The application for inter- country adoption shall be filed with the Inter-Country Child Care Division or directly with the Authority, through an authorized and accredited agency in the country of the prospective adoptive parents, which application shall be in accordance with the requirements as set forth in the implementing rules and regulations to be promulgated by the Authority.

The application shall be supported by the following documents written and officially translated in English:

- a) Birth certificate of applicant/s and in case of relative adoption, such relevant documents that establish the relationship between the applicant claiming relationship to the child to be adopted;
- b) Marriage contract, and in the proper case, Decree of Divorce of a previous marriage;
- c) Written consent in a form of sworn statement by the biological or adopted children who are ten (10) years of age or over whom the prospective adopter exercises parental authority;

- d) Physical and medical evaluation by a duly licensed physician;
- e) Psychological evaluation by a psychologist;
- f) Latest income tax return or other documents showing the financial capacity of the applicant/s;
- g) Clearances issued by the Police department or other proper government agency of the place where the applicant/s reside;
- h) Character references from the local/church minister, the applicant's employer and a member of the immediate community who have known the applicant/s for at least five (5) years; and
- i) Recent post card size pictures of the applicant/s, the immediate family members and their home.

SECTION 34. Fees, Charges and Assessment – The NCCA through the Inter-Country Child Care Division (ICCD) may charge reasonable fees to cover expenses in providing adoption services. The applicant(s) shall be apprised of the fees at the start.

Fees, charges and assessments collected by the Authority in the exercise of its functions shall be used solely to process applications for inter-country adoption and to support the activities of the Authority.

SECTION 35. Family Selection/matching- No child shall be matched to a foreign adoptive family unless it is satisfactorily shown that the child cannot be adopted locally. The clearance, as issued by Domestic Child Care Division (DCCD) with the copy of the minutes of the meetings shall form part of the records of the child to be adopted.

When the Placement Authority has been transmitted and duly received by the authorized and accredited inter-country adoption agency of the prospective adopter and all the travel documents of the child are ready, the adoptive parents or any one of them shall personally fetch the child in the Philippines.

SECTION 36. Pre-adoptive Placement Costs – The applicant(s) shall bear the following costs incidental to the placement of the child:

- a) The cost bringing the child from the Philippines to the residence of the applicant(s) abroad, including all travel expenses within the Philippines and abroad; and
- b) The cost of the child's passport, visa, medical examination and psychological evaluation if required, and other related expenses.

SECTION 37. Supervision of Trial Assessments – The government agency or the authorized and accredited agency in the country of the adoptive parents who filed the application for inter-country adoption shall be responsible for the trial custody and the care of the child. It shall also provide family counseling and other related cases. The trial custody shall be a period of six (6) months from the time of placement. Only after the lapse of the period of trial custody shall a certificate/decreed of adoption be issued in the said country, a copy of which shall be sent to the Authority to form part of the records of the child.

During the trial custody, the adopting parent(s) shall submit to the governmental agency or the authorized and accredited agency, which shall in turn transmit a copy to the Authority, to the Philippine Consulate office where the child has been placed for trial custody, a progress report of the child's adjustment. The progress report shall be taken into consideration in deciding whether or not to issue the consent to adoption.

The Department of Foreign Affairs, through the Philippine Embassy or Consular Office, shall monitor Filipino children sent abroad for trial custody and shall closely coordinate with the NCCA to ensure the repatriation to the Philippines of a Filipino child whose adoption has not been approved.

SECTION 38. Executive Agreements – The Department of Foreign Affairs, upon representation of the Authority, shall cause the preparation of Executive agreements with countries of the foreign adoption agencies to ensure the legitimate concurrence of said countries in upholding the safeguards provided by this Act.

SECTION 39. Certificate of Adoption- If, after the submission of the required documents for adoption by the Inter-country Child Care Division and no opposition has been interposed to the petition, the Authority is convinced that the petitioners are qualified to adopt, and that the adoption would redound to the best interest of the adoptee, a certificate of adoption shall be entered which shall be effective as of the date the original petition was filed. This provision shall also apply in case the petitioner(s) dies before the issuance of the decree of adoption to protect the interest of the adoptee. The certificate shall state the name by which the child is to be known. The certificate of adoption shall be issued within thirty (30) days upon the fulfillment of all the requirements set by the NCCA.

