

**IMPLEMENTING RULES AND REGULATIONS
OF REPUBLIC ACT NO. 9523**

**Article I
General Provisions**

Section 1- **Title and Purpose-** These rules shall be known as the Implementing Rules and Regulations of Republic Act 9523, otherwise known as "An Act Requiring Certification of the Department of Social Welfare and Development (DSWD) to Declare A Child Legally Available For Adoption as a Prerequisite For Adoption Proceedings, Amending for this Purpose Certain Provisions of Republic Act No. 8552, Otherwise Known as the Domestic Adoption Act of 1998, Republic Act 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". These rules are promulgated to prescribe the rules and procedures for the implementation of the Act.

Section 2 - **Declaration of Policy** - It is hereby declared the policy of the State that alternative care, protection and assistance shall be afforded to every child who is surrendered, abandoned, neglected or dependent. In this regard, the State shall extend such assistance in the most expeditious manner in the interest of full emotional and social development of the surrendered, abandoned, , neglected or dependent child.

It is hereby recognized that the administrative processes under the jurisdiction of the Department of Social Welfare and Development for the declaration of a child legally available for adoption of surrendered, abandoned, neglected or dependent children are the most expeditious proceedings for the best interest and welfare of the child.

Section 3. **Definition of Terms** - As used in this Act, the following terms shall mean:

- (1) **Department of Social Welfare and Development (DSWD)** is the agency charged to implement the provisions of this Act and shall have the sole authority to issue the certification declaring a child legally available for adoption.
- (2) **Child** refers to a person below eighteen (18) years of age or a person over eighteen (18) years of age but is unable to fully take care of himself/herself or protect himself/herself from abuse,

neglect, cruelty, exploitation, or discrimination because of physical or mental disability or condition.

- (3) **Abandoned Child** refers to a child who has no proper parental care or guardianship, or whose parent(s) have deserted him/her for a period of at least three (3) continuous months.
- (4) **Foundling** refers to a person whose fact/s of birth is/are unknown.
- (5) **Neglected Child** refers 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 (2) ways:
 - a. There is physical neglect when the child is malnourished, ill clad, and without proper shelter. A child is unattended when left by himself/herself without proper provisions and/or without proper supervision.
 - b. There is emotional neglect when the child is maltreated, sexually abused, raped, seduced, exploited, overworked, or made to work under conditions not conducive to good health; or is made to beg in the streets or public places; or when a child is left in moral danger, or exposed to gambling, prostitution, and other vices.
- (6) **Dependent child** is one who is without parent, guardian or custodian; or one whose parents, guardian or other custodian, for good cause desires to be relieved of his/her care and custody; and is dependent upon the public for support.
- (7) **Involuntarily Committed Child** refers to a child who the DSWD finds to be abandoned, neglected or dependent, by his/her parents or guardian and is ordered committed to the care and custody of the DSWD Centers or Institutions or to a licensed or accredited Child Caring/ Placing Agency or individual.
- (8) **Voluntarily Committed/ Surrendered Child** refers to a child whose parent or legal guardian knowingly and willingly relinquished parental authority in writing through a notarized Deed of Voluntary Commitment to the DSWD or any duly licensed or accredited child placement or child-caring agency or institution.

- (9) **Child Legally Available for Adoption** refers to a child in whose favor a certification was issued by the DSWD that he/she is legally available for adoption after the fact of abandonment, neglect, or dependence has been proven through the submission of pertinent documents, or one who was voluntarily committed by his/her parent/s or legal guardian/s.
- (9) **Child-caring agency (CCA) or institution** refers to a private non-profit or government agency duly licensed or accredited by the DSWD that provides twenty-four (24) hour residential care services for abandoned, neglected, dependent or voluntarily committed children.
- (10) **Child-placing agency (CPA) or institution** refers to a private non-profit institution or government agency duly licensed or accredited by the DSWD that receives and processes applicants to become foster or adoptive parents and facilitates placement of children eligible for foster care or adoption.
- (11) **Petitioner** refers to the head or executive director of a licensed or accredited child-caring or child placing agency or institution managed by the national government, local government unit, non-government organization, or a provincial, city, or municipal Social Welfare and Development Officer who has actual custody of a minor and who files a petition to declare such child legally available for adoption, or who files such petition for a child under the custody of any other individual, agency or institution provided that the child's custodian consents.
- (12) **Secretary** refers to the Secretary of the DSWD or his/her duly authorized representative.
- (13) **Conspicuous Place** refers to a place frequented by the public, such as but not limited to provincial/city/municipal halls/barangay halls, where a notice of a petition to declare a child leagally available for adoption may be posted for the information of any interested person.
- (14) **Social Case Study Report (SCSR)** refers to a written report of the result of an assessment conducted by a licensed social worker as to the socio-cultural and economic condition, psychosocial background, current functioning and facts of abandonment, neglect or dependence of the child. The report shall also state the efforts of the social worker to locate the child's parent/s, legal guardian/s, relative/s and intervention /

services provided to child's parent/s , legal guardian/s or relative/s.

