

**SOCIALIST REPUBLIC OF VIET NAM**

**Independence - Freedom - Happiness**

**THE NATIONAL ASSEMBLY -**

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**LAW**

**ON ADOPTION**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;  
The National Assembly promulgates the Law on Adoption.

**Chapter 1**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Law provides the principles and conditions for adoption; competence, order and procedures for settling adoptions; rights and obligations of adoptive parents, adopted children and natural parents; and responsibilities of agencies and organizations in adoption.

**Article 2. Purposes of adoption**

Adoption aims to establish permanent parent and child relationships in the best interests of adopted persons, ensuring that adopted persons are nurtured, cared for and educated in the family environment.

**Article 3. Interpretation of terms**

In this Law. the terms below are construed as follows:

1. Adoption means the establishment of parent and child relationships between the adopting and adopted persons.
2. Adoptive parent means the person who adopts another after the adoption is registered by a competent state agency.
3. Adopted person means the person who is adopted after the adoption is registered by a competent state agency.
4. Domestic adoption means the adoption between Vietnamese citizens permanently residing in Vietnam.
5. Intercountry adoption means the adoption between a Vietnamese citizen and a foreigner, between foreigners permanently residing in Vietnam, and between Vietnamese citizens either of

whom settles abroad.

6. Orphan means a child whose parents are dead or whose parent is dead while the other is unidentifiable.

7. Abandoned child means a child whose natural parents are unidentifiable.

8. Family of origin means the family of persons who have biological ties.

9. Substitute family means the family that adopts a child.

10. Nurturing center means a social relief establishment, a child support establishment or another establishment established under Vietnamese law to nurture, care for and educate children.

#### **Article 4. Principles of settlement of adoptions**

1. When settling adoptions, the right of children to live in the family of origin must be respected.

2. Adoption must ensure the legitimate rights and interests of adopted and adopting persons, free consent, equality, non-discrimination between male and female and non-violation of law and social ethics.

3. Adoption by a person living abroad is allowed only when no domestic substitute family can be found.

#### **Article 5. Order of priority in the selection of substitute families**

1. The order of priority in the selection of substitute families is as follows:

a) Step father, step mother, natural aunt or uncle of the adopted person;

b) Vietnamese citizens permanently residing in the country;

c) Foreigners permanently residing in Vietnam;

d) Vietnamese citizens settling abroad;

e) Foreigners permanently residing abroad.

2. In case more than one person of the same priority rank seek to adopt a person, adoption shall be considered and settled for the person with the best nurturing, care and education conditions.

#### **Article 6. Protection of the right to adopt and the right to be adopted**

The State protects the right to adopt and the right to be adopted in accordance with this Law and relevant laws.

#### **Article 7. Encouragement of humanitarian assistance for the care for children in disadvantaged circumstances**

The State encourages organizations and individuals to provide humanitarian assistance for the

nurture, care for and education of children in disadvantaged circumstances. Humanitarian assistance must not affect adoption.

The Government shall stipulate the receipt, management and use of humanitarian assistance referred to in this Article.

#### **Article 8. Persons allowed to be adopted**

1. Children under 16 years.
2. Persons aged between full 16 years and under 18 years falling into either of the following cases:
  - a) To be adopted by the step father or step mother;
  - b) To be adopted by a natural aunt or uncle.
3. A person may be adopted by only one single person or two persons being husband and wife.
4. The State encourages adoption of orphans, abandoned children and children in other disadvantaged circumstances.

#### **Article 9. Competence to register adoptions**

1. People's Committees of communes, wards or townships (below collectively referred to as commune-level People's Committees) in which the persons introduced for adoption or adopting persons permanently reside are competent to register domestic adoptions.
2. People's Committees of provinces or centrally run cities (below collectively referred to as provincial-level People's Committees) in which the persons introduced for adoption permanently reside are competent to decide on intercountry adoptions: provincial-level Justice Departments are competent to register intercountry adoptions.
3. Overseas representative missions of the Socialist Republic of Vietnam are competent to register adoptions by Vietnamese citizens temporarily residing abroad.

#### **Article 10. Competence to settle requests for termination of adoption**

People's Courts are competent to settle requests for termination of adoption in accordance with the law on civil procedures.

#### **Article 11. Assurance of the right to know one's origin**

1. Adopted persons have the right to know their origin. Nobody is allowed to obstruct an adopted person from knowing his)her origin.
2. The State encourages and creates conditions for adopted persons being Vietnamese living abroad to visit their native places.

