

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 6153



Introduced by RAM Party-list REPRESENTATIVE ALOYSIA T. LIM

EXPLANATORY NOTE

Every child deserves a family. Every child deserves protection and care. Thus, it is everyone's responsibility, especially by the state, to ensure that every child grows to become a productive and responsible adult.

Sad to say, according to the United Nations' Children's Rights & Emergency Relief Organization, there are about 1.8 million abandoned or neglected Filipino children, today. These are children left without parental care, committed to care institutions, or left in the streets to survive. It also means that these children are vulnerable to discrimination, violence, trafficking, exploitation, and abuse.

The aim of this measure is to consolidate and strengthen the laws related to alternative care of children. While everyone of us believes that all children must be under the care of their natural families, we also acknowledge the fact that there are circumstances when children are forced into vulnerable situations. Poverty, labor migration, family disintegration, internal armed conflict and disasters are just some of the factors that lead children, either to institutionalized care or to the streets. It is, therefore, imperative that the state shall craft legislative measures to create a safe environment for children separated from their natural families.

Let us not waste our time in protecting our precious resource.

In view of the foregoing, the passage of this Bill is earnestly, sought.


ALOYSIA T. LIM

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HOUSE BILL No. _____

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**AN ACT
CODIFYING THE ALTERNATIVE CHILD CARE LAWS,
REORGANIZING THE INTER-COUNTRY ADOPTION BOARD INTO THE
NATIONAL AUTHORITY FOR CHILD CARE, AND PROVIDING FUNDS
THEREFOR**

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

BOOK I

GENERAL PROVISIONS

ARTICLE I

Section 1. *Short Title.* – This Act shall be known as the "*Alternative Child Care Code of the Philippines*".

Section 2. *Declaration of Policies.* – The State shall defend the right of children to survival and development including assistance to proper care, health, nutrition, early learning and special protection from all forms of neglect, abuse, cruelty, exploitation, or other conditions prejudicial to their well-being. It shall provide every child who is neglected, abused, surrendered, dependent, abandoned, under sociocultural difficulties, with an alternative family that will provide love and care, as well as opportunities for growth and development.

The best interest of the child shall be the paramount consideration in the enactment of alternative care, custody, and adoption policies. It shall be in accordance with the tenets set forth in all the rights of the child enumerated under Article 3 of *Presidential Decree No. 603*, otherwise known as the "*Child And Youth Welfare Code*",

United Nations Convention on the Rights of the Child (UNCRC); United Nations Guidelines on Alternative Care of Children; United Nations 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 Inter-country Adoption.

Toward this end, the State shall ensure that a child without parental care or at risk of losing it are provided with alternative care options such as foster care, kinship care, kafalah, guardianship, or residential care, including family-like care. As such, the State shall establish alternative care standards to ensure the quality and conditions that are conducive to the child's development.

The State shall establish a system of cooperation with the other States, through their respective central or competent authorities and accredited bodies to prevent the sale, trafficking, and abduction of children, and to protect Filipino children abandoned overseas who are made vulnerable by their irregular status.

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

- (a) **Abandoned Child** refers to one who has no proper parental care or guardianship or whose parent(s) has deserted him/her for a period of at least six (6) continuous months and has been judicially declared as such;
- (b) **Abandoned Filipino Child in a Foreign Country** refers to a child who is found outside the Philippine territory, unregistered or undocumented, with known or unknown facts of birth and separated from or deserted by the biological Filipino parent committed to a foreign orphanage or charitable institution or in temporary informal care;
- (c) **Adoption** refers to a process whereby a person assumes the parenting of another, usually a child, from that person's biological or legal parent or parents, and, in so doing, permanently transfers all rights and responsibilities, along with filiation, from the biological parent or parents. It shall cease to be part of alternative child care and becomes parental care as soon as the process is complete;

(d) **Alternative Child Care** refers to the provision of planned substitute parental care to a child who is orphaned, abandoned, neglected, or surrendered, by a child caring or child-placing agency. Alternative child care may be provided in the following ways:

(1) **Foster Care** refers to the provision of planned temporary substitute parental care to a child by a foster parent;

(2) **Guardianship** refers to the relationship between the guardian and the ward;

(3) **Kafalah** refers to the Islamic provision of alternative care without altering the child's original kinship status so as not to sever the link between the adopted child and his biological parents. The new family takes care of the child as an act of personal charity, or for compensation, depending on the circumstances of the case;

(4) **Kinship Care** refers to family-based care within the child's extended family or with close friends of the family known to the child; or

(5) **Residential Care** refers to care provided in any non-family base group setting, such as places of safety for emergency care, transit centers in emergency situations, and all other short and long-term residential care facilities, including orphanages and group homes; It includes family-like care which is alternative individualized care provided under conditions that resemble a 'family-like' environment where surrogate parents serve as caregivers for children with long-term alternative care needs;

(e) **Application** refers to the duly accomplished application form by prospective parents, home study report including its supporting documents;

(f) **Authorized and Accredited Agency** refers to the State welfare agency or a licensed adoption agency in the country of the adopting parents which

provide comprehensive social services and which is duly recognized by the National Authority for Child Care (NACC);

(g) **Biological Parents** refer to the child's mother and father by nature or the mother alone if the child is illegitimate;

(h) **Child** refers to a person below eighteen (18) years of age, or one who is over eighteen (18) but is unable to fully take care of or protect oneself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition;

(i) **Child-caring Agency** is a duly licensed and accredited agency by the NACC that provides twenty-four (24)-hour residential care services for abandoned, orphaned, neglected, or voluntarily-committed children;

(j) **Child Case Study Report** refers to a written report prepared by a social worker containing all the necessary information about a child;

(k) **Child Legally Available For Adoption** refers to a child who has been voluntarily or involuntarily committed to the NACC 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 adopter(s) in case of rescission of adoption;

(l) **Child-placing Agency** is a duly licensed and accredited agency by the NACC to provide comprehensive child welfare services including, but not limited to, receiving applications for adoption, evaluating the prospective adoptive parents, and preparing the adoption home study or to implement the foster care program;

(m) **Child with Special Needs** refers to a child with developmental or physical disability;

(n) **Certificate Declaring a Child Legally Available for Adoption** refers to the final written administrative order declaring a child to be dependent, abandoned, and neglected and committing such child to the care of NACC 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 declaring a child legally available for adoption;

(o) **Deed of Voluntary Commitment** refers to the notarized instrument relinquishing parental authority and committing the child to the care and custody of the NACC executed by the child's biological parents 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 NACC, after counselling and other services have been made available to encourage the child's biological parents to keep the child;

(p) **Domestic Adoption** refers to the placing of a child within the same country as the child's birth;