SECTION 40. Post Adoption Services – There shall be a Post Adoption Services which refers to the psycho-social and support services to be provided to the biological parent/s, if still living, by the social worker of the Authority after the adoption has been legally completed.

ARTICLE II

EFFECTS OF ADOPTION

SECTION 41. Parental Authority – Except in cases where the biological parent is the spouse of the adopter, all legal ties between the biological parent(s) and the adoptee shall be severed and the same shall then be vested on the adopter(s).

SECTION 42. Legitimacy – The adoptee shall be considered the legitimate son/daughter of the adopter(s) for all intents and purposes and as such is entitled to all the rights and obligations provided by the law to legitimate sons/daughters 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.

SECTION 43. Succession – In legal and intestate succession, the adopter(s) and the adoptee shall have reciprocal rights of succession without distinction from legitimate filiations. However, if the adoptee and his/her biological parent(s) had left a will the law on testamentary succession shall govern. In cases of inter-country adoption, the national law of the adoptive parents shall apply, as far as beneficial to the adopted child.

SECTION 44. Benefits - The adoptive parents shall, with respect to the adopted child, enjoy all the benefits to which the biological parents are entitled. Maternity and paternity benefits and other benefits given to the biological parents upon the birth of a child shall be enjoyed if the adoptee is below seven (7) years of age upon the issuance of the Pre-Adoptive Placement Authority issued by the Authority.

In case of inter-country adoption, the pertinent laws as to benefits given to adoptive parents by their respective States shall govern.

ARTICLE III

RESCISSION OF ADOPTION

SECTION 45. Grounds for Rescission of Adoption – Upon petition of the adoptee, with the assistance of the Authority, if 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(s);

- a) repeated physical and verbal maltreatment by the adopter(s) despite having undergone counseling;

- b) attempt on the life of the adoptee;
- c) sexual assault or violence, or
- d) abandonment and failure to comply with parental obligations.

Adoption being in the best interest of the child shall not be subject to rescission by adopter(s). However the adopter(s) may disinherit the adoptee for causes provided in Article 919 of the Civil Code, in cases of Domestic adoption. However, in cases of inter-country adoption, the national law of the adopter shall govern.

SECTION 46. Effects of the Rescission – If the petition for rescission of adoption is granted, the parental authority of the adoptee's biological parent(s), if known, or the legal custody of the Authority shall be restored if the adoptee is still a minor or incapacitated. The reciprocal right and obligations of the adopter(s) and the adoptee to each other shall be extinguished.

The Authority shall order the Civil Registrar to cancel the amended certificate of birth of the adoptee and restore his/her original birth certificate.

Succession rights shall revert to its status prior to adoption, but only as of the date of the approval of the petition for rescission of adoption. Vested rights acquired prior to rescission shall be respected.

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

ARTICLE IV

CONFIDENTIAL NATURE OF PROCEEDINGS

SECTION 47. Confidential Nature of Proceedings & Records – All proceedings in adoption cases shall be confidential and shall not be open to the public. All records, books and papers relating to the adoption cases in the files of the court, the Authority, or any other agency or institution participating in the adoption proceedings shall be kept strictly confidential.

If the Authority finds the disclosure of the information to a third person is necessary for purposes connected with or arising out of the adoption and will be for the best interest of the adoptee, the Authority may merit the necessary information to be released, restricting the purposes for which it may be used.

No copy thereof as well as any information relating hereto shall be released without written authority from the Authority or the written request of any of the following:

- a) The child/adopted person, with appropriate guidance and counseling, or his/her duly authorized representative, spouse, parent or parents, direct

descendants, or guardian or legal institution legally in charge of the adopted person, if minor.

- b) The court or proper public official whenever necessary in an administrative, judicial or other official proceeding to determine the identity of the parent or parents or of the circumstances surrounding the birth of the child/adopted person; or
- c) The nearest kin, in case of death of the child/adopted person.

The Authority shall ensure that information held by them concerning the origin of the child/adopted person, in particular the identity of his /her biological parents, is preserved.