## **Article 12. Fee for adoption registration, expenses for settlement of intercountry adoptions**

1. Adopting persons shall pay an adoption registration fee.
2. In addition to the adoption registration fee referred to in Clause 1 of this Article, a foreigner not permanently residing in Vietnam and seek to adopt a child in Vietnam shall pay a sum of money to partly offset expenses for settling intercountry adoptions, including expenses for nurturing, caring for and educating the child from the time of introduction for adoption to the time of completion of procedures for the child's delivery and receipt, verifying the origin of the introduced child, delivering and receiving the child and reasonable remuneration for the nurturing center's employees.
3. The Government shall specify the competence to collect the adoption registration fee. its rates and its exemption and reduction, management and use, and expenses for settling intercountry adoptions under Clauses 1 and 2 of this Article.
4. In addition to the adoption registration fee and expenses for settling intercountry adoptions referred to in Clauses 1 and 2 of this Article, organizations and individuals engaged in intercountry adoption activities may not impose any other charges.

## **Article 13. Prohibited acts**

1. Taking advantage of adoption for self-seeking purposes, exploiting the working capacity, sexually abusing, abducting or trafficking in children.
2. Forging papers for adoption settlement.
3. Discriminating between natural and adopted children.
4. Taking advantage of adoption to violate the population law.
5. Abusing the adoption by war invalids, persons with meritorious services to the revolution or ethnic minority persons to enjoy state incentives.
6. Grandparents adopting their grandchildren or siblings adopting one another.
7. Taking advantage of adoption to act against the law or fine national customs, practices, ethics or cultural traditions.

## **Chapter II**

### **DOMESTIC ADOPTION**

## **Article 14. Conditions on adopting persons**

1. An adopting person must fully meet the following conditions:
  - a) Having full civil act capacity;
  - b) Being 20 years or more older than the adopted person;

c) Having health, financial and accommodation conditions for assuring the care for and nurture and education of the adopted child.

d) Having good ethical qualities.

2. The following persons may not adopt a child:

a) Having some of the parental rights over a minor child restricted:

b) Currently serving an administrative handling decision at an educational institution or medical treatment establishment;

c) Currently serving an imprisonment penalty:

d) Having a criminal record of commission of any of the crimes: intentionally infringing upon another's life, health, dignity and honor; maltreating or persecuting one's grandparents, parents, spouse, children, grandchildren or caretaker; enticing or compelling a minor to violate the law or harboring a minor violator; trafficking in, fraudulently swapping or appropriating children, which has not been remitted yet.

3. In case the step father or step mother adopts a step child or a natural aunt or uncle adopts a nephew or cousin. Points b and c of this Article will not apply.

### **Article 15. Responsibility to find substitute families for children**

1. In case a child cannot be nurtured in the origin family environment, a concerned agency, organization or individual shall find a substitute family for the child.

2. The finding of a substitute family for a child is stipulated as follows:

a) For an abandoned child, the People's Committee of the commune in which the child is found shall find a person or an organization to temporarily nurture the child: if a person seeks to adopt the child, the People's Committee of the commune in which the child is found shall consider and settle the adoption under law; if nobody seeks to adopt the child, the commune-level People's Committee shall compile a dossier for sending him)her to a nurturing center;

b) For an orphan who has no caretaker or a child who has natural parents and relatives who, however, are incapable of nurturing the child, the guardian, natural parents or relatives shall report this to the commune-level People's Committee of the place in which the child permanently resides for finding a substitute family for the child. The concerned commune-level People's Committee shall support the child's nurturing and post up at its head office for 60 days an announcement to find a person to adopt the child; if a person in the country seeks to adopt the child, the commune-level People's Committee shall consider and settle the adoption. Past the time limit of posting up the announcement, if nobody in the country seeks to adopt the child, the commune-level People's Committee shall compile a dossier for sending him)her to a nurturing center;

c) In case a nurturing center has children in need of a substitute family, it shall make a list thereof and send it to the provincial-level Justice Department, which shall announce it for 3 consecutive times in the province's print newspaper or other mass media.

Within 60 days from the date of announcement, if a person in the country seeks to adopt the child, he/she shall contact the commune-level People's Committee of the place in which the child permanently resides for consideration and settlement; once the adoption has been completed, the commune-level People's Committee shall report it to the provincial-level Justice Department for deletion of the name of the child in the list of children in need of substitute families.

Past 60 days from the date of announcement, if nobody in the country seeks to adopt the child, the provincial-level Justice Department shall send the list of children in need of substitute families to the Ministry of Justice;

d) The Ministry of Justice shall announce the finding of persons in the country seeking to adopt children on its website.