- (15) **Legal Guardian** refers to a person appointed by a court to protect the interest of a minor.

Section 4. **Coverage**- These rules shall apply to surrendered, abandoned, neglected, and dependent children as mentioned in this Act who are subject for adoption.

Any of the following adoption proceedings in court does not require a Certification Declaring a Child Legally Available for Adoption.

- i. Adoption of an illegitimate child by any of his/her biological parent
- ii. Adoption of a child by his/her step-parent
- iii. Adoption of a child by a relative within the fourth (4th) degree of consanguinity or affinity

Article II Procedure

Section 5. **Form of Petition** - The Petition to declare an abandoned, neglected, or dependent child as legally available for adoption, shall be in the form of an affidavit, subscribed and sworn to before a notary public.

The Petition shall contain facts necessary to establish the merits of the petition and shall state the circumstances surrounding the abandonment, neglect, or dependence of the child.

The Petition shall be supported by the following documents:

- 1) Social Case Study Report executed by a licensed social worker of the DSWD, local government unit, licensed or accredited child - caring or child- placing agency or institution charged with the custody of the child.
- 2) Proof of efforts made to locate the parent(s) or any known relatives of the child. The following shall be considered sufficient proof of efforts to locate parent(s) or any known relatives of the child
 - a. Written certification from a local or national radio or television station that the case was aired on three (3) different dates;

- b. Publication in one (1) newspaper of general circulation.
 - c. Police report or barangay certification from the locality where the child was found or a certified copy of tracing report issued by the Philippine National Red Cross (PNRC) National Headquarters(NHQ), Social Services Division or Local Chapters which states that despite due diligence, the child's parent(s) or known relative(s) could not be found; and
 - d. One (1) returned registered mail to the last known address of the parent(s) or known relative(s)
- 3) Birth certificate, if available
 - 4) Most recent photograph of the child and photograph upon abandonment or admission to the agency or institution.

Section 6. Who can file - The following can file a petition:

1. Head of a child caring agency or institution managed by the National Government or Local Government Unit
2. Head or Executive Director of a licensed or accredited child-caring or child placing agency
3. A Provincial, City, or Municipal Social Welfare and Development Officer

In case of an individual who has actual custody of the abandoned or neglected child he/she is willing to adopt, the Regional Office or Provincial/ City/Municipal Social Welfare and Development Office (P/C/MSWDO), licensed child caring agency or child placing agency can assist in filing the petition. The Head of a DSWD Center or Institution, Provincial/ City/Municipal Social Welfare and Development Officer or the Head of the licensed child caring/placing agency shall file the petition for and in behalf of the individual.

Section 7. When to File - The Petition shall be filed after but not less than three (3) continuous months from the time of abandonment, neglect or dependence of a child.

Section 8. Where to File - The Petition together with the complete supporting documents shall be filed by the petitioner with the regional office of the DSWD where the child was found.

In cases where the child was physically transferred outside the region where the child was found, the Head of the DSWD Center/Institution, Child Caring/Placing Agency shall file the petition with the DSWD Regional Office where the DSWD Center/Institution, Child Caring Agency /Child Placing Agency is located. Said DSWD Regional Office shall forward the notice of the petition to the DSWD Regional Office of the region where the child was found for posting in accordance with Section 10, paragraph 2 of these rules.

Section 9. Review of Petition - The DSWD Regional Director shall review the petition and its supporting documents to determine if it is sufficient in form and substance within three (3) days from receipt of the petition. A petition not found to be sufficient in form and substance shall be returned to the petitioner without prejudice to its refiling.

Section 10. Posting of Petition - The Regional Director shall order the immediate posting of a notice of a petition found to be sufficient in form and substance.

The notice of the petition with a picture of the child shall be posted for at least five (5) consecutive days in conspicuous places such as but not limited to provincial capitol, city/municipal hall covering the locality where the child was found. Certificate of posting shall be issued to the Regional Director by the authority who caused the actual posting to ensure compliance of the same.

The Regional Director shall render his/her recommendation on the petition not later than five (5) working days after the completion of posting.

Section 11. Transmittal of the Recommendation to DSWD Central Office - The Regional Director shall forward his/her recommendation to the Office of the Secretary within two (2) working days from the time he/she signs the recommendation.