ARTICLE V

VIOLATIONS AND PENALTIES RELATING TO ADOPTION

SECTION 48. Violations and Penalties

- a) Any person who shall knowingly participate in the conduct or carrying out of an illegal adoption , in violation of the provisions of this Act, shall be punished with a 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:
 - 1. obtaining consent for an adoption through coercion, undue influence, fraud, improper material inducement, or other similar acts;
 - 2. non compliance with the procedures and safeguards provided by law for the adoption; or
 - 3. subjecting or imposing the child to be adopted to danger, abuse or exploitation.
- b) Any person who shall cause the fictitious registration of the birth of the child under the name(s) of a person(s) who is not his/her biological parent(s) shall be guilty of simulation of birth, and shall be punished by prison mayor in its medium period and a fine not exceeding fifty thousand pesos (P50,000.00).

Any physician or nurse or hospital personnel who, in violation of his/her oath of office, shall cooperate in the execution of the above mentioned crime shall suffer the penalties herein prescribed and also the penalty of permanent disqualification.

- c) Any person who shall violate established regulations relating the confidentiality and integrity of records, documents, and communications

of adoption applications, cases and processes shall suffer the penalty of imprisonment ranging from one (1) year and one (1) day to two (2) years, and/or a fine of not less than five thousand pesos (P5,000.00) but not more than ten thousand pesos (P10,000.00) 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 enumerate.

Act 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.

Act 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 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 is an alien, he/she shall be deported immediately after service of sentence and perpetually excluded from entry to the country.

SECTION 49. Public Officers as Offender - Any government official, employee or functionary who shall be found guilty of violating any provisions of this Act, or who shall conspire with private individual shall, in addition to the above prescribed penalties, be penalized in accordance with existing civil service laws, rules and regulations. Provided, that upon the 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.

SECTION 50. Rectification of Simulated Births – A person who has, prior to the effectivity of this Act, simulated the birth of a child shall not be punished for such act; Provided that the simulation of the 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 the application for correction of the birth registration and petition for adoption shall be filed within five (5) years from the effectivity of this Act and completed thereafter. Provided, finally, That such person complies with the procedure as specified in Article III of this Act and other requirements as determined by the Authority.

The local social welfare office and the barangays within its coverage shall conduct a massive campaign against simulation of birth, sale and trafficking of children. A survey and list of simulated births in every barangay shall be submitted

to the local ARRU for assessment and filing of legal; adoption under the provisions of this Code.

BOOK III FOSTER CARE

ARTICLE I FOSTER CARE AS PROGRAM OF NCCA-DCCD

SECTION 51. Foster Care as Mandatory and Permanent Program of NCCA. - The National Child Care Authority – Domestic Child Care Division shall endeavor to maintain and improve foster care services as mandatory and permanent program of the Authority. This program shall be under the auspices of the Domestic Child Care Division headed by the Division Chief.

SECTION 52. Foster Care Committees. The Regional Foster Care committee maybe convened by the DCCD as necessary whenever there are difficulties in the foster placements. The Committee shall be composed of multi disciplinary team of professionals responsible for resolving the difficulties in a foster placement.

SECTION 53. Advocacy Campaign. - National Government Agencies (NGAs), National Government Organizations (NGOs), Peoples Organizations (PO), Faith Based Organizations, and civil society shall reach out to communities to recruit applicants for foster care.

SECTION 54. Recruitment and Development of Foster Parents. - National Government Agencies (NGAs), National Government Organizations (NGOs), Local Government Units (LGUs), and Peoples Organizations (PO) shall develop foster parents who shall provide foster care to children.

SECTION 55. Issuance of License. The NCCA shall issue a foster license to parents who were approved as foster parents by the DCCD based on the home study report submitted by the agency to determine the motivations, capacities and potentials for development of applicants. The license is valid for three (3) years unless otherwise revoked by the NCCA.