Within 60 days from the date of announcement, if a person in the country seeks to adopt a child, he/she shall contact the commune-level People's Committee of the place in which the child permanently resides for consideration and settlement; once the adoption has been completed, the commune-level People's Committee shall report it to the Ministry of Justice for deletion of the name of the child in the list of children in need of substitute families.

Past 60 days from the date of announcement, if nobody in the country seeks to adopt the child, the Ministry of Justice shall notify such to the provincial-level Justice Department.

#### **Article 16. Registration of adoption needs**

Vietnamese citizens who seek and are eligible to adopt a child under this Law but cannot find a child yet for adoption shall register their adoption needs with the provincial-level Justice Departments of the places in which they permanently reside; if having a child for adoption, the provincial-level Justice Department shall introduce the prospective adoptive person to the commune-level People's Committee of the place in which the child permanently resides for consideration and settlement.

#### **Article 17. Dossiers of adopting persons A dossier of an adopting person comprises:**

1. A written request for adoption;
2. A copy of the passport or identity card or a valid substitute paper;
3. The judicial record sheet;
4. Written certification of the marital status;
5. A health certificate granted by a district-or higher-level health agency; a written certification of family circumstances and housing and economic conditions granted by the commune-level People's Committee of the place in which the adopting person permanently resides, except for the case specified in Clause 3, Article 14 of this Law.

#### **Article 18. Dossiers of persons introduced for domestic adoption**

1. A dossier of a person introduced for domestic adoption comprises:

- a) The birth certificate;
  - b) A health certificate granted by a district-or higher-level health agency;
  - c) Two photos of the whole body looking straight, taken within the past 6 months;
  - d) A record of certification made by the commune-level People's Committee or police of the place in which the child is abandoned, for abandoned children; the death certificate of the natural parent(s) or a court decision declaring the natural parent(s) of the child is (are) dead, for orphans; a court decision declaring the natural parent(s) of the person introduced for adoption is (are) missing, for persons introduced for adoption whose parent(s) is (are) missing; a court decision declaring the natural parent(s) of the person introduced for adoption have lost civil act capacity, for persons introduced for adoption whose parent(s) has (have) lost civil act capacity;
  - e) The receipt decision, for children in a nurturing center.
2. The natural parents or guardians shall compile dossiers of persons introduced for adoption who currently live with their families; nurturing centers shall compile dossiers of children introduced for adoption who currently live in such centers.

#### **Article 19. Submission of dossiers, time limit for settling adoption**

1. The adopting person shall submit his)her dossier and the dossier of the person introduced for adoption to the commune-level People's Committee of the place in which the person introduced for adoption or the adopting person permanently resides.
2. The time limit for settling an adoption is 30 days counting from the time the commune-level People's Committee receives a complete and valid dossier.

#### **Article 20. Examination of dossiers, consultation of related persons**

Within 10 days from the time of receiving complete and valid dossiers, the commune-level People's Committee shall examine them and complete the consultation of persons referred to in Article 21 of this Law.

Consultation shall be recorded in a document bearing the signature or fingerprint of the consulted person.

#### **Article 21. Consent to adoption**

1. Adoption must be consented to by the natural parents of the person to be adopted; if a natural parent is dead or missing or has lost civil act capacity or is unidentifiable, consent of the other must be obtained; if both natural parents are dead or missing or have lost civil act capacity or are unidentifiable, consent of the guardian must be obtained; for adopting a child aged full 9 years or older, his)her consent must be also obtained.
2. A person consenting to an adoption referred to in Clause 1 of this Article must be fully counseled by the commune-level People's Committee that has received the dossier on the adoption purpose; the rights and obligations between the adoptive parents and adopted child: and the rights and obligations between the natural parents and child after the child has been adopted.

3. Consent must be completely voluntary and honest, must not be compelled, intimidated or bribed and must not pursue personal profits and be accompanied by a request for a sum of money or other material benefits.

4. Natural parents may give consent to adoption of their child only when the child is at least 15 days old.

#### **Article 22. Registration of adoption**

1. When seeing that the adopting persons and the person introduced for adoption are eligible under this Law, the commune-level People's Committee shall organize the adoption registration, hand the adoption certificates to the adoptive parents, the natural parents or the guardian or a representative of the nurturing center, organize the delivery and receipt of the adopted child and record the adoption in the civil status book within 20 days after obtaining the consent of the persons referred to in Article 21 of this Law.

2. In case the commune-level People's Committee refuses registration, it shall, within 10 days after obtaining the consent of the persons referred to in Article 21 of this Law, issue a written reply clearly stating the reason to the adoptive parents, the natural parents or the guardian or a representative of the nurturing center.

