

CHILD ADOPTION ACT

B.E. 2522(1979)

BHUMIBOL ADULYADEJ, REX.

Given this 22nd day of April, B.E. 2522 (1979)

Being the 34th year of the present reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to have a law relating to child adoption;

Be it, thereof enacted by H.M. the King, by and with the advice and consent of the National Legislative Assembly, acting as the Parliament, as follows:

Section 1. This Act shall be called the "Child Adoption Act B.E. 2522 (1979)".

Section 2. This Act shall come into effect after the lapse of sixty days from the date of its publication in the Government Gazette.

Section 3. All other laws, regulations and rules, insofar as they relate to the parts already provide in this Act or which are in consistent with or contrary to this Act, shall be superseded by this Act.

Section 4. In this Act:

“Child” means a minor within the meaning of the Civil and Commercial Code.

“Child Welfare Organization” means a foundation an association or an organization established under the law with the objectives to provide assistance to children and to work in connection with adoption of children.

“Court” means the juvenile court under the law relating to the establishment of juvenile court or the provincial court of a province in which there is no juvenile court.

“Competent Official” means a person appointed by the Minister to execute this Act.

“Director-General” means the Director-General of the Public Welfare Department.

“Board” means the Child Adoption Board.

“Minister” means the Minister having charge and control of the execution of this Act.

Section 5. For the purpose of protecting children. who will be adopted, the application for the adoption of a child and the registration of the adoption of a child shall be made in accordance with the principles, procedures and conditions stipulated herein.

Section 6. No person, except the Public Welfare Department, the government agencies authorized by the Public Welfare Department or the Child Welfare Organizations licensed by the Director-General, shall take action in arranging the adoption of any child, directly or indirectly.

Section 7. A Child Welfare Organization wishing take action for adoption of children by others must apply for license from the Director-General.

The principles, procedures and conditions for the application for the license, the grant of the license and the form of the license shall be as prescribed in Ministerial Regulations.

Section 8. In case the Director-General refuses to grant the license under Section 7 to a Child Welfare Organization, he shall send a notice of refusal, together with reasons, to that Child Welfare Organization without delay and the latter has the right to appeal to the Minister against the said order within thirty days from the date of receipt of such order. The order of the Minister shall be final.

If a Child Welfare Organization which has been granted license under Section 7 violates the conditions stipulated in the license or performs an act detrimental to the peace and order or good moral of the public or to the welfare of a child, the Director-General is authorized to revoke its license, and the provisions of paragraph one shall apply.

Section 9. There shall be constituted a board called the "Child Adoption Board" comprising the Director-General as Chairman, representative of the Ministry of Foreign Affairs, representative of a Bangkok Metropolitan Administration, representative of the Local Administration Department, representative of the Police Department, representative of the Public Prosecution Department, and other qualified persons appointed by the Minister, of a number not exceeding eight and half which shall be women, as members, and the Director of the Child Adoption Center shall be member and secretary.

Section 10. The qualified members shall hold office for a term of two years each time.

In the event an appointment of a qualified member is made during the period the previously appointed qualified members are still holding office, whether it be an additional appointment or a replacement appointment, the person so appointed shall hold office only for the period equal to the remaining period of the duration of the office of the previously appointed qualified members.

Retired qualified members are eligible to re-appointment.

Section 11. Other than retirement by rotation as stated in Section 10, a qualified member shall vacate office upon.

- (1) death;
- (2) resignation;
- (3) becoming bankrupt;
- (4) becoming incompetent or quasi- incompetent;
- (5) being sentenced to imprisonment by final court sentence,

except where it is punishment for an offence committed through negligence or a petty offence.

Section 12. At a meeting of the board to constitute a quorum, there shall be members of a number not less than one half of the total number of numbers attending it. If the Chairman is

not present at any meeting, the members present shall elect one among them as the chairman of the meeting.

A decision of the meeting shall be by a majority of votes. Each member shall have one vote. In case of a tie, the Chairman of the meeting shall be entitled to another vote as the casting vote.

Section 13. The Board may appoint one or several sub-committees to carry out any work it may assign to them.

The provisions of Section 12 shall apply to the meetings of the sub-committees.

Section 14. The Board shall have the following powers and duties:

(1) To issue regulations, rules and procedures relating to adoption of children to be observed by the Adoption Center, the licensed Child Welfare Organizations and other agencies concerned;

(2) To consider and give decision to adoptions of children;

(3) To resolve problems concerning adoption of children;

(4) To give consultations concerning adoption of children to the Adoption Center, the licensed Child Welfare Organizations and other agencies concerned.

