

(H. B. 29)  
(Conference)

**(No. 61-2018)**

(Approved January 27, 2018)

## **AN ACT**

To establish the “Puerto Rico Adoption Act,” in order to codify all of the substantive and procedural aspects that regulate adoptions under a single law; modernize, streamline, and uniform Puerto Rico’s adoption process; institute a diligent and expeditious adoption process whereby mothers with unwanted viable pregnancies shall be provided with the option to continue such pregnancies; to provide that the Secretary of the Department of the Family shall adopt regulations as are necessary to implement programs that facilitate adoption; set forth the public policy of the Government of Puerto Rico on the establishment of a Safe Haven system; provide for the creation of an adoption task force that shall be composed by the Department of the Family, the Department of Health, and adoption agencies; provide that the Department of the Family shall establish the Puerto Rico State Voluntary Adoption Registry attached to said Department; direct the Department of the Family to adopt or amend regulations as are necessary for the implementation thereof; provide that the Department of the Family shall submit an annual report on the operations thereof to the Legislative Assembly and the Governor of Puerto Rico; provide for the voluntary relinquishment of a minor and the adoption process for minors after the termination of parental rights; establish the process for the placement of minors with adoptive parents; repeal Act No. 186-2009, as amended, known as the “Comprehensive Adoption Proceedings Reform Act of 2009”; repeal Sections 612, 612A, 612B, 613A, 613B, 613C, 613D, 613E, 613F, 613G, 613H, 613I, 613J, 613K, 613L, 613M, 613N, 613O, 613P and 613Q of Act No. 9-1995, as amended, known as the “Special Legal Proceedings Act,” and renumber the subsequent sections; amend Section 35, repeal current Sections 51, 52, and 53, and adopt new Sections 51, 52 and 53 in Act No. 246-2011, as amended, known as the “Child Safety, Well-being, and Protection Act”; repeal current Articles 130, 131, 132, 133, 134, 135, 136, 137, 138, and 166A of the Civil Code of Puerto Rico (1930) and adopt new

Articles 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, and 166A for the purpose of expanding the pool of adoptive parties and to make the institution of adoption more flexible in our code of laws; and for other purposes.

### **STATEMENT OF MOTIVES**

Adoption is a real alternative and a loving option which benefits everyone when children, due to different circumstances, do not find in their biological parents the love and affection which should be theirs by birthright. Thanks to adoption, many people have the opportunity to share their happiness by providing a minor with a stable and permanent home.

At present, the process to adopt a minor is complicated and entails a long and tortuous waiting period. An adoption may take place under various circumstances. As a solution to one of the problems faced during this process, other state jurisdictions of the United States have created the “volunteer relinquishing mother” alternative. Such an alternative enables a pregnant woman to agree to relinquish her newborn to the prospective adoptive parents at birth. During this process, the volunteer mother and the future adoptive parents may share the pregnancy experience and attend follow-up medical appointments together if they so wish. Thus, the future adoptive parents are involved throughout the whole experience, which enables them to be better prepared for when they finally assume the custody of and parental rights to the minor. In some instances, the minor is not adopted immediately after his birth, but rather during his infancy or adolescence.

This Act establishes the public policy of the Government of Puerto Rico on the creation of a safe haven system that provides biological mothers with the option to relinquish their newborns at a hospital institution without the fear of being prosecuted for child abandonment, as provided in Article 118 of the Penal Code of Puerto Rico.

For all of the foregoing, this Legislative Assembly deems it fair, meritorious, and necessary to pass legislation that establishes a “volunteer mother” system in Puerto Rico, as it has been done in most other states, for the purpose making expedited adoption proceedings feasible, whose goal shall be to safeguard the best interests of the adoptee and his right to develop in a family that shows him affection and provides him with care that satisfies his spiritual and material needs when his biological parents are unable to do so.

Furthermore, in Puerto Rico there are a significant number of people who wish to become adoptive parents and, likewise, many minors waiting to be adopted. However, sometimes it is difficult to timely identify those interested who could very well provide those minors in Puerto Rico who have been placed for adoption and have a pressing need with a new home and a family. In view of the ever-increasing need to provide a stable home for the boys and girls who so desperately need it, we deem it meritorious to streamline Puerto Rico’s adoption process so as to benefit adoptive parents and, most importantly, the adoptees; particularly, those minors who are going through child protection proceedings under Act No. 246-2011, as amended, known as the “Child Safety, Well-being, and Protection Act,” and whose permanency plan is adoption. It is both alarming and outrageous how the lives of many children have gone by while waiting for their family environment to be transformed into one that is appropriate for their development and which offers them a better quality of life. This Legislative Assembly believes that family reunification is an option in those cases in which the rehabilitation of the biological parents is evident and they demonstrate the capacity and stability necessary to assume the huge responsibility of becoming parents.

For such reason, we also believe that it is appropriate and urgent to also provide for the Department of the Family to establish within the said Department, the “Puerto Rico State Voluntary Adoption Registry.” Such registry shall enable the State, subject to compliance with any applicable legal and regulatory requirements, to timely identify the number of people interested in, and qualified for, adopting minors, and to have relevant data readily available for easy identification and location. Furthermore, the State shall identify such minors that are available for adoption. The proper implementation of this registry shall ensure a fair and streamlined adoption process for everyone in which the opportunities and possibilities to adopt are real.

The State, in its capacity as *parens patriae*, is able to use the mechanism of adoption to provide minors who have been removed from their homes and are unable to go back for any reason with stable, healthy, and safe homes. Consistent with such power, it was established that the Government has the power to adopt regulations as are necessary to ascertain that adoption is the most suitable alternative for a minor who is a ward of the Department of the Family.

It is a fact that the welfare and safety of minors has been compromised in many cases as a result of obstinately seeking family unity, even in cases in which the circumstances within said family unit are detrimental to the welfare of such minors. Although the family unity principle is essential, we cannot lose sight of the fact that the main objective should always be to ensure the welfare and the safety of the minor and to provide him with a suitable home environment so he feels loved and is able to develop physically, mentally, socially, and morally, while providing him with a healthy living environment, in which order, peace, and tranquility rule.

On the other hand, the modern trend of globalization has made it possible, during the last decade, for thousands of U.S. citizens, including those who reside in Puerto Rico, to resort to foreign countries to adopt children eligible for adoption. In the year 2000, the United States Government approved the Intercountry Adoption Act, P.L. 106-279, thus ratifying the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, approved in The Hague on May 29, 1993. Section 503 of the Intercountry Adoption Act establishes that states may adopt statutory provisions which are consistent with the provisions of such statute.

At present, the adoption processes of foreign countries vary according to the code of laws in effect in each jurisdiction. Once the process has been finalized, the United States citizen obtains an authorization or visa from the Federal Government which allows the minor to enter the United States, after which the adoptive parents may return to their state of residence with the adoptee.

Most U.S. state jurisdictions, including Louisiana, Texas, and New York, have enacted legislation to impart a final and binding nature to intercountry adoptions by their residents and to make it feasible for the minor to be issued a birth certificate by his jurisdiction pursuant to their state's code of laws. Likewise, most states have enacted statutes to recognize interstate adoptions by their residents.

As part of this comprehensive adoption proceedings reform, we repeal Act No. 186-2009, known as the "Comprehensive Adoption Proceedings Reform Act of 2009," as amended, and Sections 612, 612A, 612B, 613B, 613D, 613O, and 613Q of Act No. 9-1995, as amended, known as the "Special Legal Proceedings Act." Furthermore, Section 35 is amended, new Sections 51, 52, and 53 are added to Act No. 236-2011, as amended, known as the "Child Safety, Well-being, and Protection Act," to include changes which focus primarily on the minor's welfare, and on achieving permanency for minors protected by the State if family

reunification is not possible. In addition, Sections are repealed from and new Sections are added to Act No. 9-1995, as amended, known as the “Special Legal Proceedings Act,” formerly known as the “Code of Civil Procedure,” for the purpose of streamlining adoption proceedings in order to shorten the terms for physical custody hearings after the Department of the Family has expended reasonable efforts to ensure the welfare and the protection of the minor; terminating, restricting, or suspending parental rights; instituting lawsuits; preparing the home study report; scheduling and holding the first conference; recognizing and validating interstate and intercountry adoptions; and establishing the right of foster homes and the adoptive parties to be heard during such proceedings. Several provisions of the Civil Code of Puerto Rico are also repealed in order to ease the adoption requirements for the purpose of allowing more people to become adoptive parents in our jurisdiction. Specifically, the current Articles 130, 131, 132, 133, 134, 135, 136, 137, 138, and 166A are repealed from and new Articles 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, and 166A are added to the Civil Code of Puerto Rico (1930). The intent of this Legislative Assembly is to streamline the institution of adoption and to become more effective by regulating the entire process under a single statute.