3. The adoption certificate shall be sent to the commune-level People's Committee of the place in which the person introduced for adoption or the adopting person permanently resides.

#### **Article 23. Notification of the growth of adopted children and supervision of the nurturing of adopted children**

1. Once every six months within 3 years from the date of delivery and receipt of an adopted child, the adoptive parents shall notify the commune-level People's Committee of the place in which they permanently reside of the health, physical and mental conditions and integration of the adopted child with his)her adoptive parents and their family and community.

2. The Commune-level People's Committee of the place in which the adoptive parents permanently reside shall inspect and monitor the adoption.

#### **Article 24. Consequences of adoption**

1. From the date of delivery and receipt of an adopted child, the adoptive parents and adopted child will have all the rights and obligations between parents and child; and the adopted child and other members of the adoptive parents family will also have the rights and obligations between them under the law on marriage and family, the civil law and other relevant laws.

2. At the request of adoptive parents, competent state agencies shall decide on the change of the full names of adopted children.

Change of the full names of an adopted child aged 9 or more years must be consented to by such child.

3. The nationality of an adopted abandoned child shall be determined according to the nationality of the adoptive parents.



4. Unless otherwise agreed upon between the natural and adoptive parents, from the date of delivery and receipt of the adopted child, the natural parents no longer have the rights and obligations to care for, nurture, provide financial support for, represent at law, pay damages for, manage and dispose of personal property of, their child already adopted.

#### **Article 25. Grounds for termination of adoption**

An adoption may be terminated in the following cases:

1. The adopted child has grown mature and the adoptive parents terminate the adoption at their own will;
2. The adopted child is convicted of any of the following crimes: intentionally infringing upon the lives, health, dignity and honor of the adoptive parents; maltreating and persecuting the adoptive parents and dissipating the adoptive parents' property;
3. The adoptive parents are convicted of intentionally infringing upon the lives, health, dignity and honor of the adopted child; or maltreating and persecuting the adopted child;
4. Violating the provisions of Article 13 of this Law.

#### **Article 26. Organizations and individuals entitled to request termination of adoption**

1. Adoptive parents.
2. Grown-up adopted children.
3. Natural parents or guardians of adopted children.
4. The following agencies and organizations have the right to terminate an adoption when they obtain any of the grounds specified in Clauses 2, 3 and 4. Article 25 of this Law:
  - a) Labor, war invalids and social affairs agencies;
  - b) Women's unions.

#### **Article 27. Consequences of the termination of adoption**

1. The rights and obligations between the adoptive parents and adopted child terminate on the date the court decision to terminate the adoption takes legal effect.
2. In case the adopted person is a minor or an adult who has lost civil act capacity and working capacity, the court shall decide to assign him)her to his)her natural parents or another organization or individual for care, nurture and education in the best interests of such person.
3. In case the adopted person is assigned to his)her natural parents, the rights and obligations of the natural parents which have terminated under Clause 4, Article 24 of this Law will be restored.
4. In case the adopted person has personal property, he)she will be entitled to receive back such property; if the adopted person has contributed to the common property of the adoptive parents, he)she will be entitled to part of such property in proportion to his)her contribution as agreed

upon with the adoptive parents: if no agreement can be reached, this may be brought to a court for settlement.

5. The adopted person has the right to restore his)her name as before adoption.

### **Chapter III**

#### **INTERCOUNTRY ADOPTION**

##### **Article 28. Cases of intercountry adoption**

1. Overseas Vietnamese, foreigners permanently residing in the countries being contracting parties to an adoption treaty along with Vietnam adopt a Vietnamese child.

2. Overseas Vietnamese, foreigners permanently residing abroad may adopt a specific child in the following cases:

a) He)she is the step father or step mother of the to-be-adopted child;

b) He)she is the natural aunt or uncle of the to-be-adopted child;

c) He)she has adopted a child who is a sibling of the to-be-adopted child;

d) He)she adopts a child who is disabled or infected with HIV)AIDS or another dangerous disease;

e) He)she is a foreigner currently working or studying in Vietnam for at least 1 year;

3. Vietnamese citizens permanently residing in the country adopt a foreign child.

4. Foreigners permanently residing in Vietnam adopt a child in Vietnam.

##### **Article 29. Conditions on adopting persons**

1. Overseas Vietnamese or foreigners permanently residing abroad who seek to adopt a Vietnamese must meet all conditions required by the law of the country in which they permanently reside and specified in Article 14 of this Law.

