

# Legal updates and family matters



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## Procedures in domestic and inter-country adoption; simulation of birth is illegal

Adoption is the legal process by which a child becomes the legitimate child of the adopting person or persons. The Philippines has two laws on adoption, namely, [1] Republic Act 8552 Domestic Adoption Act of 1998; and [2] Republic Act 8043 Inter-Country Adoption Act of 1995.

RA 8552 amended Articles 183 up to 193 of the Family Code of the Philippines and is the governing law for Filipino citizens adopting other Filipinos (whether relatives or strangers) with some exceptions. Under Article 192 of the FC, the adopting couple may under certain circumstances ask for judicial rescission of the adoption. Rescission of adoption is no longer allowed under RA 8552.

RA 8043 on the other hand, governs the adoption of Filipinos by foreigners, and is implemented by the Inter-Country Adoption Board. For more information on inter-country adoption, please surf to the websites of the ICAB and the Filipino Adoptees Network (please see links in page 2).

**Please take note that RA 8552 (and not RA 8043) applies when a foreigner who is married**

**to a Filipino citizen seeks to adopt jointly with his/her spouse a relative within the fourth degree of consanguinity or affinity of the Filipino spouse.**

### Procedures in domestic adoption

The Supreme Court has issued guidelines in petitions for adoptions under RA 8552 and RA 8043. Basically, a petition for domestic adoption under RA 8552 will go through these steps:

[1] A lawyer prepares the petition for the person or persons wanting to adopt. The petition includes documents like birth certificates, marriage certificate, proof of financial capacity (like ITR, bank deposit, etc), clearances (barangay, police,

### Simulation of birth is not adoption

Simulation of birth takes place when a childless couple comes into possession of a baby or child, given to them by any person (for examples, a midwife, an unwed mother or a relative). This couple then applies for a birth certificate, making it appear that the baby or child is their biological offspring.

Under RA 8552, simulation of birth is a criminal offense punishable by eight years imprisonment and a fine of fifty thousand pesos. RA 8552 provided for a grace period from 1998 up to 2003 for people to rectify the simulation of birth without criminal prosecution. There is a Senate bill for the extension of this grace period up to 2013.

NBI, fiscal, court), and others as proof of good moral character, good health, etc.

**[2]** Upon payment of the filing or docket fee, the petition is raffled to a Family Court (of the city nearest the place where the petitioner resides). If the petition is sufficient in form and substance, the court issues an order, usually within a month after the filing of the petition, setting the case for initial hearing and ordering the court social worker to conduct a case study and home visit.

**[3]** The court order is published in a newspaper of general circulation once a week for three weeks. The newspaper is chosen by raffle conducted by the Office of the Clerk of Court, in compliance with a Supreme Court circular. If a small time newspaper wins in the raffle, the total cost for the publication could be as low as Php 7,000. But if a big time newspaper like the Bulletin or the Inquirer wins the raffle, the total cost could be as high as Php 50,000.

**[4]** Before the initial hearing, the social worker conducts a case study and home visit. The social worker submits his investigation report and recommendations to the court before the initial hearing.

**[5]** On the date of the initial hearing, the petitioner and the prospective adoptee must be present. The lawyer presents what are known as the jurisdictional facts (petition, proof of publication in newspaper, notice to the Office of the Solicitor General, etc).

**[6]** If there is no opposition to the petition for adoption by any party, then the lawyer asks the court permission for an ex-parte presentation of evidence, done before only the court stenographer and the court appointed commissioner (the branch clerk of court). The court however can require presentation of evidence in open court. All in all, the case could take up to about a year to finish.

**[7]** If the court decision is favorable and there is no appeal by any party, then the court issues a Certificate of Finality. The lawyer then coordinates with the Local Civil Registrar (of the town or city where the court is located, and the adoptee's birthplace) and the National Statistics Office for the issuance of a new birth certificate bearing the petitioner's surname.

#### Notes:

The publication in a newspaper of general circulation of the court order discussed in paragraph [3] above is part of the major cost in adoption proceedings. This is one of the reasons why people resort to simulation of birth. Perhaps our legislators can amend RA 8552 by requiring that the order be published on the Internet, for example, in the Supreme Court website.

Several countries like the US require applicants for immigration and their families to undergo DNA testing. Couples who resorted to simulation of birth thus get rejected when the DNA tests show that they are not biologically related to their child/children.

Inter-Country Adoption Board: <http://www.icab.gov.ph/>  
Filipino Adoptees Network: <http://www.filipino-adoptees-network.org/>

#### How to be saved and go to heaven

**Accept that you are a sinner and that your good works, ethical conduct or religion cannot save you.** Romans 3:10, Romans 3:23

**Believe on the Lord Jesus Christ that He alone can save you.** Romans 6:23, Romans 10:13, Acts 16:31

**Confess and repent of your sins.** Luke 13:3, Isaiah 1:18

**Delay not in receiving Jesus Christ into your heart.** 2 Corinthians 6:2, Proverbs 27:1

**Pray and ask the Lord to save you now:** "Dear Lord, I believe that Christ died and shed His precious blood to save my soul. Be merciful to me a sinner, forgive my sins and save me in Jesus' name. Lord Jesus, I now accept you as my Savior. Amen."

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