This Act constitutes a decisive step in our fight, as a society, against the abandonment, abuse, and disregard of our children. With this measure, we intend to halt the cycle of violence against those who are most vulnerable. Lastly, this Act increases the chances of minors who are wards of the Department of the Family of benefitting from adoption as their permanency plan.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Title.

This Act shall be known and cited as the “Puerto Rico Adoption Act.”

## Section 2.- Declaration of Public Policy.

In seeking the welfare of the adoptee, it is hereby provided that adoption proceedings shall be expeditious, flexible, and confidential in order to protect the constitutional right to privacy of all parties. The confidentiality of adoption proceedings and, in some cases, the identity of the adoptive parents is closely linked to the welfare and best interests of the adoptee. The following shall be the public policy on adoption:

(1) To recognize the full authority of the People of Puerto Rico to place for adoption, as appropriate, children under their custody and guardianship whose parents have been deprived of parental rights and custody when the best interest and welfare of the minor so requires.

(2) To facilitate adoption proceedings in the most liberal and broadest manner possible within Puerto Rico's current legal framework by providing for streamlined, straightforward, and expeditious proceedings that shall not exceed sixty (60) days from their start to their final resolution as well as to substantially streamline and liberalize the legal requirements for issuing decrees of adoption.

(3) The strict enforcement of this statute is considered a compelling social interest of the utmost importance because there are currently thousands of mistreated, deserted, abandoned, and homeless children for reasons clearly attributable to irresponsible parents and other sectors of society.

(4) It is the responsibility of the Department of the Family or the adoption agency to conduct the appropriate home study so that the courts may exercise their power as *parens patriae* to ensure the welfare and best interests of the adoptee. A home study shall be requested from the Department of the Family or the adoption agency whenever a petition for adoption is filed. The court shall issue a determination to such effect, according to the specific circumstances of the case, while taking into consideration the recommendations made in the home study, but

such action shall not constitute a limitation of its authority to decide on the adoption.

### Section 3.- Definitions

For purposes of this Act, the following terms shall have the meaning stated below, unless the context clearly indicates otherwise:

a) “Adoption Agreement”: The solemn legal act whereby the pregnant woman agrees, in a document sworn before a notary public authorized to practice his profession in Puerto Rico, without any compensation whatsoever, except for the payment of any pregnancy-related expenses as provided in Section 5 of this Act, to continue her pregnancy to its full term and to relinquish any parental rights in order to place her newborn for adoption; and the future adoptive person, couple, or married couple assumes the obligation to defray any pregnancy-related expenses and to adopt the newborn regardless of any congenital health condition the newborn may suffer, subject to the requirements imposed under this Act. The parties may choose whether it shall be an open or closed agreement.

i. Open Adoption Agreement: An adoption agreement whereby the adoptive party maintains contact with the biological mother during the pregnancy up to the expiration of the biological mother’s term to revoke consent.

ii. Closed Adoption Agreement: An adoption agreement whereby the adoptive party has no contact with the biological mother. Such an agreement shall include a confidentiality clause to such effect under which the Department shall maintain any information regarding the parties in strict confidentiality, except for exclusive use by the Department in transactions pertaining to adoption proceedings. The Department shall prescribe, through regulations to such effect, any additional costs on account of administrative expenses derived from the closed adoption agreement if necessary.



b) “Department”: The Department of the Family of the Government of Puerto Rico.

c) “Healthcare Services Institution”: Any institution that provides healthcare services, as defined in Section 2 of Act No. 101 of June 26, 1965, as amended, known as the “Healthcare Facilities Act.” It shall also include any private facility that provides medical-gynecological, obstetrical, and family planning services, in accordance with any applicable legislation.

d) “Adoptive Party”: A person, couple, or a married couple that, according to the Puerto Rico State Voluntary Adoption Registry attached to the Department of the Family, has the intention of the assuming custody of and parental rights to the minor to be adopted, after filing a petition to such effect, and which has been evaluated by the Department as a possible candidate for the adoption of a minor subject to any provisions on adoption in the Civil Code of Puerto Rico. In addition, the definition of Adoptive Party includes individual persons, couples, and married couples in the registries of adoption agencies.

e) “Biological Mother”: Refers to expecting or pregnant woman who freely and voluntarily agrees to relinquish all rights to her future newborn to the adoptive party, through an Adoption Agreement, subject to capacity requirements for such action.

f) “Newborn”: Any newborn between zero (0) and six (6) months placed for adoption under an adoption agreement pursuant to the provisions of this Act.

g) “Party”: The adoptive party or parties, the biological mother, the biological father who has acknowledged the paternity of the minor and registered him in the Vital Statistics Registry as well as any other person who proves to have a legitimate claim over the minor to the satisfaction of the Court.

h) “Court”: The Specialized Family Courts created by this Act which are attached to the General Court of Justice, Court of First Instance of Puerto Rico, to hear proceedings for termination of parental rights, adoptions, and any others that may arise from Act No. 246-2011 and this Act.

i) “Adoption Agency”: Any public or private nonprofit institution or organization that places minors in adoptive homes and is accredited, regulated, and periodically inspected by the Department of the Family for such purposes. These agencies shall be governed by all the laws applicable to the Department and by any regulations that the Department may establish in the best interest of minors. Adoption agencies may serve, at their discretion, as agencies where minors may be relinquished voluntarily or as safe havens.

j) “Biological Father”: The man who biologically begets the minor through natural or assisted insemination.

k) “Voluntary Relinquishment of a Minor”: The act whereby the biological mother, biological parents, or those who hold parental rights agree to relinquish such parental rights and transfer the custody of a minor between zero (0) and three (3) years, so he may be placed for adoption.

l) “Adoption”: The solemn legal act which entails the full severance of the legal-family ties of a minor or adult, pursuant to the exception established in this Act, to his biological parents and the ensuing filiation of the minor by the Adoptive Party which has expressed its will to assume legal parenthood of said child.

m) “Adoptee”: The minor or adult, under the exception established in this Act, being adopted in accordance with the requirements set out in the Puerto Rico Civil Code of 1930, as amended.

n) “Registry”: The Puerto Rico State Voluntary Adoption Registry established under this Act.

o) “Adoptive Placement Agreement”: An agreement to establish the terms and conditions for the placement of minors in homes approved by the Department or adoption agencies so they may be adopted. Such agreement shall guarantee the rights of all parties with special attention given to the best interests of the minor.

p) “Adoptive Home”: The home of a family, composed of one or more members that has adopted a minor or adult, under the exception established in this Act, who was under their custody.

q) “Pre-adoptive home”: A duly certified and licensed home that meets all the eligibility requirements established by the Department in order to be considered for adoption purposes.

(r) “Foster Home”: A temporary and transitional home duly certified and licensed by the Department that shelters minors who are wards of the Department.

(s) “Candidate Selection Panel”: A panel composed of five (5) members appointed by the Secretary of the Family, pursuant to the provisions of this Act, who shall evaluate the petitions for adoption received in order to proceed with the placement of the minor.

## CHAPTER II

### VOLUNTARY RELINQUISHMENT OF MINORS

#### Section 4.- Voluntary Adoption Agreement Orientation During Pregnancy.

Whenever a pregnant woman visits a healthcare services facility for the purpose of terminating her pregnancy, the institution shall notify the on duty social worker or a professional in the fields of healthcare and social welfare attached to such institution so that he may inform the woman that voluntary adoption is one of the alternatives available to handle unwanted pregnancies.

This orientation shall be offered to the woman who shall receive it freely, voluntarily, and free of charge, pursuant to any regulations adopted for such purposes by the Department, while guaranteeing the pregnant woman's constitutional rights.

In the event that the pregnant woman agrees to receive the aforementioned orientation, upon the completion thereof, the social worker or the professional in the field of healthcare and social welfare shall ask her whether she is willing to enter into an agreement to voluntarily relinquish the newborn to be placed for adoption.