2. Vietnamese citizens who seek to adopt a foreigner must meet all conditions specified in Article 14 of this Law and required by the law of the country in which the to-be-adopted person permanently resides.

##### **Article 30. Consular legalization of papers and documents**

Papers and documents in the dossier of the adopting person and the dossier of the foreign adoption organization compiled, granted or certified by a competent foreign agency must be consularly legalized for use in Vietnam, unless they are exempt from consular legalization under a treaty to which the Socialist Republic of Vietnam is a contracting party or on the reciprocity principle.

### **Article 31. Dossiers of adopting persons**

1. A dossier of an overseas Vietnamese or a foreigner permanently residing abroad seeking to adopt a Vietnamese must comprise:

- a) A written request for adoption;
- b) A copy of the passport or a valid substitute paper;
- c) A written permission for adopting a person in Vietnam;
- d) A completed questionnaire on psychology and family;
- e) A health certificate;
- f) An income and property certificate;
- g) A judicial record sheet;
- h) A written certification of the marital status;
- i) A document evidencing the case of adoption of a specific child specified in Clause 2, Article 28 of this Law.

2. Papers and documents stated at Points b thru h. Clause 1 of this Article must be made, issued or certified by competent agencies of the country in which the adopting person permanently resides.

3. A dossier of the adopting person shall be made in 2 sets and submitted to the Ministry of Justice via the central adoption agency of the country in which the adopting person permanently resides; in case of adopting a specific person stated in Clause 2. Article 28 of this Law. the adopting person may submit the dossier directly to the Ministry of Justice.

### **Article 32. Dossiers of persons introduced for adoption by foreigners**

1. A dossier of a person introduced for intercountry adoption comprises:

- a) Papers and documents specified in Clause 1. Article 18 of this Law;
- b) Document on the remarkable characteristics, hobbies and habits of the child;
- c) A document evidencing the failure of finding a domestic substitute family under Clause

2. Article 15 of this Law.

2. A dossier stated in Clause 1 of this Article shall be made in 3 sets and submitted to the provincial-level Justice Department of the place in which the person introduced for adoption permanently resides.

3. The natural parents or guardian shall compile a dossier for the person introduced for adoption who lives with his)her family: the nurturing center shall compile a dossier for the child

introduced for adoption who lives in the nurturing center.

### **Article 33. Responsibility for examining and verifying dossiers and certifying children's eligibility for being adopted**

1. Within 20 days after receiving a complete and valid dossier, the provincial-level Justice Department shall examine the dossier and consult persons specified in Article 21 of this Law. The consultation must be expressed in documents bearing the signatures or fingerprints of the consulted persons.

For an abandoned child who needs to be verified, the provincial-level Justice Department may request the provincial-level Police Department to verify; the requested Police Department shall conduct verification and issue a written reply within 30 days after receiving the request of the provincial-level Justice Department.

2. After completing the examination and verification under Clause 1 of this Article, if seeing that the child is eligible for intercountry adoption, the provincial-level Justice Department shall issue a certificate to this effect and send it to the Ministry of Justice.

### **Article 34. Responsibility for examining and transferring dossiers of adopting persons**

1. Within 15 days after receiving a complete and valid dossier, the Ministry of Justice shall examine and process the dossier of an adopting person under Clause 2 or 3 of this Article.

2. In case the adopting person seeks to adopt a specific child under Clause 2. Article 28 of this Law, the Ministry of Justice shall transfer the dossier to the provincial-level Justice Department of the place in which the person introduced for adoption permanently resides for submission to the provincial-level People's Committee for consideration and decision.

3. After the time limit of announcement to find a substitute family for a child specified in Clause 2. Article 15 of this Law, if nobody in the country can be found, the Ministry of Justice shall send the dossier of the adopting person to the provincial-level Justice Department of the place in which the child introduced for adoption permanently resides for consideration and introduction for adoption in the order specified in Article 36 of this Law. except the case specified in Clause 2 of this Article.

### **Article 35. Grounds for introduction of children for adoption**

The introduction of a child for intercountry adoption must be in the interests of the child, taking into account the interests of the adopting person on the basis of ensuring the following basic requirements:

1. The child's remarkable characteristics, hobbies and habits;
2. The child's integration and development ability;
3. The adopting person's financial conditions, family and social environments and aspirations.