ARTICLE II

PROCEDURES FOR FOSTER CARE

SECTION 56. Who may be fostered. – The following may benefit from foster care;

- a) A Child as defined in Article I, Section 3 of this Act;
- b) A child who is either abandoned, neglected or orphaned;
- c) A child in need of special protection due to any of the following conditions and circumstances:
 - i. When his/her parents /guardians are in crisis which render him/her temporarily or permanently incapable of adequately providing care for him/her;
 - ii. When his/her parents/guardians are known to be inflicting physical or sexual abuse;
 - iii. When he/she is a victim of commercial sexual exploitation;
 - iv. When he/she has emotional and psychological difficulties;
 - v. When he/she is affected with Human Immunodeficiency Virus (HIV) / Acquired Immune Deficiency Syndrome (AIDS);
 - vi. When the child has committed a minor offense and released on recognizance or on custody supervision but whose family or relatives are not capable or providing him/her adequate /appropriate care.
- d) A child matched for adoption.

SECTION 57. Who May Foster. - The kins or relatives of the foster child, if willing and available, become the priority prospective foster family. All applicants, including the kins or relatives of the foster child, must meet all the following qualifications:

- a) Shall be at least 25 years of age and shall have a genuine interest in parenting a related or non-related child.
- b) May either be married, widowed, separated or single. Provided, that single applicants must be able to provide a family atmosphere for the child.
- c) Must have a healthy and harmonious relationship with each family member.
- d) Must have a good moral character, emotional maturity; be physically fit and financially able to provide for the family's needs.
- e) Must be willing to be trained to hone their knowledge, attitude and skills in caring for children.

f) Alien applicants must have at least one (1) year residency in the Philippines and possess all the qualifications stated above.

SECTION 58. Matching. - This shall be done by the agency only after the child case study report, home study report and other required documents have been completed.

SECTION 59. Placement. -The physical transfer of a child to a licensed foster parent shall take effect only after the issuance of a Foster Placement Certificate except in emergency situations.

SECTION 60. Supervision of Foster Placement. - Supervised foster placement begins as soon as the foster family receives the child into their care.

During the foster placement, the social worker shall conduct regular home visits to monitor the child's adjustment in the foster home and the current capability of the foster family and shall report to the Division Chief of the Domestic Child Care Division (DCCD).

SECTION 61. Reporting. - In case of injury or death of the child, or if the child runs away or gets lost, such case shall be reported immediately to the Agency, which, in turn, shall report the same to the nearest DCCD field office. The agency shall submit an incidental report together with the medical and death certificate, as the case may be, to the nearest DCCD field office.

SECTION 62. Termination of Placement. - Termination of Placement shall be done by the Agency, upon the recommendation of the social worker, on any of the following grounds:

- a) Reunion of the child with his/her biological family; adoption; referral to another foster family or residential institution/facility; and death of the child.
- b) After the reunion of the child with his/her biological family, adoption or referral to another foster family or residential institution/facility, the social worker shall be available to ensure the child's reintegration and adjustment to his/her biological/adoptive/foster family; and
- c) The biological/adoptive/foster family shall be provided with counseling to enable them to understand and cope with the child's adjustment problem to his/her environment.

SECTION 63. Adoption of a Foster Child. - A foster family may adopt their/his/her foster child. The foster family must have all the qualifications as provided for in Chapter 1 of this Act, for domestic adoption or inter-country adoption, as the case may be. However, foster care shall not be used as a venue to select a child to be adopted.

ARTICLE III

FOSTER CARE SUPPORT SERVICES

SECTION 64. Health Insurance.- A foster child shall be entitled to health insurance benefits subject to the guidelines to be used by the Authority and PHILHEALTH.

SECTION 65. Special Discounts. - To the extent possible, the government may grant special discounts to foster parents on the purchase of basic commodities for the exclusive use of the foster child subject to the guidelines to be issued for the purpose by the Department of Trade and Industry (DTI) and the Department of Agriculture (DA).

SECTION 66. Foster Child Subsidy. - A foster child, through the agency, shall be entitled to a monthly subsidy from the government (NCCA and / or LGU), subject to existing government standards and auditing rules and regulations to include incidental expenses. The subsidy is primarily aimed to support the expenses of the child to lessen the financial burden of the foster family. This also is an incentive to families to continue caring for children.

SECTION 67. Foster Family Incentives. - A foster family, through the agency, shall be entitled to a monthly incentive from the government (NCCA and / or LGUs), subject to existing government standards and auditing rules and regulations.