(q) **Extended Family** refers to a relative of a child, both on the paternal and maternal side, within the fourth degree of consanguinity;

(r) **Family** refers to the parents or brothers and sisters, whether of the full or half-blood, of the child;

(s) **Foreign Adoption Agency** refers 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 NACC after validation with the concerned Department of Foreign Affairs (DFA) foreign service post;

(t) **Foreign National** refers 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;

(u) **Foster Child** refers to a child placed under foster care;

(v) **Foster Family** refers to a family or person/s, alternative child caring homes and residences and qualified alternative child custodian or foster parent, duly licensed by the NACC, who provide foster care to a child placed 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:

- (1) **Regular Family** refers to a foster family, which receives material provisions from the agency in order to help meet the basic needs of the child; or
- (2) **Volunteer Family** refers to a foster family which does not receive any material provision or incentive from the agency.
- (w) **Foster Parent** refers to a person, duly licensed by the Department of Social Welfare and Development (DSWD), to provide foster care;
- (x) **Foster Placement Authority (FPA)** refers to the document issued by the NACC authorizing the placement of a particular child with the foster parent;
- (y) **Foundling** refers 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 Registrar as a "foundling";
- (z) **Guardian** refers to a person with 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;
- (aa) **Home Study Report** refers to a study conducted by a licensed social worker relative to 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 parents to provide foster care that meets the needs of a child available for foster care;
- (bb) **Illegal Adoption** refers to an adoption that is effected in any manner contrary to the provisions of this Code, these rules, established state policies, executive agreements and other laws pertaining to adoption;
- (cc) **Inter-country Adoption** refers to the socio-legal process of adopting a child by a foreign national or a Filipino citizen. *Inter-country adoption* refers to the socio-legal process of adopting a child by a foreign national or a Filipino citizen habitually a resident outside Philippine territory which complies with the principles stated in the Hague Convention of 1993;

(dd) **Matching** refers to the judicious pairing of a child with a foster parent and family members based on the capacity and commitment of the foster parent to meet the individual needs of the particular child and the capacity of the child to benefit from the placement;

(ee) **Parent** refers to the biological or adoptive parent or legal guardian of a child;

(ff) **Placement** refers to the physical entrustment of the child with the foster parent;

(gg) **Post-Adoption Services** refers to psycho-social services and support services provided by professionally trained social workers after the issuance of the Certificate of Adoption;

(hh) **Relatives** refer to the relatives of a child, other than family members, within the fourth degree of consanguinity or affinity;

(ii) **Residence** refers 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) days to one (1) year shall not be considered as breaking the continuity requirement; *Provided further,* That the NACC may extend this period in meritorious cases;

(jj) **Social Worker** refers to a practitioner who by accepted academic training and social work professional experience possesses the skill to achieve the objectives as defined and set by the social work profession, through the use of the basic methods and techniques of social work (case work, group work, and community organization) which are designed to enable individuals, groups and communities to meet their needs and to solve the problems of adjustment to a changing pattern of society and, through coordinated action, to improve economic and social conditions, and is connected with an organized social work agency which is supported partially or wholly from government or community solicited funds.

(kk) ***Supervised Trial Custody*** refers 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; and

(ll) ***Voluntarily Committed Child*** refers to the one whose parent(s) or legal guardian knowingly and willingly relinquished parental authority to the NACC, or any duly accredited child-placement or child-caring agency.

Section. 4. Guiding Principles of Alternative Child Care. – Alternative Child Care (ACC) shall be guided by the following:

1. The family being the fundamental group of society and the natural environment for the growth, well-being, and protection of children, efforts should primarily be directed to enable the child to remain in or return to the care of his/her parents, or when appropriate, extended family members;
2. The State should ensure that families have access to forms of support in the caregiving role. Every child and young person should live in a supportive, protective, and caring environment that promotes his/her full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment;
3. Where the child's own family is unable, even with appropriate support, to provide adequate care for the child, or abandons, or relinquishes the child, the State is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations;
4. It is the role of the State, through its competent authorities, to ensure the supervision of the safety, well-being, and development of any child placed in alternative care and the regular review of the appropriateness of the care arrangement provided;
5. All decisions, initiatives and approaches falling within the scope of the present guidelines should be made on a case-by-case basis, with a view, notably, to ensuring the child's safety and security, and must be grounded in the best interests and rights of the child concerned, in conformity with

the principle of non-discrimination and taking due account of the gender perspective;

6. The Principle of Subsidiary requires that all efforts shall be exerted to ensure that local solutions should be first found before a child is placed for inter-country adoption;
7. Adoptive parents, as well as foster parents, must be protected from attempts to disturb their parental authority and custody over their adopted or fostered child;
8. All decisions concerning alternative care should take full account of the desirability of maintaining, as much as possible, closeness to the child's habitual place of residence, in order to facilitate contact and potential reintegration with the family and to minimize disruption of educational, cultural, and social life;
9. Decisions regarding children in alternative care, should have due regard for the importance of ensuring children a family-based care, group foster care, and of meeting their basic need for safe and long-term relationship to their caregivers, with permanency generally being a key goal;
10. Children must be treated with dignity and respect at all times and must benefit from effective protection from abuse, neglect, and all forms of exploitation, whether on the part of care providers, peers, or third parties, in whatever care setting they may find themselves;
11. Siblings, with existing bonds, should in principle not be separated from placements in alternative care unless there is a clear risk of abuse or other justification in the best interest of the child. In any case, every effort should be made to enable siblings to grow together, maintain contact with each other, unless this is against their wishes or interests;
12. All entities and individuals engaged in the provision of alternative child care which received due authorization to do so from competent authority are subject to regular monitoring and review. Authorities should develop

- appropriate criteria for assessing the professional and ethical fitness of care providers and for their accreditation, monitoring, and supervision;
13. Provisions of alternative child care should never be undertaken with a prime purpose of furthering the political, religious, or economic goals of the providers; and
14. Such other principles in accordance with the UN Convention on the Rights of the Child.

ARTICLE II

NATIONAL AUTHORITY FOR CHILD CARE

Section. 5. *National Authority for Child Care (NACC)* – To create a one stop shop on alternative child care, the Inter Country Adoption Board (ICAB) is hereby reorganized to become the National Authority for Child Care (NACC), attached to the Department of Social Welfare and Development (DSWD). All functions of the ICAB, the DSWD, and those of other government agencies relating to alternative child care are hereby transferred to the NACC. The Department of Budget and Management, in coordination with the ICAB and the DSWD, shall formulate a cohesive organizational structure with corresponding plantilla positions responsive to fulfill the functions and divisions of the NACC as stipulated under Sections 6 and 7 of this Act.