If the pregnant woman agrees, the social worker shall immediately notify such decision to the Department, which shall be in charge of taking the necessary steps to initiate the process upon the execution of an Adoption Agreement, whether with the Department or through any adoption agency, as defined in this Act. Such adoption agreement shall be entered into freely and voluntarily, and without any compensation whatsoever.

As part of such transactions, the biological mother shall certify that she has been oriented on the option to voluntarily relinquish the minor so the minor may be placed for adoption and that at no time has she been coerced or intimidated into agreeing to the adoption.

#### Section 5.- Adoption Agreement Requirements During Pregnancy.

The adoption agreement shall be entered into according to the following requirements:

- 1) It establishes who shall be responsible for paying any pregnancy-related expenses authorized under this Act, which shall be understood to be medical, hospital, and nursing expenses; medication expenses; and lodging or traveling expenses if necessary during pregnancy and up to six (6) weeks after the birth. These expenses may include any psychological or psychiatric counseling the

biological mother may require as a result of placing her newborn for adoption, as well as any others, provided, that they are not unlawful, immoral, or contrary to public order. This responsibility shall only apply to expenses not covered by the health insurance plan of the biological mother, whether it is a private plan or provided by the Government of Puerto Rico.

If the biological mother does not have a health insurance plan, the Government of Puerto Rico, pursuant to the public policy established in this Act which seeks to promote adoption in Puerto Rico, shall provide the biological mother with a health insurance plan through the Puerto Rico Health Insurance Administration created by Act No. 72 of September 7, 1993, as amended, known as the "Puerto Rico Health Insurance Administration Act." Such coverage shall remain in effect during the term established in this subsection.

2) It shall include the Adoptive Party's statement of intent to adopt the newborn and to assume all of the responsibilities this act entails regardless of any health condition the newborn may have been born with.

3) It shall include the biological mother's statement of intent to relinquish her parental rights in favor of the Adoptive Party, subject to her right to revoke consent.

4) There shall be a statement indicating that the biological mother understands and agrees to have knowledge that the Department or an adoption agency shall assume custody of the newborn after the biological mother has relinquished her parental rights, by surrendering the newborn under the adoption agreement, as provided by Law, if the Adoptive party does not complete the process for any reason.

5) The Adoptive Party shall make a statement acknowledging that the biological mother may terminate the adoption agreement and revoke her consent to place her newborn for adoption within seven (7) days after birth. Such term shall

be extended if, for any reason, the biological mother loses consciousness or her capacity to consent is impaired after giving birth. Such loss of consciousness or capacity to consent shall be certified by a duly accredited physician. In the event the duly accredited physician certifies that the biological mother's loss of consciousness or inability to consent shall last for a long period of time, the State shall have the power to move forward with the adoption agreement. The biological mother shall be under the obligation to reimburse any expenses incurred by the Adoptive Party under the Agreement if she exercises her right to revoke her consent. Provided, further, that in such cases neither the Department nor the adoption agency, respectively, shall be responsible for restituting such expenses.

(6) If the biological mother or the biological father is a minor who is not emancipated pursuant to the code of laws in effect, their parents or guardians shall provide them with the legal capacity to consent so they may meet the consent requirements set forth in this Act.

(7) It shall state that efforts were made to ascertain whether a registered biological father exists and whether he is in a position to consent to the adoption agreement. The fact that the identity of the biological father is not known or is uncertain shall not constitute an impediment to continue with the adoption proceedings in the best interest and welfare of the minor. Only a biological father who has registered the minor in the Vital Statistics Registry may be given the opportunity to claim his parental rights to the minor.

(8) The Adoption Agreement may be open or closed, at the option of the parties. The Department or the adoption agency, as the case may be, shall inform the parties about these alternatives:

i. Open Adoption Agreement: An adoption agreement whereby the Adoptive Party maintains contact with the biological mother during the pregnancy up to the expiration of the biological mother's term to revoke consent.

After such term has elapsed, the Department shall maintain in strict confidentiality any information regarding the parties, except for exclusive use by the Department in such transactions pertaining to adoption proceedings, subject to the provisions of Chapter III, Section 15 of this Act on the right of the adoptive party to access confidential data in the Registry.

ii. Closed Adoption Agreement: An adoption agreement whereby the Adoptive Party has no contact with the biological mother. Such an agreement shall include a confidentiality clause to such effect under which the Department shall maintain any information regarding the parties in strict confidentiality, except for exclusive use by the Department in transactions pertaining to adoption proceedings, subject to the provisions of Chapter III, Section 15 of this Act on the right of the adoptee to access confidential data in the Registry.

#### Section 6.- Responsibilities of the Biological Mother.

Any biological mother who agrees to execute an adoption agreement shall be required to:

1. Undergo medical evaluation and treatment that is consistent with the accepted standards and methods of medical practice.
2. Follow all medical recommendations pertaining to her prenatal care as well as any medical recommendation to maintain good health.
3. Provide the Department with information regarding her personal and family medical history as well as any medical, psychological, or psychiatric evaluations available at the time of the adoption. Such information shall be confidential in nature and shall be used for the purpose of evaluating the biological mother's willingness during this process and as a possible source of information on the health of the adoptee.
4. Provide all available information concerning the identity of the registered biological father.

Section 7.- Limitations on the Adoption Agreement.

An adoption agreement shall be void if such agreement in any manner:

1. Authorizes the relinquishment of the newborn without the Department's review and approval, except in the case of adoption agencies which shall notify the Department of any relinquishment of a minor within a period not to exceed twenty-four (24) hours.
2. Fails to comply or intends to not comply with other provisions of law or any applicable regulations promulgated by the Department.
3. Limits or intends to limit the right of the biological mother to revoke her consent to place her child for adoption.
4. Is subject to the payment of any compensation, whether in cash or in kind, other than the expenses agreed on by the parties in accordance with the provisions of this Act.

Section 8.- Solemnity of the Adoption Agreement.

The adoption agreement shall be entered into before the official designated by the Department through regulations. Furthermore, any adoption agreement format shall be prescribed by regulations. In the event that the agreement is entered into through an adoption agency, the same shall be formalized by a notary public.

Section 9.- Supervision

The officials of the Department or adoption agencies duly licensed and supervised by the Department shall oversee the entire process, from conversations held to reach an adoption agreement until the adoption itself.

Section 10.- Rulemaking Authority.

The Department shall adopt regulations as are necessary to achieve the objectives of this Act within a term of thirty (30) days from the effective date thereof. Such regulations shall include, but shall not be limited to, the following:



1. The adoption agreement and voluntary relinquishment of a minor forms.

2. Streamlined and swift proceedings as are necessary in order for the Department and the agencies involved in the adoption process to fully and diligently achieve the objectives of this Act.

3. The safeguards in place to ensure the confidentiality of the parties involved in this process.

4. The management, custody, conservation, and disposal of records.

5. The content of the orientation, offered to biological mothers and biological fathers, on the voluntary relinquishment of minors so they may be placed for adoption pursuant to the provisions of this Act.

6. The adoption of regulations or, in lieu thereof, the amendment of existing regulations to establish the procedure to be followed by the Department in favor of the adoptive party, to initiate and complete the process to request federal and/or State benefits for minors with special needs or any benefits the adoptee is eligible to receive for any physical or health condition, or for any other reason. Provided, that the Department shall be responsible for assisting the adoptive party during the initial stage of the process established therefor. Once the minor has been adopted, it shall be the responsibility of the adoptive party to remain compliant so as to continue to receive the benefits.

7. The adoption of regulations or, in lieu thereof, the amendment of existing regulations in order to establish the process whereby the Department shall transfer the federal and/or State benefits record of the adoptee to the adoptive parents so they may continue to receive the benefits without having to initiate a new process for the receipt thereof. In such cases, when the laws and regulations thus allow it, the record's number or classification shall not be altered for purposes of reassigning such record to the name of the adoptive parents. Furthermore, the

continuity of services shall be maintained without eliminating, suspending, or delaying such benefits.

Section 11.- Approval of Forms.

The Department shall prescribe, in collaboration with adoption agencies, the forms necessary to process the adoption agreement and the voluntary relinquishment. Likewise, in coordination with representatives of the Department of Health, the Department shall prescribe the forms to collect the personal and family medical history of the biological mother pursuant to the provisions of this Act.

Section 12.- Interagency Support.

The Secretary of the Department of Health shall designate his representatives, who shall be present during the drafting of the Regulations in order to ensure that any medical or health issues that could arise during pregnancy, labor, or the postpartum period are addressed therein.