SECTION 68. Support Care Services. -The NCCA and the social service unit of the LGU or agency shall provide support care services to include, but not limited to, counseling and other psycho-social services, visits, training on child care and development, respite care, skills training and livelihood assistance, as the case may be.

SECTION 69. Support to Biological Parents. - Counseling shall be provided to parents to help them understand foster care and prepare them for eventual reunification with the child. Training on child-caring and child-protection skills shall be provided to biological parents to improve their knowledge, attitude and skills in parenting.

SECTION 70. Tax Incentives for Foster Parents. - Foster parents shall be entitled to the following tax incentives:

- a) Personal Exemption.** For purposes of determining the taxable income of licensed volunteer foster parent who is either unmarried, widow/widower of legally separated, a foster child shall be treated as a dependent by the said foster parent, that would qualify him/her as "head of the family" entitled to the P50,000.00 personal exemption under the provisions of Section 35(A) of the National Internal Revenue Code of 1997 as amended by Republic Act 9504;
- b) Additional Exemption for Dependents.** For purposes of claiming the P25,000.00 additional exemption of foster parent/s for each dependent not exceeding four (4), the definition of the term "dependent" under Section 35(B) of the NIRC of 1997 as amended by Republic Act 9504, shall be amended to include "foster child", provided however, that all the other conditions provided for under the aforesaid section of the Tax Code are complied with. Provided, further, that this additional exemption shall be allowed only if the period of foster care is at least a continuous period of one taxable year.

ARTICLE IV

VIOLATIONS AND PENALTIES IN RELATION TO FOSTER CARE

SECTION 71. Penalties. – Any person/s caring for a child, whether licensed or without a license as foster family, found to be committing acts of neglect, abuse, cruelty or exploitation and other conditions prejudicial to the child's development or has under his/her custody two or more children without any legal basis or without being licensed to act as a foster family shall be penalized in accordance with Republic Act No. 7610, otherwise known as An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, providing for its Violation, and for Other Purposes.

Any agency found to be violating any provision of Chapter II of this Act shall suffer the following penalties:

- 1) For the first violation, a fine of not less than Five Thousand Pesos (P5,000.00) but not exceeding Ten Thousand Pesos (P10,000.00); and
- 2) For any subsequent violation, a fine of not less than Twenty Thousand pesos (P20,000.00) but not exceeding One Hundred Thousand Pesos (P100,000.00) and the revocation of the license of the agency concerned.

BOOK IV

GUARDIANSHIP LEADING TO ADOPTION

ARTICLE I

Guardianship as Alternative Child Care

SECTION 72. Guardianship as Alternative Child Care. – While nothing in this Act amends the judicial nature of guardianship proceedings, the provisions on this Act will only apply after termination of guardianship as when the guardian/s endeavors and expressed his/her/their intention to the adoption of the ward.

All relevant provisions on adoption, whether, inter-country or domestic adoption, as the case may be, shall govern in cases of guardian/s intending to adopt his/her/their ward.

SECTION 73. Petition for the adoption of the Ward. - After the termination of guardianship, the guardian/s may opt to adopt his/her/their ward by filing a petition for adoption pursuant to Book II of this Act. All the qualifications prescribed in Book II of this Act shall be met with, as well as all the requirements for adoption must be complied with.

The Authority may motu proprio or upon motion of any party reduce the trial period if it finds the same to be in the best interest of the adoptee, stating the reasons for the reduction of the period.

FINAL PROVISIONS

SECTION 74. Implementing Rules and Regulation – Within six (6) months from the promulgation of this Act, the Authority, with the Council for the Welfare of the Children, the Office of Civil Registry General, the Department of Justice, Office of the Solicitor General, Department of Foreign Affairs after due consultation with agencies involved in child-care and placement shall promulgate the necessary rules and regulations to implement the provisions of this act within six (6) months after its effectivity.

SECTION 75. Appropriations – Such sum as may be necessary for the implementation of the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

SECTION 76. Repealing Clause - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule, or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

SECTION 77. Separability Clause - If any provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 78. Effectivity Clause – This Act shall take effect fifteen (15) day following its complete publication in any newspaper of general circulation or in the Official Gazette.

Approved,