Section. 6. *Functions of the NACC.* – The functions of the NACC shall include the following:

- (a) 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;
- (b) Implement adoption, foster care, guardianship leading to adoption policies, programs and services;
- (c) Set standards and guidelines on adoption including pre and post legal adoption services. Accredited 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;

(d) Monitor and assess compliance of all agencies/stakeholders both local and foreign involved in adoption;

(e) Assess the progress and identify gaps in the implementation of the law and come up with policy recommendations;

(f) Conduct national information dissemination and advocacy campaign on alternative child care;

(g) 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;

(h) Conduct researches on alternative child care policies or in related fields to further improve and strengthen the office programs and services and for policy formulation and development;

(i) Provide technical assistance and conduct capability building activities to all concerned agencies and stakeholders; and

(j) Accreditation of child placing and liaison agencies involved in the process of adoption and foster care.

Section. 7. *Composition of the NACC.* – The NACC shall be composed of a Council and a Secretariat.

There shall be a NACC Council to address child welfare policies which shall constantly adjust to ongoing studies on alternative child-care. It shall be composed of permanent and alternative members from the concerned national government agencies, different child-care and placement agencies, adoptive agencies, as well as non-governmental organizations engaged in child-care and placement activities.

The Secretariat shall be headed by an Executive Director, assisted by a Deputy Director, which shall have divisions and units. There shall also be Regional Alternative Child Care Officer/s for each region of the country.

The Department of Budget and Management (DBM) in coordination with the Inter-country Adoption Board (ICAB) and DSWD shall create the plantilla positions necessary for the performance of NACC's functions.

BOOK II
ADOPTION
ARTICLE I

PROCEDURES FOR ADOPTION

A. PROCEDURE FOR DOMESTIC ADOPTION

Section. 8. *Pre-Adoption Program.* – The NACC shall develop a pre-adoption program which shall include, among others, the services of licensed social workers to the following:

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

Steps shall be taken by the NACC 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) – Counselling sessions, adoption fora and seminars, among others, shall be provided to prospective adoptive parent(s) to resolve possible adoption issues and to prepare them for effective parenting; and

(c) Prospective Adoptee – Counselling sessions shall be provided to ensure that the child understands the nature and effects of adoption and is able to express views on adoption in accordance with the child's age level of maturity.

Section. 9. *Location of Unknown Parent(s).* - It shall be the duty of the NACC or the child-placing or child-caring agency which has custody of the child to exert all efforts to locate the unknown biological parent(s). If such efforts fail, the child shall be registered as a foundling and subsequently be declared abandoned.

Section. 10. *Who May Be Adopted.* – The following may be adopted:

- (a) Any child who has been administratively declared available for adoption;
- (b) The legitimate child of one spouse by the other spouse;
- (c) An illegitimate child by a qualified adopter to improve status of legitimacy;
- (d) A person of legal age if, prior to the adoption, said person has been consistently considered and treated by the adopters as their own child since minority;
- (e) A child whose adoption has been previously rescinded;
- (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); or
- (g) A child not otherwise disqualified by law.

Section. 11. *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 modelling, is emotionally and psychologically capable of caring for children, is at least sixteen (16) years older than the adoptee, and is in a position to support and care for adopted 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) Any alien possessing the same qualifications as above stated for Filipino nationals: *Provided*, That the alien's country has diplomatic relations with

the Republic of the Philippines, that the alien has been living in the Philippines for at least three (3) continuous years prior to the filing of the application for adoption and maintains such residence until the adoption decree is entered, that the alien has been certified by his/her diplomatic or consular office or any appropriate government agency that the alien has the legal capacity to adopt in his/her own country, and that the alien's government allows the adoptee to enter his/her country as the alien's adopted son/daughter: *Provided, Further,* That the requirements on residency and certification of the alien's qualification to adopt in his/her country may be waived for the following:

- i) A former Filipino citizen who seeks to adopt a relative within the fourth (4th) degree of consanguinity or affinity; or
- ii) One who seeks to adopt the legitimate son/daughter of his/her Filipino spouse; or
- iii) One who is married to a Filipino citizen and seeks to adopt jointly with his/her spouse a relative within the fourth (4th) degree of consanguinity or affinity of the Filipino spouse.

(c) The guardian with respect to the ward after the termination of the guardianship and clearance of financial accountabilities; or

(d) Filipinos such as officers and staff of various Philippine government agencies working abroad and Overseas Filipino Workers (OFW).

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

- (1) If one spouse seeks to adopt the legitimate child of the other;
- (2) If one spouse seeks to adopt own illegitimate child: *Provided,* That the other spouse has signified consent thereto;
- (3) If the spouses are legally separated from each other; or

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

Section. 12. *Whose Consent is Necessary to the Adoption.* – After being properly counselled and informed of the right to give or withhold approval of the adoption, the written consents of the following to the adoption are 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 children, ten (10) years of age or over, of the adopter(s) and adoptee(s) if any;
- (d) The illegitimate children, ten (10) years of age or over of the adopter if living with said adopter or over whom the adopter exercises parental authority and the adopter's spouse, if any; and
- (e) The spouse, if any, of the person adopting or to be adopted.

Section. 13. *Where to File Application.* – A person eligible to adopt under Article I, Section 16 of this Act who desires to adopt a child in the Philippines and has attended adoption fora and seminars, shall file their application for adoption with the NACC or with any licensed accredited child placing agency.

Section. 14. *Case Study.* – No petition for adoption shall be forwarded to the NACC unless a licensed social worker of the NACC, 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, the biological parent(s), as well as the adopter(s), and has submitted the report and recommendations on the matter to the NACC 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 Philippine Statistics Authority (PSA) the real identity and registered name of the adoptee. If the birth of the adoptee was not registered with the PSA, it shall be the responsibility of the concerned social worker to ensure that the adoptee is registered.

The case study on the adoptee shall establish that the said child adoptee is legally available for 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 NACC.

Section. 15. Fees, Charges and Assessments. – Fees, charges, and costs may be imposed, subject to reasonable rates as determined by the NACC, to cover expenses in providing adoption services; *Provided*, That paramount consideration shall be given to the financial capability of the adopters to encourage adoption even for lower- and middle-income families.

Section. 16. Family Selection/Matching. – The matching of the child to approved adoptive parent(s) shall be carried out during the regular matching conference by a Matching Committee in the regional level where the social workers of the child and family are present; *Provided*, That records of children and approved adoptive parents not matched within ninety (90) days from the regular matching conference in the regional level shall be forwarded to the NACC Central office for inter-country matching; *Provided, further*, That the children with special needs shall be immediately forwarded to the NACC Central Office within twenty (20) days if not matched in the first meeting, except under special circumstances. All matching proposals shall be approved by the NACC to be final.