Likewise, the Department of the Family, the Department of Health, and public and private nonprofit adoption agencies shall meet periodically, through an adoption task force, to create and supervise mechanisms that keep them abreast of the matter of adoption.

The Department, in coordination with the Department of Health, shall adopt a notice to be posted by healthcare services institutions in a visible location, informing about the option to voluntarily relinquish a minor so he may be placed for adoption as well as the modalities and legal consequences thereof.

Section 13.- Safe Haven

It is the public policy of the Government of Puerto Rico to promote the establishment of a system whereby a mother, before considering the possibility of abandoning her newborn, may relinquish her child at a public or private hospital, as defined in Section 2 of Act No. 101 of June 26, 1965, as amended, known as the

“Health Facilities Act,” a fire station, any state or municipal police station, a church, any office of the Department of the Family, any foster home recognized by the Department of the Family, or an adoption agency that has joined the voluntary relinquishment of minors or safe haven program, confidentially and without prejudice, and without fear of being arrested, prosecuted, or tried if relinquished within seventy-two (72) hours from birth; provided, that the newborn does not show any signs of abuse or mistreatment. Otherwise, the hospital shall activate the existing protocol to be followed in child abuse cases.

Any mother who relinquishes a newborn within seventy-two (72) hours after birth shall not be guilty of child abandonment as provided in Article 118 of Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico,” provided, that she voluntarily relinquishes her newborn at a public or a private hospital, a fire station, any state or municipal police station, a church, any office of the Department of the Family, or any foster home recognized by the Department of the Family or an adoption agency that has joined the voluntary relinquishment of minors or safe haven program. The newborn shall be delivered to the personnel of the public or private hospital who shall be required to assume physical custody of the newborn and to contact the Department immediately. The Department shall be under the obligation to initiate the adoption proceedings immediately. If a minor is relinquished at an adoption agency that has joined the voluntary relinquishment of minors or safe haven program, such agency shall be required to have the appropriate personnel to manage the relinquishment and receipt of such minor. These adoption agencies shall have the duty to inform the general public about their voluntary relinquishment of minors and safe haven programs. If the minor is relinquished at a fire station, municipal or state police station, church, any office of the Department of the Family, or any foster home recognized by the Department of the Family, the Department shall be notified immediately and the newborn is to be

transported to the emergency room of the nearest hospital institution at once. The Department shall establish the protocol to be followed in such cases.

The mother of the newborn shall be required to fill out a form on the medical history of the newborn. Such form shall not include information which may compromise the confidentiality of the mother. If she refuses to fill out the form, such refusal shall not constitute an impediment for the hospital to receive the newborn.

Likewise, the biological mother or the biological parents, or those who hold the parental rights to a minor of up to three (3) years of age may voluntarily relinquish the minor to an official authorized by the Department of the Family or to an adoption agency without engaging in child abandonment as provided in the Penal Code of Puerto Rico; provided, that the minor shows no signs of abuse or mistreatment. The person who voluntarily relinquishes a minor pursuant to this Act shall enjoy the same aforementioned privileges. The Department shall be required to initiate adoption proceedings immediately.

Within thirty (30) days as of the approval of this Act, the Department, shall promulgate regulations to prescribe the protocol to be followed once a newborn is under its physical custody or under the physical custody of a public or private hospital.

### CHAPTER III

#### STATE VOLUNTARY ADOPTION REGISTRY

##### (R.E.V.A., SPANISH ACRONYM)

###### Section 14.- Registry Creation and Content.

The Department shall establish an electronic registry, to be called the “Puerto Rico State Voluntary Adoption Registry,” to be also known by its Spanish acronym, R.E.V.A., where the names of all minors with an adoption permanency plan shall be recorded, as well as the names of the adoptive parties, together with

their updated and accurate identifying information, as required by regulations approved to such effect. The Registry shall include:

1. A list of all minors with an adoption permanency plan whose parental rights have not been terminated.
2. A list of all minors with an adoption permanency plan whose parental rights have been terminated.
3. A list of all adoptive parties wishing to adopt, in the chronological order in which said applications were filed.
4. A list of all adoptive parties with a favorable adoption home study, in the chronological order said studies were conducted.

The Registry shall give priority to such adoptive parties who have filed their petition for adoption and/or obtained a favorable home study before the effective date of this Act. Any person who wishes to be included in the Registry shall fill out an application, to be prepared by the Department to such effect. The Department shall ascertain that candidates meet the applicable legal and regulatory requirements for adoption in Puerto Rico, as pertinent to expedite completion of the adoption process. The Department shall evaluate said petitioners based on the governing principle of the best interest of the minor.

The Registry shall be organized so as to afford the opportunity to adopt minors anywhere on the Island, regardless of the region of Puerto Rico or of the United States to which the adoptive parties may belong. R.E.V.A. shall be the only State adoption registry in existence in Puerto Rico.

The filing of a signed Home Study and legal documents as well as strict compliance with the regulations approved by the Department of the Family shall be mandatory requirements that applicants shall meet in order to register in R.E.V.A., in accordance with this Act.

An applicant who is a U.S. citizen and a United States resident may register in R.E.V.A., provided, that he meets the legal and regulatory requirements of the Department of the Family. Furthermore, every citizen residing in the United States who aspires to register in R.E.V.A. shall undergo, at their own expense, a Home Study that shall attest to his suitability as a resource parent.

Once the decree of adoption on behalf of an adoptive party that is a resident of the United States becomes final, the Vital Statistics Registry of the Department of Health, by virtue of its enabling Act, Act No. 24 of April 22, 1931, as amended, shall issue a new birth certificate with the new name of the minor and the names of the adoptive parents.

Any person adopted after the date of approval of this Act shall be entitled to access confidential data on the Registry concerning his adoption once he attains legal age. However, he shall only be granted access to such information as strictly necessary to guarantee his right to contact his biological parents.

#### Section 15.- Candidate Selection Panel.

A Candidate Selection Panel is hereby created composed of five (5) members appointed by the Secretary of the Department, among which shall be one (1) social worker licensed by and member of the College of Social Work Professionals, one (1) attorney, and three (3) persons with knowledge and experience in the new adoption proceedings. This Panel shall meet with at least three (3) members. The Candidate Selection Panel shall evaluate the petition for adoption received in order to proceed with the placement of the minor. The Panel shall evaluate the candidates giving special attention to the governing principle of the best interest of the minor and shall take into consideration as part of their administrative process the date of the application, and kinship or attachment, among other aspects. Such relation shall be considered within the totality of the circumstances in the best interest of the adoptee.

Pre-adoptive homes that withdraw their petition for adoption after a minor is placed for a second time shall be eliminated from the Registry, unless there is just cause. Pre-adoptive parents shall show in detail that there are reasonable bases for just cause, by filing a written request with the Secretary of the Department, or the official to whom he delegates this task, who shall take into account the particular circumstances of each case. Intentional or arbitrary withdrawal is excluded as just cause.

The determination of the Panel on the placement of a minor may only be reviewed by the Court of Appeals through the filing of the appropriate appellate recourse, which shall be filed not later than thirty (30) days from the notice of said determination.

Section 16.- Confidentiality; Access to the Puerto Rico State Voluntary Adoption Registry.

The Puerto Rico State Voluntary Adoption Registry shall be confidential in nature and shall only be accessed by the Department or by any person with an order from a competent Court issued to such effect.

Section 17.- Rulemaking Authority.

The Department shall adopt or amend regulations as necessary or convenient for the Registry to operate properly, within thirty (30) days following the date of approval of this Act. Said regulations shall meet all applicable Commonwealth and federal legal and regulatory standards.

Regulatory provisions shall include the creation of a training course for adoptive parties on the legal consequences and the responsibilities that being part of an adoptive family entails, and the creation of a training course for social workers on the standards and terms provided for in this Act. Moreover, the Department of the Family, in conjunction with the Department of Justice and the Office of Courts Administration, shall promote education through workshops

and/or trainings for the Advocate for Family Affairs, Judges, and other officials who intervene in adoption proceedings.

Section 18.- Not later than March 1<sup>st</sup> of each year, the Department shall file a report with the Legislative Assembly and the Governor of Puerto Rico, where it shall state all that pertains to the operations of the Registry for the previous calendar year, and which report shall include detailed information on the number of adoptive fathers or mothers and adoptees as well as pending and completed adoption cases, among other data.