### **Article 36. Sequence of introduction of children for adoption**

1. Within 30 days after receiving the dossier of the adopting person, the provincial-level Justice

Department shall consider and introduce a child for adoption on the basis of ensuring the grounds provided in Article 35 of this Law and report it to the provincial-level People's Committee. Within 10 days after receiving the dossier from the provincial-level Justice Department, if approving the dossier, the provincial-level People's Committee shall notify it to the provincial-level Justice Department for carrying out procedures for forwarding the dossier to the Ministry of Justice; if disapproving the dossier, it shall issue a written reply clearly stating the reason.

Before the provincial-level Justice Department considers and introduces a child for intercountry adoption, if a person seeks to adopt the child, he/she shall contact the commune-level People's Committee of the place in which the child permanently resides for consideration and settlement; once the adoption completes, the commune-level People's Committee shall report it to the provincial-level Justice Department for terminating the introduction of the child for intercountry adoption.

2. Within 30 days after receiving a report on the result of the introduction of a child for adoption, the Ministry of Justice shall examine such introduction; if it is valid, it shall make an assessment report on the Vietnamese child's eligibility for intercountry adoption and notify the competent agency of the country in which the adopting person permanently resides.

3. Within 15 days after receiving a document of the competent agency of the country in which the adopting person permanently resides notifying the consent of the adopting person to the introduced child and certifying that the child will be allowed to enter and permanently reside in the country in which child is adopted, the Ministry of Justice shall notify it to the provincial-level Justice Department.

The adopting person may not come into contact with the parents or guardian or nurturing center before receiving the notification of the introduction of the child for adoption, except for the case specified in Clause 2. Article 28 of this Law.

4. If the adopting person refuses to adopt the child introduced for adoption without a plausible reason, the settlement of his/her adoption request dossier will terminate.

### **Article 37. Decision to allow children to be adopted by foreigners and organization of the delivery and receipt of adopted children**

1. After receiving a notice of the Ministry of Justice under Clause 3. Article 36 of this Law, the provincial-level Justice Department shall submit the case's dossier to the provincial-level People's Committee for decision to allow the child's intercountry adoption.

Within 15 days after receiving the dossier from the provincial-level Justice Department, the provincial-level People's Committee shall decide to allow the child's intercountry adoption.

2. Immediately after receiving the provincial-level People's Committee's decision to allow the child's intercountry adoption, the provincial-level Justice Department shall notify the adopting person to come to Vietnam for receiving the child. Within 60 days after receiving the notice of the provincial-level Justice Department, the adopting person must be present in Vietnam; in case both husband and wife seek to adopt a child but either of them cannot not be present at the child delivery and receipt ceremony for an objective reason, he/she must make an authorization to the other; this time limit may be extended for a plausible reason but must not exceed 90 days. Past this time limit, if the adopting person fails to come to receive the child, the provincial-level

People's Committee shall cancel the decision to allow the child's intercountry adoption.

3. The provincial-level Justice Department shall register the adoption under the law on civil status registration and organize a child delivery and receipt ceremony at its head office in the presence of a representative of the provincial-level Justice Department, the adopted child, the adoptive parents, a representative of the nurturing center, for children living in nurturing centers, or the natural parents or the guardian of the child, for children living with their families.

The delivery and receipt of an adopted child must be recorded in a minutes bearing the signatures or fingerprints of the involved parties and the representative of the provincial-level Justice Department.

4. Following the delivery and receipt of an adopted child, the provincial-level Justice Department shall send the provincial-level People's Committee's decision to allow the child's adoption by a foreigner and the minutes of the child's delivery and receipt to the Ministry of Justice and the commune-level People's Committee of the place in which the adopted child permanently resides.

5. The Ministry of Justice shall send the decision to allow a child's intercountry adoption to the Ministry of Foreign Affairs for notification to the overseas Vietnamese representative mission of the adoption for taking child protection measures when necessary.

#### **Article 38. Certification of adoption**

The Ministry of Justice shall issue a certificate that an adoption has been settled under this Law and an adoption treaty to which the Socialist Republic of Vietnam is a contracting party for sending to competent foreign authorities upon request.

#### **Article 39. Notification of the growth of adopted children**

Once every six months within 3 years from the date of delivery and receipt of an adopted child, the adoptive parents shall notify the Vietnamese Ministry of Justice and representative mission in the country in which the adopted child permanently resides of the child's health and physical and mental conditions and integration with the adoptive parents and their family and community.

#### **Article 40. Adoption of foreign children by Vietnamese citizens living in the country**

1. A Vietnamese citizen seeking to adopt a foreign child shall compile a dossier under Article 17 of this Law and send it to the Ministry of Justice. The Ministry of Justice shall consider and issue a certificate of the adopting person's eligibility under Vietnamese law within 30 days after receiving a complete and valid dossier. When necessary, the Ministry of Justice may request verification by the provincial-level Justice Department of the place in which such person permanently resides; in this case this time limit may be extended but must not exceed 60 days.