Section. 17. Supervised Trial Custody. – No petition for adoption shall be granted unless 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 establish a bonding relationship. During said period, temporary parental authority shall be vested in the adopter(s).

The NACC may *motu proprio* or upon motion of any party reduce the trial period to at least four (4) months if it finds the same to be in the best interest of the adoptee, stating the reasons for the reduction of the period. However, for alien adopter(s), the alien must complete the six- (6) month trial custody except for those enumerated in Section 11 (b) (i) (ii) (iii).

The prospective adopters shall assume all the responsibilities, rights, and duties to which biological parents are entitled from the date the adoptee is placed with the prospective adopters.

Section. 18. *Certificate of Adoption.* – In all proceedings for adoption, the NACC shall decide on the basis of all the documents presented to it, including, but not limited to, a proof that the biological parent(s) have been properly counselled to prevent them from making hurried decisions caused by stress 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 at home will be inimical to the welfare and interest of the child. There shall be no adversarial proceedings in adoption and all cases shall be decided within thirty (30) days from submission of all the complete documents required by the NACC.

If, after the submission of the required documents for adoption and no opposition has been interposed to the petition, the NACC 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 adopter(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 NACC.

Section. 19. *The Birth Certificate.* – An amended certificate of birth shall be issued by the Philippine Statistics Authority (PSA), as required by the Rules of Court, attesting to the fact that the adoptee is the child of the adopters by being registered with adopters' 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 the child is an orphan, abandoned or foundling.

B. PROCEDURE FOR INTER-COUNTRY ADOPTION

Section. 20. *Who May Be Adopted.* – All children legally free for domestic adoption may be the subject of inter-country adoption.

Section. 21. *Documents of Prospective Adoptive Child.* – In order that such child may be considered for placement, the following documents must be submitted to the NACC:

- (a) Child study report;
- (b) Birth certificate/foundling certificate issued by the PSA;
- (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 known, and updated medical abstract;
- (e) Deed of voluntary commitment or decree of abandonment or certified true copy of the death certificate of the child's birthparent(s), if applicable;
- (f) Psychological evaluation, as may be necessary; and
- (g) Most recent whole body size picture of the child, if applicable; *Provided*, That any physical impairment of the child should be visible in the picture.

Section. 22. *Who May Adopt.* – Foreign nationals or Filipino citizens permanently residing abroad may file application for inter-country adoption of a Filipino child if they:

- (a) Come from a country:
 - (i) With whom the Philippine has diplomatic relations;
 - (ii) Whose government have clear guidelines on inter-country adoption and maintains a foreign adoption agency;
 - (iii) Whose laws allow such adoption; and
 - (iv) Whose laws allow adopted children to acquire the citizenship of their adoptive parents.
- (b) 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; *Provided*, That if the adopter is married, his/her spouse must jointly file for the adoption;

(c) Have the capacity to act and assume all rights and responsibilities of parental authority under national laws, and has undergone the appropriate counselling from an accredited counsellor in their countries;

(d) Have not been convicted of a crime involving moral turpitude;

(e) Are eligible to adopt under their national laws;

(f) Are 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) Agree to uphold the basic rights of the child as embodied under Philippine laws, the U.N. Convention on the Rights of the Child, and to abide by the rules and regulations issued to implement the provisions of this Act; and

(h) Possess all the qualifications and none of the disqualifications provided herein and in other applicable Philippine laws.

Section. 23. *Where to File Application.* – The application for inter-country adoption shall be filed with the NACC, Philippine embassy, governmental agency or authorized and accredited agency of the receiving country where the applicants are habitual residents. Said application shall be in accordance with the requirements as set forth in the implementing rules and regulations (IRR) to be promulgated by the NACC.

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

(a) Birth certificate of the applicant(s);

(b) Marriage contract, if married, and divorce decree, if applicable;

(c) Written consent of their biological or adoptive children above ten (10) years of age, in the form of a sworn statement;

(d) Physical, medical, and psychological evaluation by a duly licensed physician or psychologist;

- (e) Income tax returns or any document showing the financial capability of the applicant(s);
- (f) Police clearance of the applicant(s);
- (g) Character from the local church/minister, the applicant's employer and member of the immediate community who have known the applicant(s) for at least five (5) years;
- (h) Recent post-card size pictures of the applicant(s) and his/her immediate family;
- (i) Other documents that the NACC may further require.

Section. 24. *Pre-Adoptive Placement Costs.* – The applicants 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 applicants 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. 25. *Fees, Charges and Assessment.* – The NACC may charge reasonable fees to cover expenses in providing adoption services. The applicant(s) shall be apprised of the fees from the beginning of their application.

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

Section. 26. *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 the NACC, with a 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 agency of the prospective adopter and all the travel documents of the child are ready, the adoptive parents or anyone of them, shall personally fetch the child in the Philippines.

Section. 27. *Supervision of Trial Custody Assessments.* – The government agency or the authorized and accredited agency shall submit to the NACC for the trial custody and the care of the child and shall be responsible for the trial custody and shall also provide family counselling and other related cases. The trial custody shall be for a period of six (6) to eight (8) months from the time of placement. Only after the lapse of the period of trial custody shall a Certificate of Adoption be issued in the said country, a copy of which shall be sent to the NACC to form part of the records of the child.

During the trial custody, the adopting parent(s) shall submit to the government agency or the authorized and accredited agency, which shall in turn transmit a copy to the NACC, a progress report of the child's adjustment. The progress report shall be taken into consideration in deciding whether or not to issue the Certificate of Adoption.

The NACC, the government agency, or its authorized and accredited agency and the Philippine Embassy or Consular Office in the country of the adoptive parents where the application for inter-country adoption was filed, shall monitor Filipino children sent abroad for trial custody. The DFA shall set up a system for the repatriation of a Filipino child whose adoption has not yet been approved.

Section. 28. *Certificate of Adoption.* – If there is no opposition interposed to the petition after the submission of the required documents for adoption by the NACC and after the period of trial custody, the NACC 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 dies before the issuance of the Certificate of Adoption to protect the interest of the adoptee. After due coordination with the PSA, the NACC shall state in the certificate 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 NACC.

Section. 29. *Post-Adoption Services.* – There shall be Post Adoption Services in the form of psycho-social and support services to the child if, by the social worker of the NACC after the adoption has been legally completed.