Section 19.- Transfer of Existing Registries.

Any adoption registry in existence in the Department of the Family on the date of approval of this Act shall become a part of this new Register, but shall be implemented pursuant to the provisions hereunder.

Section 20.- Adoption Agencies.

The provisions of this Act pertaining to the Puerto Rico State Voluntary Adoption Registry shall not apply to adoption agencies duly certified as such by the Department, which may initiate adoption proceedings, subject to their own registries of eligible applicants. The Department shall regulate, oversee, and inspect adoption agencies periodically for the purpose of safeguarding the welfare of minors.

#### CHAPTER IV

#### ADOPTION PROCEEDINGS FOR MINORS RELEASED

#### FROM PARENTAL RIGHTS

Section 21.- Voluntary Adoption Transactions; Voluntary Relinquishment of Minors.

The father, mother, or any such person who holds the parental rights to the minors may voluntarily relinquish to the Department or the adoption agency the custody of such minor so that they may be placed for adoption, after having



relinquished his parental rights to the children. Such relinquishment shall be recorded on a document under oath before a notary public in the presence of a witness, attesting to the fact that he is relinquishing his parental rights and that he agrees to have the minor placed for adoption. Such relinquishment may be rendered ineffective within fifteen (15) days following the date the document was executed.

Section 22.- Adoption Proceedings for Minors Released from Parental Rights.

In cases where a minor has been released from parental rights and the Court has approved an adoption permanency plan, the Department may initiate Court proceedings for the adoption of the minor, adhering to the necessary procedural guarantees in order for such minor to be placed in an adoptive home duly accredited by the Department, as soon as possible, that is, within forty-five (45) days following the termination of parental rights.

The Department shall regulate and issue rules as are necessary to guarantee a speedy process, and ensure the best interests of the minor within the terms established in this Act.

## CHAPTER V

### PLACEMENT OF MINORS WITH ADOPTIVE PARTIES

Section 23.- The Department shall diligently petition for the termination of the parental rights of the biological parents or the party who holds such custody, in all cases where the minor has an adoption permanency plan. Once the Department assumes guardianship over the minor, the Department or the adoption agency duly licensed by the Department shall enter into an adoptive placement agreement with an adoptive party duly qualified and with priority, pursuant to the Registry. The Department or the adoption agency may enter into an adoptive placement agreement before terminating the parental rights to the minor held by his biological

parents or any party, but only as an exception. In such cases, the adoptive placement agreement shall set forth that the biological parents have not yet been deprived of parental rights.

Immediately after the adoptive placement agreement has been executed, the Department, the adoption agency or the adoptive party shall initiate adoption proceedings, pursuant to the provisions of this Act. For such purpose, the Department or the adoption agency shall issue a home study promptly to the Court for the adjudication of the petition. Only home studies with over one (1) year of effectiveness shall be updated. The Department or adoption agency shall immediately notify the adoptive party of any proceedings initiated in relation to the minor, to which the adoptive party is not a party.

In the case of an Adoption Agreement executed during pregnancy, the Department shall exercise due diligence to identify the biological father and to notify him of his rights, pursuant to the provisions of this Act. The Department shall assume guardianship over the minor as of his date of birth. The placement of the minor shall be conducted pursuant to the adoptive placement agreement executed with the adoptive party. Once the seven (7)-day revocation term has elapsed, the petitioners shall initiate adoption proceedings, pursuant to this Act. For such purpose, the Department or the adoption agency shall issue a home study promptly to the Court for the adjudication of the petition. Only home studies with over one (1) year of effectiveness shall be updated. The Department or adoption agency shall immediately notify the adoptive party of any proceedings initiated in relation to the minor, to which the adoptive party is not a party.

In cases of Voluntary Relinquishment of a Minor, the Department shall assume guardianship upon the execution of the agreement. The Department shall exercise due diligence in identifying the father or mother on record who has not agreed to relinquish such minor and apprise said parent of his rights, as provided in

this Act. Once the fifteen (15)-day withdrawal term has elapsed, the Department, the adoption agency, or the adoptive party may enter into an adoptive placement agreement. Subsequently, the adoptive party shall initiate the adoption proceeding, in accordance with the provisions of this Act. For such purpose, the Department or the adoption agency shall issue a home study promptly to the Court for the adjudication of the petition. Only home studies with over one (1) year of effectiveness shall be updated. The Department or adoption agency shall immediately notify the adoptive party of any proceedings initiated in relation to the minor, to which the adoptive party is not a party.

The adoptive parties who have entered into an adoption agreement or adoptive placement agreement with the Department may:

- (1) File a petition for adoption pursuant to the provisions of this Act.
- (2) Intervene as a party in any proceedings related to the minor, such as actions for filiation, appeal of the judgment terminating parental rights, and in child protection cases among others. To such effect, they may present expert evidence, among others.
- (3) Request the consolidation of other court proceedings concerning the minor together with the court proceedings for adoption.

## CHAPTER VI

### ADOPTION – PROCESS

#### Section 24.- Proceedings.

Adoption proceedings shall be expeditious and flexible and shall be conducted to their completion within a maximum term of sixty (60) days from the filing date of the petition for adoption to its final resolution.

Section 25.- Content of Petition.

The petitioner shall file a sworn petition for adoption with the Specialized Family Part of the Court of First Instance of Puerto Rico corresponding to the place of residence of the adoptive party.

The adoption shall be effected through a court authorization, after the filing of the appropriate petition by the adoptive party, *motu proprio* or through his legal counsel.

The petition for adoption shall state the following:

(a) The name of the adoptive party and the names of the biological parents of the minor to be adopted, as well as their respective addresses and telephone numbers.

(b) The necessary allegations asserting that the adoption is convenient and in the best interests of the minor, as well as beneficial and necessary.

(c) The name of the adoptee as it appears in his birth certificate and the proposed name for his new certificate.

(d) The personal circumstances of the adoptive party, which shall also include street address, mailing address, telephone number, name and address of the employer, location of company or place of business, source of income, pensions or earnings, as the case may be, as well as the circumstances attesting to his moral character and financial solvency.

(e) The name and the last street and mailing address of the adoptee's biological parents whose parental rights are to be terminated.

(f) The information concerning the legal and de facto custody of the adoptee, if he is a minor.

Whenever the adoptee and the adoptive party are registered in R.E.V.A., the Department shall evaluate the previous relationship between the adoptee and the adoptive party, that is, the kinship or attachment relationship, as part of the administrative process before filing the petition for adoption. Said relationship shall be considered in the totality of circumstances in the best interests of the adoptee.

To such effects, it shall include, but not be limited to, the following:

(i) The relationship of consanguinity, or affinity, or through the temporary custody authorized by the Department of the Family or by a competent Court.

(ii) The period during which the adoptee lived with the adoptive party, the reasons therefor, and duration thereof.

(iii) The financial contributions and other contributions the adoptive party has made to the physical, emotional, and intellectual development of the adoptee, among others.

(g) A list of the documents that shall be attached to the petition, which shall include the following or the reasons for their unavailability:

(i) The birth certificates of the adoptive party and the adoptee.

(ii) A marital status certification of the adoptive party and the adoptee.

(iii) The criminal record certificate of the adoptive party.

(iv) A certificate of the Registry of Persons Convicted of Sex Offenses and Child Abuse, and of the Registry of Persons Convicted of Violations of the Domestic Abuse Prevention and Intervention Act.

(v) The written consent of the registered biological parent or parents when they are available and have not been deprived of parental rights.

(vi) The Judgment Terminating Parental Rights together with the proof of service, when applicable.

(vii) The home study for the adjudication of the adoption, if available.

(viii) A motion for a hearing and proposed resolution in uncontested cases.

(ix) The proposed new birth certificate.

(x) A negative debt certification from the Child Support Administration (ASUME, Spanish acronym).

(xi) In the case of minors who are wards of the Department, the official statement of the Department delegating the power to consent to adoption to the official designated by the Secretary.

(xii) The adoptive placement agreement executed between the adoptive party and the official authorized by the Department.

(h) The proof of service of notice of the adoption file to the Office of the Prosecutor of Family Affairs of the Department of Justice and the Adoption Unit of the Administration for Families and Children of the Department of the Family with jurisdiction over the judicial region where the petition was filed.