Section 15. The Adoption Center which is established in the Public Welfare Department shall act as the Office of Secretary of the Board.

Section 16. For purposes of carrying out this Act, the Director-General, the provincial governors or the competent officials shall have the following powers:

(1) To enter the place of residence of the parents, guardian, applicant, the welfare institute, nursing home, place of residence of the child, or the office of a Child Welfare Organization during sunrise and sunset for purposes of meeting, interrogating, searching for facts, gathering documents and evidences relevant to the condition of living and taking care of the child, or inspecting the working of a Child Welfare Organization, and to have the power to search such places in order to find or to bring the child back, but such search may be carried

out only when permit is obtained from the Director-General or the provincial governor produced to the owner or the person in charge of the place to be searched.

If the Director-General or the provincial governor conducts the search himself, search permit is not necessary.

(2) To order, in writing, the parents, the guardian, the applicant or the staff of a Child Welfare Organization, as well as other persons concerned to come to give statements or to furnish necessary documents or evidences or to bring along the child or to return the child.

Section 17. In performing his duties, the competent official shall be an officer under the Penal Code.

Section 18. No person shall take or send any child out of the kingdom for the purpose of arranging its adoption, directly or indirectly, unless with a permit from the Minister in accordance with the principles, procedures and conditions stipulated in Ministerial Regulations.

Section 19. An adoption of a child shall be subject to a probationary placement and must have received approval in accordance with the provisions of this Act.

The requirement for a probationary placement of a child mentioned in paragraph one shall not apply to cases where the applicant is a blood brother or sister half-blood brother or sister, great grandfather or great grandmother grandfather, grandmother, uncle, aunt, or lawful guardian of the child to be adopted.

Section 20. Any person wishing to apply for adoption of a child shall submit his application, together with a statement of consent from the person who has the power to give consent to the adoption according to law, in accordance with the principles, procedures and conditions stipulated in Ministerial Regulations.

In case the applicant has domicile in Bangkok Metropolis or in foreign country, he shall submit his application to the Director-General. For other provinces, applications are to be submitted to the provincial governor.

Section 21. After receiving an application for the adoption of a child, the competent official shall investigate the qualifications and facts concerning the condition of living and the suitability of the applicant, the person having the power to give consent to the adoption, and the child to be adopted.

Section 22. After the Director-General or the provincial governor, as the case may be, has considered the report of Investigation of the qualifications and facts or documents pertaining to the facts stated in Section 20 and Section 21, he shall give decision as to whether the applicant should be permitted to receive in custody of the child for a probationary placement.

If the Director-General or the provincial governor orders that probationary placement of a child should not be permitted, the applicant may appeal against such order by lodging his appeal with the court within sixty days from the date of receipt of the order. The order of the court of first instance shall be final.

Section 23. When the Director-General or the provincial governor orders for a probationary placement of the child, the applicant may then receive the child in his custody.

The period of probationary placement shall be not less than six months.

The principles, procedures and conditions for the probationary placement of a child shall be as prescribed in Ministerial Regulations.

Section 24. During the probationary placement of a child, if the applicant withdraws his application for adoption of the child he shall return the child to the person who has the power to give consent to the adoption or to the competent official.

The return of the child stated in paragraph one must be made without delay. The Director-General or the provincial governor, as the case may be, shall order the applicant in writing to return the child within a fixed period by taking into consideration the distance, convenience in returning the child, and the welfare of the child.

Section 25. During the probationary placement of a child, the father or mother, whether or not he or she is the person to give consent, may request for cancellation of the application for adoption of the child by submitting an application to the Director-General or the provincial governor, as the case may be, If the Director-General or the provincial governor orders for

cancellation of the application for the adoption of the child, the applicant shall return the child to its parent who requests for the cancellation, and the provisions of Section 24, paragraph two, shall apply.

In case the Director-General or the provincial governor deems that the application for cancellation of the application for the adoption of the child will be against the welfare of the child, or that the father or the mother who applies for the cancellation has been withdrawn of the guardianship by the court, the applicant shall continue to look after the child on probationary placement. The applicant in paragraph one may appeal against the order of the Director-General or the provincial governor by filing his appeal with the court within thirty days from the date of receipt of the order. The order of the court of first instance shall be final.

Section 26. During the probationary placement of a child if the competent official advises the Director-General or the provincial governor, as the case may be, that the applicant is not suitable to be authorized to adopt the child, when the Director-General or the provincial governor orders for cease of the placement of the child, the applicant shall return the child to the competent official, and the provisions of Section 24, paragraph two, shall apply.