Section. 30. *Agreements on Inter-Country Adoption.* – The Philippines may enter into bilateral treaties or executive agreements on the matter of Inter-Country Adoption Procedure. The NACC, in coordination with the Department of Justice (DOJ) and the DFA, upon representation of the NACC, 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. Thereafter, the NACC shall ensure that international bodies involved in inter-country adoption, such as the permanent *Bureau of the Hague Convention on Inter-Country Adoption*, are informed of the contact details of the authorities in the Philippines, including the DFA and Philippine Missions abroad, which have roles in the process of inter-country adoption.

C. PROCEDURE FOR RECTIFICATION OF SIMULATED BIRTHS

Section. 31. *Rectification of Simulated Births.* – A person who has, prior to the effectivity of Republic Act No. 11222 or the Simulated Birth Rectification Act ("R.A. No. 11222"), 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 the birth was made for the best interest of the child and that child has been consistently considered and treated as the person's own child. *Provided, further*, That the application for correction of the birth registration and petition for adoption shall be filed within ten (10) years from the effectivity of R.A. No. 11222 and completed thereafter. *Provided, finally*, That such person complies with the procedure as specified in Article I, Book II of this Act and other requirements as determined by the NACC. All benefits provided for under this Act and R.A. No. 11222 shall also apply to adult adoptees.

Section. 32. *Inadmissible Evidence.* – All petitions, documents, records, and papers relating to adoption and rectification of simulated births under R.A. No. 11222 and 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.

Section. 33. *Administrative Adoption and Rectification.* – A person who has simulated the birth of a child under the conditions provided for under Section 31 and who

has the qualifications as provided for under Section 11 of this Act may avail of the administrative proceedings for the adoption of the child by filing a petition for adoption with the NACC.

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(s) before any person authorized by law to administer affirmation and oaths. It shall state the facts necessary to establish the merits of the petition, and circumstances surrounding the simulation of the birth of the child. The petition shall be supported by:

- (a) A copy of the 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(s) is a resident of the barangay, and that the child has been living with the petitioner(s) for at least three (3) years before the effectivity of R.A. No. 11222;
- (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 or at least three (3) years prior to the effectivity of R.A. No. 11222;
- (e) Certificate Declaring the Child Legally Available for Adoption (CDCLAA) issued by the DSWD; Provided, That 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.; and
- (f) Photographs of the child and the petitioner(s) taken within the last three (3) months prior to the filing of the petition.

Section. 34. *Certificate of Adoption.* –If the NACC determines that the adoption shall redound to the best interest of the child, a Certificate of Adoption shall be issued which shall take effect on the date the petition was filed with the NACC, even if the petitioner dies before the issuance.

The Certificate 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 the foundling certificate; and
- (c) Issuance of the new birth certificate in accordance with Section 19 of this Act.

Section. 35. *Information Dissemination.* – 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 NACC for assessment and filing of legal; adoption under the provisions of this Act.

ARTICLE II

EFFECTS OF ADOPTION

Section. 36. *Parental Authority.* – Upon issuance of the Certificate of Adoption, adoption shall cease as alternative care and becomes parental care. Adoptive parents shall now have full parental authority over the child. 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. 37. *Legitimacy.* – The adoptee shall be considered the legitimate child 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 children born to them without discrimination of any kind. To this end, the adoptee is entitled to love, guidance, and support in keeping with what the family can afford.

Section. 38. *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 it is beneficial to the adopted child.

Section. 39. *Benefits.* – The adoptive parent(s) shall, with respect to the adopted child, enjoy all the benefits to which the biological parent(s) are entitled. Maternity and

paternity benefits and other benefits given to the biological parent(s) 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 NACC.

In cases 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. 40. *Grounds for Rescission of Adoption.* – Upon petition of the adoptee, and with the assistance of the NACC, if adoptee is a child, 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);
- (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 adopters. However, the adopters may disinherit the adoptee for causes as provided for in Article 919 of the Civil Code, in cases of domestic adoption. In cases of inter-country adoption, the national law of the adopter shall govern. The petition shall be filed with the NACC.

Section. 41. *Effects of 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 NACC shall be restored if the adoptee is still a child. The reciprocal right and obligations of the adopter(s) and the adoptee to each other shall be extinguished.

The NACC shall order the Civil Registrar General to cancel the amended birth certificate and restore the original birth certificate of the adoptee.

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

NATURE OF ADOPTION PROCEEDINGS

Section. 42. *Confidential 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 NACC, or any other agency or institution participating in the adoption proceedings shall be kept strictly confidential.

Section. 43. *Disclosure; Exceptions.* – If the NACC 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 NACC may merit the necessary information to be released, restricting the purposes for which it may be used.

Section. 44. *Consent.* – No copy thereof as well as any information relating hereto shall be released without written authority from the NACC or the written request of any of the following:

- (a) The adopted child, with appropriate guidance and counselling, or a 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 adopted child; or
- (c) The nearest kin, in case of death of the adopted child.

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

BOOK III

FOSTER CARE

ARTICLE I

FOSTER CARE AS PROGRAM OF NACC

Section. 45. *Foster Care as Mandatory and Permanent Program of NACC.* – The NACC shall systematize and enhance foster caring in the country. It shall ensure that foster families promote and motivate the foster children to relate with their biological or adoptive family, as the case may be, and shall provide the wholesome atmosphere to encourage bonding. The rights of biological children of foster families shall be protected and in no case shall they be disadvantaged as a result of the placement of a foster child.

NACC shall endeavor to maintain and improve foster care services as its mandatory and permanent program.

Section. 46. *Foster Care Committees.* – The Regional Foster Care Committees may be convened by the NACC 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. 47. *Advocacy Campaign.* – National government agencies (NGAs), non-government organizations (NGOs), people's organizations (POs), faith based organizations, and civil society shall reach out to communities to recruit applicants for foster care.

Section. 48. *Recruitment and Development of Foster Parents.* – NGAs, NGOs, local government units (LGUs), and POs shall develop foster parents who shall provide foster care to children.

Section. 49. *Issuance of License.* – The NACC shall issue a foster license to parents who were approved as foster parents 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 NACC.

ARTICLE II

PROCEDURES FOR FOSTER CARE

Section. 50. *Who May Be Placed Under Foster Care.* – A child in any of the following conditions may be placed in a foster family:

- (a) Abandoned, surrendered, neglected, dependent, or orphaned;
- (b) Victim of sexual, physical, or any other form of abuse or exploitation;
- (c) With special needs;
- (d) Whose family members are temporarily or permanently unable or unwilling to provide the child with adequate care;
- (e) Awaiting adoptive placement and who would have to be prepared for family life;
- (f) Needs long-term care and close family ties but who cannot be placed for domestic adoption;
- (g) Whose adoption has been disrupted;
- (h) Under socially difficult circumstances such as, but not limited to, a street child, a child in armed conflict, or a victim of child labor or trafficking;
- (i) Committed a minor offense but is released on recognizance, or who is in custody, supervision, or whose case is dismissed;
- (j) In need of special protection as assessed by a social worker, an agency, or the NACC; or
- (k) Matched for adoption.