Adoption proceedings may be conducted simultaneously with any other court proceedings concerning the minor. Such proceedings may also be conducted at the same time when deciding over adoptees with the same biological parents.

#### Section 26.- Notice of the Petition to Interested Parties.

(1) Service of Process.- Whenever a petition for adoption is filed without the consent of the biological parents, the adoptee's parents or guardian shall be served with the summons and the petition. The summons shall not include any of the identifying information of the adoptee whose adoption is petitioned, nor of the

petitioners. The term for said service shall be fifteen (15) days after the petition is filed with the Court. Service shall not be required when a father, mother, or both have been deprived of parental rights through a judgment issued by the Court, under the Law, or when an Adoption Agreement has been executed in accordance with this Act.

(2) Service by Publication.- When the whereabouts of the parent or the parents of the adoptee are unknown, or if they are outside of Puerto Rico, or if in Puerto Rico but they cannot be located after taking the pertinent steps, or if they are in hiding to avoid being served, and it is thus shown to the satisfaction of the Court through a sworn statement to such effect, the Court shall be requested to issue an order providing for service by publication.

The order shall provide that the notice shall be published only once (1) in a daily newspaper of general circulation on the island of Puerto Rico, and that within ten (10) days following the publication of the notice, a copy of the summons and the petition filed shall be served by certified mail with return receipt requested, on the parties required to be thus notified, to their last known address, unless it is justified through an affidavit that despite all the efforts made, which shall be listed therein, it has been impossible to locate any known residence, in which case the Court shall waive compliance with this provision.

The notice shall not contain any identifying information of the adoptee whose adoption is petitioned, nor of the petitioners. In these cases, service shall be effected within thirty (30) days after the petition is filed with the Court.

(3) Personal Service or Service by Certified Mail with Return Receipt Requested.-

(a) On the Advocate for Family Affairs, and in the absence of said official to the Assistant Secretary of Minors and Family Affairs of the Department of Justice, or the official designated by the Secretary of Justice.

(b) On the Secretary of the Family, so that he may conduct the pertinent home study.

(c) On those persons with whom the adoptee has been residing at the time the petition for adoption is filed.

(4) Term for Personal Service and Service by Certified Mail.- Whenever service is required to be effected in person or by certified mail with return receipt requested, the term to effect said service shall be fifteen (15) days after the petition is filed with the Court.

(5) Appraisal in the Notice.- The notice served on those persons provided in this Section shall apprise them that if they fail to appear at the first scheduled hearing, the Court may decree the adoption without further summons or hearing. In the case of service by publication on the biological parents, they shall be advised that the petition and the records are available for inspection at the Office of the Clerk of the Court.

(6) Right to be Heard.- Those persons with the right to be notified under the provisions of this chapter may state their position regarding the petition for adoption. The following persons have the right to be heard:

(a) The parents holding the parental rights, as well as the father or mother who, under a divorce decree, does not exercise his parental rights to a minor. Any father, mother, or both who have been deprived of their parental rights through a judgment issued by the Court, under the Law, or who have relinquished their parental rights through the execution of an Adoption Agreement, in accordance with this Act shall not be entitled to be heard.

(b) The guardian or custodian of the adoptee.

(c) An adoptee who is under the age of ten (10) and over the age of seven (7).

(d) The grandparents of the adoptee who is a half or full orphan.



In the event that the right to be heard is invoked by grandparents or the father, the mother or both parents who have not been deprived from their parental rights, the Court shall take precautions to protect the confidentiality of the adoption process and hold a special hearing to such effects, within the sixty (60) day-term established by this Act for the adjudication of the adoption case.

Section 27.- Term to Appear.

(1) In case of personal service, the persons thus served shall have a term of fifteen (15) days from the date of service, to file their responsive allegations in relation to the petition for adoption.

(2) In case of service by certified mail with return receipt requested, the persons thus served shall have a term of fifteen (15) days from the date of service, as stated in the receipt, to file their responsive allegations in relation to the petition for adoption.

(3) In case of service by publication, the persons thus served shall have a term of thirty (30) days, from the date the notice is published, to file their responsive allegations in relation to the petition for adoption.

The terms referred to in this Section shall only be extended for good cause upon the filing of a sworn petition in writing.

Section 28.- Home Study.

The Department of the Family, or any private adoption agency duly licensed by the Department, shall file a report on the home study with the Court for the adjudication of any petition for the adoption of a minor.

(1) Contents of the Home Study.- Said study or report shall include the following:

- (a) The family background of the petitioners, the adoptee and his parent or parents, as well as any other material circumstances of the case, such as:
- i. Interviews with the parents, the adoptive parties, and the adoptee, and matters discussed.
  - ii. Home visits with the parents, and adoptive parents.
  - iii. A physical description of the residence and the child safety measures inside and outside of the residence.
  - iv. A health certificate of the adoptive party.
  - v. The health condition of the adoptee.
  - vi. A certification of income and the management thereof.
  - vii. The criminal history and history of child abuse.
  - viii. A family history including a description of the adoptive parties, their interpersonal and family relations, and significant events in their lives, among others.
  - ix. The past and present education and employment.
  - x. A description of the family relation in terms of the decision-making process, social life, life changes resulting from having an adoptee in their home and dealing with this situation.
  - xi. A description of the family's daily routine, child care, hobbies, and interests.
  - xii. The experience raising and caring for children.
  - xiii. A description of the neighborhood where the adoptive parties lives, and references from neighbors.
  - xiv. The system of values to be instilled in the minor.
  - xv. The motivations for choosing adoption.
  - xvi. The support system whether from the extended family or external.

xvii. Any other aspect or criteria to be adopted by the Department for the preparation of home studies in accordance with its regulations and the guidelines adopted by the Federal Government.

(b) The recommendations on whether it is in the best interests of the minor to remain in custody of the petitioners and under the supervision of said agency or whether the adoption should proceed.

(c) The comments on the existence of one or more grounds or conditions that warrant the termination of parental rights, as provided in the Civil Code.

(2) Term for Filing the Home Study.- The home study shall be filed within a maximum term of thirty (30) days from the date of notice of the petition.

(3) Requirement to Notify the Court of Availability for a Home Study.- The Court shall order the Department to notify, within a term not to exceed ten (10) days, if the home study may be conducted and the date on which it shall be available. The Court shall likewise order the petitioner of the adoption to furnish all the information required by the Department to prepare the home study. If the Department fails to notify the Court within the term provided herein or notifies that the home study shall not be available within the term provided, because it does not have available among its staff a social worker, who is a member of, and is duly certified by the College of Social Work Professionals of Puerto Rico, the Court shall issue an order appointing a social worker who is a member of and is duly certified by the College of Social Work Professionals of Puerto Rico to conduct and file the appropriate home study.

If, at the request of the petitioners, the Court appoints a professional, who qualifies as an expert and holds a license in the fields of social work, psychiatry, or psychology to render the report on the appropriate home study, it

may determine the fee to be paid by the petitioners always bearing in mind the best interest and welfare of the adoptee.

(4) Scope of the Report.- The process of preparing and filing the report on the home study shall not delay nor interrupt the scheduling and holding of the hearing on the merits of the petition for adoption.

The Court shall take into consideration the contents of the home study filed as well as the recommendations of the social worker, but shall not be required to act in accordance based on the statements nor the recommendations made therein.

The home study shall not be construed as a limitation to the judicial authority in the exercise of its power to authorize the adoption and to decide on all pertinent matters.

(5) Who May Examine the Home Study.- The petitioner in an adoption proceeding may request the Court to examine the home study related to the petition for adoption before the hearing on the merits is held, and the court may authorize the request through an order, always bearing in mind the welfare and the best interests of the adoptee.

(6) If the petitioner is a person, a couple, or a married couple residing in any state of the United States and wishes to be considered as a suitable resource for the placement of a minor for adoption, said parties shall be responsible for obtaining a home study to ascertain their suitability in order to determine whether they qualify to be registered in the “Puerto Rico State Voluntary Adoption Registry,” created by virtue of this Act. Provided, further, that the expenses related to the home study and the testimony shall be defrayed by the petitioners. If the home study is intended for use in the adoption hearing, said study shall not be older than one (1) year. Furthermore, the social worker who prepares said study shall appear before the Court to testify, show his expert knowledge in adoption

matters, and support his recommendations and conclusions. The adoptive party shall be responsible for defraying the costs and fees related to the preparation of the home study and the appearance before the Court of the social worker who rendered the service.