2. After completing all procedures for adopting a foreign child, the Vietnamese citizen shall carry out the recording procedure at the provincial-level Justice Department and the commune-level of the place in which he/she permanently resides.

#### **Article 41. Adoption by foreigners permanently residing in Vietnam**

1. Articles 14, 15, 16, 17, 18, 21, 23, 24, 25, 26 and 27 of this Law are applicable to foreigners

permanently residing in Vietnam and seeking to adopt a child in Vietnam.

2. The dossiers of the adopting person and person introduced for adoption shall be submitted to the provincial-level Justice Department of (he place in which the person introduced for adoption permanently resides. The provincial-level Justice Department shall examine the dossiers and consult persons referred to in Article 21 of this Law.

If seeing that the adopting person and person introduced for adoption are eligible under this Law, the provincial-level Justice Department shall submit their dossiers to the provincial-level People's Committee for consideration and decision.

3. Within 15 days after receiving the dossiers from the provincial-level Justice Department, the provincial-level People's Committee shall decide to allow the foreigner permanently residing in Vietnam to adopt the child; in case of refusal, it shall reply in writing clearly stating the reason to the adopting person.

4. Immediately after receiving the provincial-level People's Committee's decision, the provincial-level Justice Department shall register the adoption under the law on civil status registration and organize a child delivery and receipt ceremony at its head office in the presence of a representative of the provincial-level Justice Department, the adopted child, the adoptive parents, a representative of the nurturing center, for children living in nurturing centers, or the natural parents or the guardian of the child, for children living with their families. If the adopting person fails to come to receive the child without a plausible reason, the provincial-level People's Committee shall cancel the decision to allow the foreigner's adoption.

The delivery and receipt of an adopted child must be recorded in a minutes bearing the signatures or fingerprints of the involved parties and the representative of the provincial-level Justice Department.

#### **Article 42. Adoption in border areas**

Pursuant to this Law and the practical situation, the Government shall stipulate procedures for settling adoptions between Vietnamese citizens and citizens of neighboring countries permanently residing in border areas.

#### **Article 43. Foreign adoption organizations in Vietnam**

1. A foreign adoption organization shall be granted a license to operate in Vietnam when fully meeting the following conditions:

- a) It is lawfully established and operates not for profits in the adoption domain in the territory of the country having acceded to an adoption treaty to which Vietnam is a contracting party;
- b) It is permitted by a competent adoption agency in the country in which it is established to operate in the adoption domain in Vietnam;
- c) It has operated in the intercountry adoption for 3 or more consecutive years without committing any violations as certified by a competent agency of the host country;
- d) It has a staff of social and legal workers knowledgeable about Vietnam's laws, culture and

society and international law on adoption:

e) It has a representative possessing goods ethical qualities and adoption expertise.

2. A foreign adoption organization operating in Vietnam has the following rights and obligations:

a) To give counseling to adopting persons on socio-economic conditions, family circumstances, social environment, needs and hobbies of Vietnamese children;

b) To carry out on behalf of the adopting persons procedures for settling adoptions in Vietnam;

c) To assist in finding substitute families for children who are disabled or infected with HIV/AIDS or other dangerous diseases;

d) To be provided with information and legal knowledge and participate in adoption training courses organized by competent Vietnamese agencies;

e) To rent offices and employ Vietnamese under law;

f) To observe the laws and respect customs and practices of Vietnam;

g) To annually report on the growth of adopted Vietnamese children to the Ministry of Justice;

h) To assist adoptive parents in preserving Vietnamese cultural traits in their adopted children;

i) To pay fees for (he grant, extension and modification of their licenses to operate in Vietnam;

j) To report on their operation and submit to the examination and inspection by competent Vietnamese agencies under law.

3. A foreign adoption organization will have its license to operate in Vietnam revoked in the following cases:

a) No longer meeting all the conditions stated in Clause 1 of this Article;

b) Breaching its obligation stated at Point f, Clause 2 of this Article.

4. The Government shall specify the rates of the fee for, and the management and use of this fee, and procedures for granting, extending, modifying and revoking operation licenses of Vietnam-based foreign adoption organizations.

## **Chapter IV**

### **RESPONSIBILITIES OF STATE AGENCIES FOR ADOPTION**

#### **Article 44. State management agencies in charge of adoption**

1. The Government shall perform unified state management of adoption.

2. The Ministry of Justice shall take responsibility before the Government for performing the state management of adoption.