Provided, That in the case of (b), (c), (f), (h), (i), and (j), the child must have no family willing and capable of caring and providing for him.

Section. 51. *Who May Be a Foster Parent* – The kin or relatives of the foster child, if willing and available, as well as persons who have already filed a petition for adoption of the child to be fostered become the priority prospective foster family. All applicants, including the kin or relatives of the foster child, must meet all the following qualifications:

- (a) Of legal age;

(b) At least sixteen (16) years older than the child unless the foster parent is a relative;

(c) Have a genuine interest, capacity, and commitment in parenting and is able to provide a familial atmosphere for the child;

(d) Able to provide a family atmosphere for the child;

(e) Have a healthy and harmonious relationship with each family member living with him or her;

(f) Be of good moral character;

(g) Be physically and mentally capable and emotionally mature;

(h) Have sufficient resources to be able to provide for the family's needs;

(i) Be willing to further hone or be trained on knowledge, attitudes and skills in caring for a child; an

(j) Not already have the maximum number of children under his foster care at the time of application or award, as may be provided in the implementing rules and regulations (IRR) of this Act.

Provided, That in determining who is the best suited foster parent, the relatives of the child shall be given priority, so long as they meet the above qualifications:

Provided, further, That an alien possessing the above qualifications and who has resided in the Philippines for at least twelve (12) continuous months and maintains such residence until the termination of placement by the NACC or expiration of the foster family license, may qualify as a foster parent.

ARTICLE III

PARENTAL AUTHORITY OF FOSTER PARENTS

Section. 52. *Parental Authority of a Foster Parent.* – Foster parents shall have the rights, duties and liabilities of persons exercising substitute parental authority, as may be provided under the Family Code over the children under their foster care.

Section. 53. *Limitations on Parental Authority of Foster Parents.* – Foster parents shall only have the rights of a person with special parental authority to discipline the

foster children as defined under Section 233 of the Family Code, insofar as it prohibits the infliction of corporal punishment upon the child.

ARTICLE IV PROCEDURE

Section. 54. *Recruitment and Development of Foster Parents.* – To recruit applications for foster care, the NACC shall reach out to various communities and LGUs and work preferably with the Local Council for the Protection of Children (LCPC).

Section. 55. *Submission of Home Study Report.* – The social worker shall make a detailed Home Study Report of an applicant's background and circumstances, carried out in a series of planned visits and interviews, in order to determine if the applicant meets the basic requirements for foster care and is suitable to become a foster parent.

Section. 56. *Issuance of License.* – The NACC shall issue a Foster Family Care License based on the Home Study Report submitted by the agency to determine the motivations, capacities and potentials for development of applicants. The license is renewable every three (3) years unless earlier revoked by the NACC.

Section. 57. *Matching.* – Matching shall be done by the NACC or child-placing agency only after the child case study and the home study have been conducted, save for exceptions to be determined by the NACC, taking into consideration the best interests of the child.

The child case study report shall establish the needs of the child for consideration in the selection of the foster parent. Likewise, the Home Study Report shall establish said foster parent's capacity and resources to provide a safe, secure and loving home to the child.

Section. 58. *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 to be determined by the NACC, taking into consideration the best interest of the child.

Section. 59. *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 NACC.

The foster parents shall enjoy all the benefits to which biological parents are entitled from the date the child is placed with them. As such, the parents may bring along the child to travels out of the country; *Provided*, That the child has been with them for a year; *Provided, further*, That the parents are residing in the Philippines; and *Provided, finally*, That there is no reason to believe that the child will be at risk if they travel with their parents nor is there reason to believe that the parents will not be returning to the Philippines.

Section. 60. Foster Care Committee. – The Foster Care Committee of the NACC shall have the following functions:

- (a) Review and deliberate issues affecting the placement of a particular child;
- (b) Make recommendations to resolve any dispute between and among the child-placing agency, the parents, the foster parents, and the child;
- (c) Monitor the implementation, review, and recommend changes in policies concerning foster care and other matters related to the child's welfare;
- (d) Submit to the Chairperson of the NACC and to Congress an annual report of the policies, programs and activities relative to the implementation of this Act; and
- (e) Perform such other functions and duties as may be prescribed by the NACC.

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 nearest office of the NACC.

Section. 62. Termination of Placement. – Termination of placement shall be done by the NACC, upon recommendation of the child-placing agency, on the following grounds:

- (a) Return of the child to biological parents;

- (b) Placement for adoption of the child;
- (c) Death of the child;
- (d) Death of both foster parents;
- (e) Expiration of the FPA; and
- (f) In all cases where placement becomes prejudicial to the welfare of the child, such as, but not limited to, abandonment, maltreatment, sexual assault, violence or other forms of abuse.

Provided, That in the case of (f), the foster child, with the assistance of a registered social worker, shall have the option to apply for termination of placement.

ARTICLE V

LONG-TERM FOSTER PLACEMENT

Section. 63. *Long-Term Foster Placement Authority.* – If a child has been under the care of a foster parent for a period of at least seven (7) years, the said foster parent may apply for Long-Term Foster Placement Authority (LTFPA), subject to the following conditions:

- (a) The child's return to his biological parents or placement in an adoptive family is not imminent;
- (b) The foster parent continues to possess the qualifications required under the Child and Youth Care Act and a valid foster family care license for the entire duration of the foster care;
- (c) The child, if ten (10) years of age or over, duly assisted by a social worker, gives written consent for long-term stay with the foster parent; and
- (d) Aside from the regular monitoring visits, the NACC shall reassess and reevaluate the foster home situation every three (3) years, to determine whether it is in the best interest of the child to continue living in the foster home on a long-term basis.

LTFPA grants the foster parent custody over the foster child without the requirement of the eventuality of adoption of the latter by the former. During this period, the foster child shall enjoy the rights of a child under Article 3 of the Child and Youth

Welfare Code, and under other laws: *Provided*, That there shall be no mandatory rights of succession in favor of the foster child.

Section. 64. *Long-Term Foster Care Commitment.* – Taking into consideration the stability and best interest of the foster child, a foster parent, who unilaterally terminates the LTFPA before the foster child reaches the age of majority or finishes tertiary education, shall make provisions for the education and basic needs of the foster child, in accordance with the standards in which the child has been raised or has become accustomed to, within the said period: *Provided*, That the foster parent has the means to support the foster child in keeping with the financial capacity of the family.