Section 29.- Appointment of a Special Guardian or Guardian Ad Litem.

The court shall appoint a special guardian or a guardian ad litem with the authority to grant his consent to the adoption of a minor under any of the following circumstances:

- (1) Has no father or mother.
- (2) If abandoned or deserted by the parents.
- (3) If the whereabouts of both or either parent are unknown.
- (4) If the parents have been declared missing.
- (5) If the parents, by reason of being mentally disabled or any other reason, are unable to consent to the adoption.
- (6) In all other cases where the Court deems it necessary.

In adoption proceedings, the Advocate for Family Affairs may not be designated special guardian or guardian ad litem of the adoptee. The Secretary of the Family, or the person to whom he delegates, shall be responsible for consenting to an adoption in the interest and welfare of the adoptee, if the adoptee is a ward of the Department.

Section 30.- Scheduling and Holding of First Appearance.

The Court shall summon the parties to the first appearance, which shall be held within thirty (30) days of the date on which the Department of the Family is notified of the petition for adoption. Once the interested parties have been notified of or summoned to the first appearance, the parties shall be admonished that if they fail to appear, the Court may enter the decree the adoption without further summons or hearing.

At the first appearance, the parties shall file their objection to the petition for adoption. The parties shall inform the court of all the evidence that they shall present on the day of the hearing on the merits, including the name, address and telephone number of the witnesses who shall testify, and a brief description of their testimony. Any document presented but not provided to the opposing parties shall be furnished to the parties within a term of not less than fifteen (15) days prior to the hearing on the merits.

At the first appearance, the court shall schedule the date for the hearing on the merits. At the first appearance the Court may grant the petition for adoption. To do so, the home study, and as appropriate, the sworn consent, either in writing or given in open court, of those persons who are legally called upon to consent to the adoption, shall be entered on the record. In addition, the Court shall be convinced that the adoption shall ensure the welfare and the best interests of the adoptee.

#### Section 31.- Hearing on the Merits.

The hearing on the merits shall be held no later than thirty (30) days from the date of the first appearance. Strict compliance with this provision is required and indispensable to achieve the implementation of the public policy to expedite the adoption process set forth in this Act.

The hearing on the merits may consist of two (2) or more hearings taking into account the nature of the proceedings and the matters to be resolved; in those cases in which the parents of the adoptee have not been previously deprived of, or have not voluntarily relinquished parental rights, a plenary hearing shall be held to that effect prior to the hearing on the merits for the second appearance, at which the presence of the adoptee shall not be required. At this hearing, the father or the mother who shall be deprived of his or her parental rights may be represented by an attorney.

At the hearing on the merits, all parties shall be entitled to produce the pertinent evidence to rebut the documents and witnesses presented at the first appearance relating to the petition for adoption.

No interruptions, delays or suspensions of the scheduled hearing shall be allowed for any reason whatsoever, unless such interruptions, delays or suspensions are due to an act of God or force majeure, which shall be duly-explained to the Court in writing and under oath. The unavailability of one of the attorneys or of a social worker shall not automatically constitute a justification for suspending of the adoption hearing. The unjustified nonappearance of a parent, parents, or special guardians or guardian ad litem with authority to give consent to the requested adoption, shall constitute full consent to the petition for adoption. The intervention of any person who is not an interested party in the proceedings shall not be allowed during the adoption proceedings.

At the hearing on the merits, the Court may grant the petition for adoption; provided, that the home study and, in the pertinent cases, the sworn consent in writing or given in open court, of those persons who are legally called upon to consent to the adoption have been entered in the case record. In addition, the Court shall find that the adoption shall ensure the welfare and the best interests of the adoptee.

#### Section 32.- Presence of the Adoptee; Private Nature of the Hearings.

Every adoptee shall be present in Court at the first appearance and the hearing on the merits, unless the Court, at its discretion, deems it is not in the best interest of the adoptee.

Hearings held in connection with an adoption process shall be private. The presence of the public shall not be allowed in the courtroom where the hearings are held. The presence of persons at the hearing on the merits in connection with any of these matters shall be limited to court officers, the Advocate for Family Affairs,

the interested parties, their legal representatives and the Department's representative or the party hired to prepare the home study.

#### Section 33.- Decree of Adoption

The Court shall issue a decree of adoption in every case in which it determines that adoption is in the best interests and welfare of the adoptee.

The contents of the court decree shall provide all that is necessary to establish the new filiation of the adoptee, specifying the full name and surnames of the adoptee and the adoptive party as well as all other specific circumstances that shall allow for the adoptee's registration with the information required by law.

The Court shall incorporate in the decree of adoption the contents of the new Certificate of Birth of the adoptee, along with its attachments, which shall be transmitted to the Vital Statistics Registry. This is an essential and indispensable requirement for the validity and effectiveness of the court decree.

#### Section 34.- Notice and Entry of Decree of Adoption.

The judgment or decree of adoption shall be issued not later than ten (10) days after the holding of the adoption hearing. The court decree shall be notified strictly to the parties interested in the adoption proceedings and entered in the record. The entry and the service of notice shall be made not later than ten (10) days of the date of entry of the decree of adoption. Said notice shall be served on the interested parties, the Supervisor of the Social Worker of the Department, the Adoption Unit that conducted the home study, the Advocate for Family Affairs, and the Bureau of Vital Statistics of the Department of Health. The parents deprived of parental rights during the adoption process shall only be notified of the judgment terminating their parental rights to the adoptee.

The aforementioned notice shall be served at the address of record of each of the parties and their attorneys. The judgment so rendered shall become final and binding ten (10) days after the notice of the judgment is entered. Should there be



no known or available address on record, notice shall be served by publication in a newspaper of general daily circulation in Puerto Rico. The notice shall not contain any information which may identify the adoptee or the adoptive parents. The judgment so rendered shall become final and binding ten (10) days after the date of publication of the notice. Once a father, mother, or both are deprived of parental rights, it shall not be necessary to notify them of the decree of adoption, since they no longer have any rights over the adoptee.

Section 35.- Birth Registration of an Adoptee born in Puerto Rico.

It shall be the duty of the Registrar of Vital Statistics to register the adoptee on the basis of the data provided in the attachments to the decree of adoption. The Birth Registration shall be signed by the adoptive parents or by the adopting father or mother.

When the birth of an adoptee in Puerto Rico has been previously registered in the Vital Statistics Registry, said Birth Certificate shall be replaced by a new certificate stating the new legal status of the person registered as the child of the adoptive parents.

Section 36.- Notice of the Decree to the Official Authority when an Adoptee was born outside of Puerto Rico.

When the adoptee was born outside of Puerto Rico, the Clerk of the Court shall also notify the Puerto Rico Vital Statistics Registry through two (2) certified copies of the decree of adoption. In such case, the decree shall also contain instructions for a copy thereof to be forwarded immediately and without delay to the Vital Statistics Registry of the place of registry of the adoptee. Compliance with the notice requirement shall be stated in the case file.

Section 37.- Appeal.

Any party adversely affected by a decree of adoption may file an appeal with the Court of Appeals of Puerto Rico.

Section 38.- Death of Adoptive Parent During the Adoption Proceedings.

If the person or persons who intend to adopt another dies after the proceedings have initiated, the adoption shall be deemed to be consented to even though the decree of adoption has not yet been issued. In these cases, the Court may approve the adoption; provided, that, on the date of death of the adoptive parent or parents, the adoptee has lived in their home for at least six (6) months prior to their demise. The Court shall notify the forced heirs, appoint a guardian ad litem for the adoptee, and the proceedings shall continue their course until their completion. If the forced heirs of the adoptive parent or parents wish to establish that the deceased petitioner had revoked his consent to adopt between the period in which the petition was filed and his demise, the forced heirs shall have the right to be heard in the adoption proceedings. In these cases, the burden of proof shall be on the forced heirs of the deceased adoptive party or parties.

Section 39.- Irrevocability.

The decree of adoption shall be irrevocable.

Section 40.- Annulment.

The decree of adoption may be annulled when the parties entitled to notice under this chapter have not been notified, or when there are defects in the consent of the registered biological father or mother, or when it was obtained as a result of fraud on the Court.

Section 41.-Time Limit.-

The judicial action on the annulment of a decree of adoption shall be brought within six (6) months from the date on which the final decree of adoption was entered.

Section 42.- Records.