3. Ministries and ministerial-level agencies shall, within the scope of their respective tasks and powers, coordinate with the Ministry of Justice in performing the state management of adoption.
4. The People's Committees at all levels shall, within the scope of their respective tasks and powers, perform the state management of adoption in their focalities.

#### **Article 45. Responsibilities of the Ministry of Justice**

1. To promulgate, or submit to competent state agencies for promulgation, legal documents on adoption.
2. Issue and organize the uniform use of forms of papers and books on adoption; grant, extend, modify and revoke operation licenses of Vietnam-based foreign adoption organizations.
3. Inspect, examine and settle complaints and denunciations and handle violations of the law on adoption according to its competence
4. Undertake international cooperation on adoption.
5. Perform other tasks and powers under this Law.

#### **Article 46. Responsibilities of the Ministry of Labor, War Invalids and Social Affairs**

1. To guide and examine the admission to children to nurturing centers and the placement of these children for adoption to ensure eligible subjects as defined by law.
2. To direct and guide the labor, war invalids and social affairs sector in managing, caring for, nurturing and educating children and taking measures to prevent the abandonment of children.
3. To examine and monitor the receipt, management and use of financial donations and aid from organizations and individuals for child protection and care purposes.

#### **Article 47. Responsibilities of the Ministry of Public Security**

1. To direct the implementation of measures to prevent, detect, investigate and handle violations in the adoption domain.
2. To guide provincial-level Police Departments in verifying the origin of abandoned children to be placed for adoption.

#### **Article 48. Responsibilities of the Ministry of Foreign Affairs**

1. To guide overseas-based Vietnamese representative missions to take necessary measures to protect adopted Vietnamese children in foreign countries.
2. To guide overseas-based Vietnamese representative missions to register adoptions under this Law.

#### **Article 49. Responsibilities of People's Committees at all levels**

1. Provincial-level People's Committee shall:

- a) Decide on intercountry adoptions under this Law;
- b) Disseminate and popularize the law on adoption in their localities;
- c) Report to the Ministry of Justice on the settlement of adoptions and the implementation of the law on adoption in their localities;
- d) Inspect, examine, and settle complaints and denunciations and handle violations of the law on adoption according to their competence.

2. District-level People's Committees shall;

- a) Settle civil status affairs related to adoption;
- b) Disseminate and popularize the law on adoption in their localities;
- c) Examine and monitor adoptions in their localities; and settle complaints and denunciations and handle violations of the law on adoption according to their competence;
- d) Report to provincial-level People's Committees on the settlement of adoptions and the implementation of the law on adoption in their localities.

3. Commune-level People's Committees shall:

- a) Register and monitor domestic adoptions and record intercountry adoptions;
- b) Disseminate and popularize the law on adoption in their localities;
- c) Settle complaints and denunciations and handle violations of the law on adoption according to their competence;
- d) Report to district-level People's Committees on the settlement of adoption and the implementation of the law on adoption in their localities.

## **Chapter V**

### **IMPLEMENTATION PROVISIONS**

#### **Article 50. Transitional provisions**

1. Adoptions between Vietnamese citizens which were established before the effective date of this Law but have not yet been registered with a competent state agency may be registered within 5 years after this Law takes effect if the following conditions are met:

- a) The involved parties meet all adoption conditions prescribed by law at the time of arising of their adoption relationships;
- b) The parent and child relationships still exist and both parties are still alive by the time this Law

takes effect:

c) Caring, nurturing and education ties exist between the adoptive parents and adopted child like between natural parents and child.

2. After being registered, the adoption relationships stated in Clause 1 of this Article will be effectively valid from the time they arise.

3. The Government shall specify procedures for registering adoptions referred to in this Article, which are convenient and suited to the practical realities of the people in different areas and regions.

**Article 51. To annul Chapter VIII. Article 105. and amend and supplement a number of articles of the Law on Marriage and Family**

1. To annul Chapter VIII with articles from 67 thru 78 and Article 105 of Marriage and Family Law No. 22/2000/QH10.

2. To amend and supplement Article 109 of Marriage and Family Law No. 22/2000/QH10 as follows:

quot;Article 109. Effect

Adoptions comply with the Law on Adoption.

...quot;

**Article 52. Effect**

1. This Law takes effect on January 1. 2011.

2. The Government shall detail and guide the implementation of articles and clauses as assigned in the Law; and guide other necessary contents of this Law to meet state management requirements.

*This Law was passed on June 17, 2010, by the 12<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 7<sup>th</sup> session.*