ARTICLE VI

ADOPTION OF A FOSTER CHILD

Section. 65. *Conditions.* – A foster parent may adopt his foster child subject to the following conditions:

- (a) The foster parent must have all the qualifications as provided for this Act;
- (b) The trial custody, as required in adoption, may be waived: *Provided*, That a harmonious relationship exists between the child and his foster parent and family members; and
- (c) The procedures for adoption, for purposes of this Act, shall be governed by this Act.

ARTICLE VII

LOCAL GOVERNMENT UNITS

Section. 66. *Role of Local Government Units (LGUs).* – LGUs shall promote the foster care system in their respective territorial jurisdictions.

Section. 67. *Seminars and Trainings.* – The NACC, in coordination with the DSWD, is hereby mandated to develop and provide programs to ensure the awareness and responsiveness of local government officials in the promotion and development of the foster care system in every city, municipality or barangay.

ARTICLE VIII
FOSTER CARE SUPPORT SERVICES,
ASSISTANCE, AND INCENTIVES

Section. 68. *Health Insurance.* – A foster child shall automatically be a PhilHealth beneficiary of the foster parent and as such, entitled to health insurance benefits. If the foster parent is not a PhilHealth member, he must seek enrollment with PhilHealth. LGUs and agencies shall provide assistance to the foster parents to ensure enrollment.

Section. 69. *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. 70. *Foster Child Subsidy.* – A foster child, through the child-placing agency, shall be entitled to a monthly subsidy from the government, NACC, or LGU, subject to existing government standards and auditing rules and regulations to include incidental expenses. The subsidy is primarily aimed at supporting the expenses of the child to lessen the financial burden on the foster parent: *Provided,* That support may be waived if the foster parent is capable of supporting the foster child.

Section. 71. *Foster Family Incentives.* – A foster family, through the child-placing agency, shall be entitled to a monthly incentive from the government NACC and/or LGUs, subject to existing government standards and auditing rules and regulations.

Section. 72. *Support Care Services.* – The NACC and the social service unit of the LGU or agency shall provide support care services to include, counselling, and other psycho-social services, visits, training on child care and development, respite care, skills training, and livelihood assistance.

Section. 73. *Support to Biological Parents.* – Counselling 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. 74. *Incentives to Agencies.* – Agencies shall be entitled to the following tax incentives:

- (a) Exemption from Income Tax. – Agencies shall be exempt from income tax on the income derived by it as such organization pursuant to Section 30 of the NIRC of 1997, as implemented by Revenue Regulation (RR) No. 13-98; and
- (b) Qualification as a Donee Institution. – Agencies can also apply for qualification as a donee institution.

Section. 75. *Incentives to Donors.* – Donors of an agency shall be entitled to the following:

- (a) Allowable Deductions. – Donors shall be granted allowable deductions from its gross income to the extent of the amount donated to agencies in accordance with Section 34(H) of the NIRC of 1997; and
- (b) Exemption from Donor's Tax. – Donors shall be exempted from donor's tax under Section 101 of the NIRC of 1997: *Provided*, That not more than thirty percent (30%) of the amount of donations shall be spent for administrative expenses.

BOOK IV

OTHER FORMS OF ALTERNATIVE CHILD CARE

ARTICLE I

GUARDIANSHIP, KHAFALLAH, KINSHIP CARE, [FAMILY-LIKE CARE]

RESIDENTIAL CARE

Section. 76. *Conditions in Other Forms of Alternative Care Settings.* – The following are the required conditions in other forms of alternative care which includes guardianship, kafalah, kinship care, or residential care;

1. *Awareness of children's rights and obligations.* Both children and care givers should know and understand their rights and obligations;
2. *Complaint mechanism support.* Children should be able to, without fear of retribution, express concerns about their situation or treatment by confiding in a person they can trust, and by having access to an effective complaints mechanism;

3. *Private provision of alternative care.* A set of criteria developed by the NACC, is used to assess the ability of all individuals and facilities to care for children, and to use these criteria to authorize and then monitor their activities;

4. *Child development and child protection.* Provisions for child development range from access to education and vocational training, to insist that children can maintain contact with family and other familiar persons, the optimal development of children with including children with special needs, and the importance that carers should place on creating nurturing relationships with the children they are looking after;

5. *Stigmatization.* Stigmatization of children in alternative care settings should be addressed and prevented at all times; and

6. *Discipline, punishment and restraints.* Severe restrictions should be placed on the use of force and restraints. All treatment that may compromise a child's physical or mental health are prohibited. Adequate guidance on discipline and punishment shall be followed.

Section. 77. *Who May Be Placed Under Other Forms of Alternative Child Care.*

– A child with the conditions stipulated in Section 51 of this Act who are not placed for adoption or with a foster family shall be eligible for placement in other forms of alternative care such as guardianship, kafalah, kinship care or residential care. NACC shall exhaust all means of placing such child in a family setting before allowing the child to be placed in family-like or residential care.

Section. 78. *Support Services for other forms of Alternative Child Care.* – All other forms of alternative child care shall have the same support services accorded to foster care as enumerated in Sections 68 to 75 of this Act.

ARTICLE II

GUARDIANSHIP LEADING TO ADOPTION

Section. 79. *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 their intention to the adoption of the wards.

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

Section. 80. *Petition for the Adoption of the Ward.* – After the termination of guardianship, guardians may opt to adopt their wards 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 NACC 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.

ARTICLE III

RESIDENTIAL CHILD CARE

PROCEDURES AND SUPPORT SERVICES FOR RESIDENTIAL CARE

Section. 81. *Parental Authority of Residential Caring Agency (RCA).* – RCAs shall be *in loco parentis*, exercising the rights, duties and liabilities of persons exercising substitute parental authority over the children under their foster care, as may be provided for by Executive Order No. 209, *series* of 1987, otherwise known as the "*Family Code of the Philippines*", *Provided*, That RCAs shall only have the rights of a person with special parental authority to discipline the children under their care and protection as defined under Section 233 of the Family Code, insofar as it prohibits the infliction of corporal punishment upon the child.

Section. 82. *Components of Residential Care.* – The following are essential components to a residential care as defined in Section 3(d)(5):

- (a) Caregivers who devote time to the children enabling a trusting and reliable relationship for them to experience lifelong love and security as they serve as stable figures who manage the family house and create a loving family environment;

(b) A family home with bedrooms, kitchen, living room, toilet, and shower room which will serve as home to children and allows biological siblings to stay together;

(c) Support system for children and their families through development planning in various aspects of their individual development, with a special focus beginning with early childhood development and ending with quality aftercare support, so they are guided on their journey to self-reliance and to becoming contributing members of the society; and

(d) Professional and technical support for children and parents from a multidisciplinary team composed of project managers or directors, social workers, educators, psychologists and medical professionals.