The applicant may appeal against the order of the Director-General or the provincial governor in paragraph one by lodging his appeal with the court within thirty days from the date of receipt of the said order.

The order of the court of first instance in paragraph two shall be final.

Section 27. After the probationary placement of the child is complete and it appears that the applicant is suitable to adopt the child, and the Board approves of the adoption, registration of the adoption of the child shall be applied for in accordance with the law governing such.

For purposes of registration of adoption, the consent given by the person who has the power to give consent to the adoption as submitted under Section 20 shall be regarded as the consent to the registration.

Section 28. After the probationary placement of the child is complete, if it appears that the applicant is not suitable to adopt the child, and the Board does not approve of the adoption, the Director-General or the provincial governor, as the case may be, shall order the applicant

to return the child to the person who has the power to give consent to the adoption, or to the parents, or guardian or the competent official. In such case, the applicant must return the child, and the provision of Section. 24, paragraph two, shall apply.

The applicant may appeal against the order of the Board in paragraph one by filing his petition with the court within thirty days from the date of receipt of the order.

Pending court's proceedings, the applicant may request the court that the child remains under his care.

The order of the court of first instance in paragraphs two and three shall be final.

Section 29. When the Board approves of the adoption as mentioned in Section 27 or in case appeal against the order of the Board as stated in Section 28 is made, and the court has permitted the adoption of the child, if the applicant does not proceed with the registration of adoption of the child within six months from the date of receipt of the order of approval of the Board or from the date the court makes the order, it shall be regarded that he has waived his rights and shall therefor return the child to the person who has the power to give consent to the adoption or to the competent official, and the provisions of Section 24, paragraph two, shall apply.

Section 30. When an appeal against an order is made to the court under this Act, the court shall send a copy of petition to and inform the Director-General, the Board Chairman, or the provincial governor as the case may be, of the date fixed for hearing the case.

Section 31. The trial of a case and the reading of a court judgment concerning adoption of children under this Act shall be made in closed doors, and only the following persons are permitted to appear in the court room:

- (1) Parents, guardian, or the person who has the power to give consent to the adoption, and lawyer;
- (2) The applicant and lawyer;
- (3) The person raising objection and lawyer;
- (4) Court officers;

(5) The competent officials and the officers of the child welfare organization concerned;

(6) Witnesses, specialist, and interpreter;

(7) Persons summoned by the court to make factual statements and other persons as the court thinks fit.

If the court deems that any person should not remain in the court room during any part of the hearing, the court has the power to order all the persons or such person to go out of the court room.

Section 32. No person shall disseminate the picture, name or any statement which will lead other person to come to know the child to be adopted or the adopted child, the father or mother or guardian of the child to be adapted or the adopted child, or the person applying for or adopting the child, and publication of orders of the court under this Act is also prohibited, except where it is necessary for official purpose,

Section 33. proceeding under this Act shall be exempt from court fee.

Section 34. Any person who violates Section 6 or Section 18 shall be punished by imprisonment for a term of not more than three years or by a fine of not more than Baht thirty thousand or by both such imprisonment and fine.

Section 35. Whoever impedes or fails to afford convenience to the persons who perform duties under Section 16 (1) or fails to comply with the order given under Section 16 (2) shall be punished by imprisonment for a term of not more than three months or by a fine of not more than Baht three thousand or by both such imprisonment and fine,

Section 36. If an applicant for adoption of a child refuses to return the child in accordance with Section 24, Section 25, paragraph one, Section. 26, paragraph one, Section 28, paragraph one, and Section 29, he shall be punished by imprisonment for a term of not more than six months or by a fine of not more than Baht ten thousand or by both such imprisonment and fine.

Section 37. Whoever violates Section 32 shall be punished by imprisonment for a term of a term of not more than six months or by a fine of not more than Baht ten thousand or by both such imprisonment and fine.

Section 38. In case offender liable to punishment under this Act is a juristic person, its managing director, manager, or representative shall also be liable to the punishment fixed by law for such offence, unless he can prove that he has taken no part in the commission of such offence.

Section 39. The Minister of Interior shall have charge and control of the execution of this Act and shall have the power to appoint competent officials and issue Ministerial Regulations for the execution of this Act.

Such Ministerial shall become effective upon publication in the Government Gazette.

Countersignature:

S. HOTRAKITYA

Deputy Prime Minister

(Reference Government Gazette, Volume 96, Part Special, 22 April B.E. 2522 (1979))

Department of Public Welfare

Bangkok, Thailand

25 June 1980.