Section 12. Declaration of Availability for Adoption - Upon finding merit in the petition, the Secretary or his/her duly authorized representative shall issue a certification declaring the child legally available for adoption within seven (7) working days from the receipt of the recommendation.

Section 13. Issuance of Certificate of Foundling - In case of a foundling child, the local civil registrar of the municipality/city shall register and issue a foundling certificate within five (5) working days from receipt of the request and shall transmit copy of the foundling certificate to the National Statistics Office within seven (7) working days.

The certification of the Secretary or his/her duly authorized representative declaring a child legally available for adoption shall be the sole basis and requirement for the immediate issuance of the Certificate of Foundling by the local civil registrar in the municipality/city where the child was found. A copy of the child's profile shall be attached to the certificate declaring the child legally available for adoption for the file of the local civil registrar.

Section 14. **Appeal** - The decision of the Secretary or his/her duly authorized shall be appealable to the Court of Appeals within five (5) working days of receipt of the decision by the petitioner, otherwise the same shall become final and executory.

Section 15. **Application for Certification Declaring a Child Legally Available for Adoption of a voluntarily committed/ surrendered child** - The application for the issuance of a certification declaring the child legally available for adoption of a voluntarily committed/surrendered child shall be filed within three (3) months after the signing of the Deed of Voluntary Commitment in accordance to Art II, Section 6 & Section 7,8 Section 11 & 12 of this Rule, provided that no matching shall take place within the period. The basis of issuance of the certification is the notarized Deed of Voluntary Commitment supported with Social Case Study Report, birth certificate, photograph upon admission to the agency and most recent photograph of the child

Section 16. **Restoration of Parental Authority-** In the case of voluntarily committed / surrendered child, the petition for restoration of parental authority may be filed by the parent(s) or legal guardian within three (3) months after the signing of the Deed of Voluntary Commitment (DVC). The petition for restoration of parental authority shall be granted by the Regional Director or his/her authorized representative when it is shown to the satisfaction of the DSWD that the parent/s or legal guardian is/are in a position to adequately provide for the needs of the child. Such parent/s, or legal guardian of the child may then recover legal custody and parental authority over the child from the agency or institution to which the child was voluntarily committed.

Section 17. **Certification** - The certification declaring a child legally available for adoption, for all intents and purposes, shall be the primary evidence that the child is legally available in domestic adoption proceedings, as provided in Republic Act No. 8552, and in inter-country adoption proceedings, as provided in Republic Act. No. 8043.

Article III Violations and Penalties

Section 18. **Penalty** - Without prejudice to the filing of an administrative or criminal case, including the permanent revocation of the license/accreditation to operate a child caring/placing agency, the penalty of One Hundred Thousand Pesos (P 100,000.00) to Two Hundred Thousand (P 200,000.00) shall be imposed on any person, institution, or agency who shall place a child for adoption without the DSWD certification declaring the child legally free for adoption.

Violation of any provision of this Act shall subject the government official or employee concerned to appropriate administrative, civil and/or criminal sanctions, including suspension and/or dismissal from the government service and forfeiture of benefits.

Section 19. **Offices In Charge of Handling Violations** - A child caring/placing agency and or a person who has personal knowledge of any violation under the Act shall immediately report the same to the police station, local government unit or to any DSWD office (national, regional, provincial, city or municipal) that shall act thereon in accordance with existing rules and regulations within twenty-four (24) hours from receipt of the report.

Article IV Final Provision

Section 20. **Interpretation of the Provision of the Rules** - Any doubt or ambiguity in the provisions of these Rules shall be interpreted in favor of the best interests of the child.

Section 21. **Repealing Clause** - Section 2(c) (iii), 3(b), (e), and 8(a) of Republic Act No. 8552, Section 3 (f) of Republic Act No. 8043, Chapter I of Title VII and VIII, of Presidential Act No. 603, and any law, presidential decree, executive order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent with the provisions of this Act are hereby repealed, modified, or amended accordingly.

Section 22. **Separability Clause** - If any provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

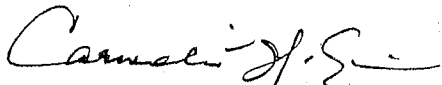
Section 23. **Effectivity Clause** - These Rules shall take effect fifteen (15) days following its complete publication in two (2) newspaper of general circulation or in the Official Gazette.

Approved in the City of Quezon this 1st day of June in the year of our lord, Two Thousand and Nine

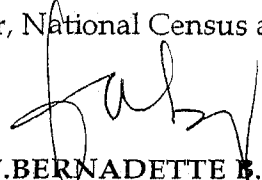
Approved by:



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