Section. 83. *Privileges.* – To allow it to fully realize its mandate, an accredited RCA shall:

(a) Enter into agreements with public authorities, and accept provisions for the cost of any service or activity which may be entrusted to it, within the scope of its object and functions, pursuant to such agreements;

(b) Own and hold real and personal properties and accept bequests, donations, and contributions; and

(c) Finally, the agency shall be exempt from the payment of real property taxes on all real properties owned by it.

BOOK V

CARE FOR ABANDONED FILIPINO CHILDREN OVERSEAS

Section. 84. *Programs and Services to Protect Abandoned Children in Foreign Countries.* – The NACC, in coordination with the DFA, shall establish the procedures and implement programs and services to protect and promote the rights of an abandoned Filipino child in a foreign country that will ensure or provide for the following:

(a) Prompt reporting, registration, and initial assessment of the abandoned child;

(b) Emergency care and accommodation;

- (c) Appointment of a guardian or foster parents;
- (d) Access to basic services on health and education;
- (e) Prevention and protection from all forms of violence and exploitation;
- (f) Prevention and protection from involvement in situations of armed conflict;
- (g) Prevention of deprivation of liberty;
- (h) Family reunification;
- (i) Return to country;
- (j) Local integration or inter-country adoption; and
- (k) Durable family-based solutions.

BOOK VI

VIOLATIONS AND PENALTIES

ARTICLE I

VIOLATIONS AND PENALTIES RELATING TO ADOPTION

Section. 85. *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. It 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 names of persons who are not the child's biological parents

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) unless covered by Section 31 of this Act;

(c) Any physician or nurse or hospital personnel who shall cooperate in the execution of the above mentioned crime shall suffer the penalties herein prescribed and also the penalty of permanent disqualification from the practice of their professions unless covered by Section 31 of this Act;

(d) Any person who shall violate established regulations relating to 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;

(e) A penalty lower by two (2) degrees than that prescribed for the consummated offense under this Article shall be imposed upon the principals of the attempt to commit any of the acts herein enumerated:

(1) 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*;

(2) Act punishable under this Article are deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another in carrying out any of the unlawful acts defined under this Article;

(3) 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; and

(4) An offender who is an alien, shall be deported immediately after service of sentence and perpetually denied entry to the country.

Section. 86. *Public Officers as Offender.* – Any government official or employee 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 or employee concerned shall automatically suffer suspension until the resolution of the case.

ARTICLE II

VIOLATIONS AND PENALTIES IN RELATION TO FOSTER CARE

Section. 87. *Penalties.* –

(a) Any foster parent, found to be committing any act of neglect, abuse, cruelty, or exploitation and other similar acts prejudicial to the child's development, 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", and other applicable laws.

(b) A child-placing agency which violates Sections 57, 58, 59 or any other provision of this Act and its IRR shall suffer the following penalties:

(1) For the first violation, a fine of not less than Twenty-Five Thousand Pesos (PhP 25,000.00) but not exceeding Fifty Thousand Pesos (PhP 50,000.00); and

(2) For any subsequent violation, a fine of not less than Fifty Thousand Pesos (PhP 50,000.00) but not exceeding One Hundred Thousand Pesos (PhP 100,000.00), and revocation of license to operate.

(c) Any person, natural or juridical, other than the foster parent or any agency, violating any provision of this Act and its IRR shall be penalized with imprisonment of one (1) month to six (6) years, depending on the gravity of the offense or a fine of not less than Ten Thousand Pesos (PhP 10,000.00) but not more than One Hundred Thousand Pesos (PhP 100,000.00), or both, at the discretion of the court.

(d) If the offender is a public official, the court may impose the additional penalty of disqualification from office in addition to the penalties provided in the preceding paragraph.

ARTICLE III

VIOLATIONS AND PENALTIES IN RELATION TO OTHER FORMS OF ALTERNATIVE CARE

Section. 88. *Penal Clause.* – Any person, whether natural or juridical, violating Book IV of this Act shall, upon conviction, be liable to a fine of not less than Fifty Thousand Pesos (P50, 000.00) or imprisonment for a term not exceeding one (1) year, or both, at the discretion of the court for each and every violation. In case the violation is committed by a corporation or an association, the penalty shall devolve upon the president, director, or any other officer responsible for such violation.

BOOK VII

FINAL PROVISIONS

Section. 89. *Role of Local Government Units (LGUs).* – The host LGU, pursuant to Section 108 of Republic Act No. 7160 otherwise known as the "*Local Government Code of 1991*", shall accredit alternative care agencies that are duly recognized by the NACC in their locality.

The LGU, through its Local Social Welfare and Development Office, shall include the provisions of this Act in its development plans and strategies, and upon approval thereof by the governor or mayor, as the case may be, implement the same particularly those which have to do with social welfare programs and projects which the governor or mayor is empowered to implement and which the *Sanggunian* is empowered to provide for under Republic Act 7160.

A standard accreditation process for all LGUs shall be adopted by the NACC, in coordination with the DSWD and the Department of the Interior and Local Government (DILG).

Section. 90. *Seminars and Trainings.* – The NACC and the DSWD, in coordination with the DILG, is mandated to develop and provide programs to ensure the awareness and responsiveness of local government officials in the promotion and development of the alternative care system in every city, municipality and barangay.

Section. 91. *Protection From Suit.* – Government employees in their lawful performance of their duties shall be protected from suit.

Section. 92. *Unlawful Solicitation.* – It shall be unlawful for any person to solicit, collect, or receive money, materials or property of any kind by falsely representing himself to be a member, agent or representative of any alternative care agency.

Section. 93. *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. 94. *Implementing Rules and Regulations.* – The DSWD, as lead agency, the Department of Justice (DOJ), the Department of Health (DOH), the Bureau of Internal Revenue (BIR), the Council on Welfare of Children (CWC), the DILG and other concerned government agencies, in consultation with agencies are hereby mandated to prepare and draft the IRR to operationalize the provisions of this Act within six (6) months from its approval.

Section. 95. *Separability Clause.* – If any provision of this Act shall be declared unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

Section. 96. *Suppletory Clause.* – The provisions of Executive Order No. 209, series of 1987, otherwise known as the Family Code of the Philippines and other applicable laws, shall have suppletory application to this Act.

Section. 97. *Repealing Clause.* – Republic Act No. 9523, entitled "An Act Requiring the 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, Presidential Decree No. 603, otherwise known as

The Child and Youth Welfare Code, and for other Purposes", and Republic Act No. 1122, otherwise known as the "Simulated Birth Rectification Act", are hereby repealed. 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. 98. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the official gazette or in a newspaper of general circulation.

Approved.