Adoption records shall be confidential. The Court may only authorize the interested parties to inspect them. The Court may also authorize other persons through a specific judicial order, and for good cause.

Section 43.- Recognition and Validation of Interstate and Intercountry Adoptions.

1) The interstate or intercountry adoption of a minor by a resident of Puerto Rico shall be recognized and validated by decree of adoption in Puerto Rico. Such adoption cannot be contrary to the body of laws of Puerto Rico or violate the fundamental principles of human rights. Once the adoptee is in Puerto Rico, the adoptive party shall file a petition for recognition and validation of adoption under oath at the Part of the Court of First Instance of the place of residence of the adoptive party, stating the following:

(a) The name(s), age, occupation, civil status, place of residence, address, and telephone number of the adoptive party.

(b) The original name and place of birth of the minor.

(c) The place of adoption and a description of the circumstances that led to the adoption, and

(d) The new name of the minor and his age.

2) The petition shall include the following documents, which shall constitute sufficient proof of the validity of the transaction in the State, territory or foreign country:

(a) A certification of executive order, deed, judgment or decree of adoption issued by the State, territory, or foreign country, and if necessary, a certified translation thereof.

(b) An original or a certified copy of the document proving the birth of the minor issued by the state, territory, or foreign country, and if necessary, a certified translation thereof.

(c) In the case of foreign adoption, a certification of the authorization by the Federal Government to admit the adoptee into the United States, evidence of which may be the certificate of citizenship, a permanent residency visa, or the U.S. passport of the minor.

(d) A home study conducted for the interstate or foreign adoption duly certified by a licensed social worker.

The Court, upon confirming the authenticity of such documents, and upon evaluating the same, shall rule for the petition for adoption, in which case, the Court shall issue a decree of adoption. Registration of the adoptee in the special register of the Vital Statistics Registry shall be made as prescribed in this chapter regarding persons born outside of Puerto Rico and by the Puerto Rico Vital Statistics Registry Act.

The provisions of this Section shall also apply to interstate and intercountry adoption validation and recognition processes, as of the effective date of this Act.

As for the validation and recognition of interstate and intercountry adoptions provided in this Section, proceedings shall be conducted within a term not to exceed ninety (90) days from the filing of the petition for validation and recognition.

Section 44.- Cases involving Parental Rights Termination, Adoption, and any others matters arising from Act No. 246-2011, known as the “Child Safety, Well-being, and Protection Act” and this Act shall be heard in a Court specially designated therefor.

CHAPTER VII  
 AMENDMENT TO THE CHILD PROTECTION ACT,  
 EXPEDITING THE PERMANENCY PLAN OF MINORS  
 WHO ARE WARDS OF THE DEPARTMENT

Section 45.- Section 35 of Act No. 246-2011, known as the “Child Safety, Well-being, and Protection Act,” is hereby amended and current Sections 51, 52, and 53 are hereby repealed, and new Sections 51, 52, and 53 are hereby adopted to read as follows:

“Section 35.- Summons.

Any summons to a hearing shall be issued by the Clerk of Court and shall require the summoned person to appear in court at the specified date, time, and place, under penalty of contempt. The summoned party shall be informed of his right to appear with an attorney in cases that so allow it. The judge may summon any person in open court.

In all cases under this Act, it shall be the Court’s duty to summon the non-custodial parent, through the form prescribed by the Office of Court Administration. Said summons shall be issued once the Court grants the temporary custody of the minors to the Department of the Family.

Summonses shall be served through the Department of the Family or the Court Bailiffs Unit, depending on the circumstances of the case. Service shall be made in person. The proof of service of the form shall be made through an affidavit or a certification if served by the Bailiffs Unit. The proof of service shall state the date, form, and manner of service and the name of the person served. Lastly, the summons must be served fifteen (15) days before the hearing.

...

...”

Section 51.- Grounds for Requesting Termination, Restriction or Suspension of Parental Rights.

The Department may initiate an action to terminate, restrict, or suspend parental rights in any of the following circumstances:

a) When a minor has been in foster care for six (6) months; provided, that the Department has provided the services in accordance with the permanency plan established to return the minor home.

b) The Court has made a determination in accordance with the provisions of this Act that reasonable efforts are not appropriate.

c) The Court determines that the father and/or mother of the minor is unwilling or unable to assume responsibility and to protect the minor from risk to his health and physical, mental, emotional, and/or sexual integrity and such circumstances shall not change within a period of six (6) months after the proceedings have been initiated, according to the evidence presented in the case.

d) The Court determines that the father and/or mother has not made good faith efforts to rehabilitate and reunify with the minor.

e) When any of the grounds set out in Article 166-A or 166-B of the Civil Code of Puerto Rico exist.

f) The minor has been abandoned, under any of the following circumstances:

i. The father or mother has not communicated with the minor for a period of at least three (3) months.

ii. The father or mother has not participated in any plan or program designed to reunify the father or mother with the child, after the Department has taken the necessary steps to achieve the father or mother's participation using its internal resources and/or the services of other external agencies.

- iii. The father or mother fails to appear to child protection hearings.
- iv. When the minor has been left under circumstances that the identity of the father or mother was unknown; or, if the father or mother's identity is known but his whereabouts are unknown despite diligent searching; and said father or mother has not come forward to claim the minor within thirty (30) days after being located.

The Department shall not be required to initiate an action to terminate parental rights if it has been decided that the minor shall be placed with a relative or if it informs the Court that termination of parental rights would be detrimental to the best interests of the minor.

The Department may initiate an action to terminate parental rights within the same protection proceeding without the need to initiate an additional action.

#### Section 52.- Means to Terminate, Restrict, or Suspend Parental Rights

##### A. Motion to Terminate, Restrict, or Suspend Parental Rights

i. The Department may seek termination, restriction, or suspension of parental rights of the father or mother of minors under its custody by filing a motion in writing to such effect. It shall suffice that the father or mother has submitted to the jurisdiction at any of the stages of the process and has been apprised of the potential consequences. If a non-custodial parent has intervened at any stage of the process, it shall be necessary to complete the form prepared by the Courts Administration for such purposes. In this case, compliance with the summons requirements in accordance with the Rules of Civil Procedure of Puerto Rico shall not be required. The motion shall apprise the parties of their right to an attorney. In such cases, it shall be mandatory to hold a hearing within a term not to exceed fifteen (15) days from the notice of the motion. If at this hearing, the parties request the Court to appoint counsel and state the specific circumstances that prevent them to appear by counsel, the Court may suspend said hearing; provided,

that the Court finds good cause for delay. If good cause is shown to the satisfaction of the Court, and the judge finds that appointment of counsel is unwarranted, such right shall be deemed to be waived and the party shall appear at the hearing without counsel.

**B. Complaint for Termination, Restriction, or Suspension of Parental Rights**

i. When the Department intends to initiate a proceeding to terminate, restrict, or suspend the parental rights of a father or mother who has never appeared at any stage of the proceedings initiated pursuant to this Act, it shall file a complaint to such effect. In this case, compliance with the summons requirements in accordance with the Rules of Civil Procedure of Puerto Rico shall be necessary.

The complaint for termination of parental rights shall be sworn and include at least the following:

1. The name, date, and place of birth, if known, of the minor;
2. The name and address of the petitioner;
3. The name and place of residence, if known, of each of the parents of the minor;
4. The name and address of the guardian of the minor, in protection or adoption proceedings;
5. A brief description of the facts that the petitioner deems constitute a sufficient basis for filing a petition to terminate parental rights;
6. The parties' right to be represented by counsel;
7. The consequences of an order of termination.



The Court shall schedule a hearing to be held within thirty (30) days of the service of notice. This hearing shall not be suspended except for good cause. If at this hearing, the parties request the Court to appoint counsel and state the specific circumstances that prevent them to appear by counsel, the Court may suspend said hearing; provided, that the Court finds good cause for delay. If good cause is not shown to the satisfaction of the Court, and the judge finds that appointment of counsel is unwarranted, such right shall be deemed to be waived and the party shall appear at the hearing without counsel.

If the defendant fails to appear or to show cause for failure to appear, the Court shall enter default against the defendant and enter a default judgment without further summons or hearing. In addition, the termination of parental rights and the adoption proceedings may be conducted simultaneously. Once the termination of parental rights becomes final and binding, the Department may initiate the adoption process immediately.

#### Section 53.- Relinquishment of Parental Rights.

The father and/or mother may voluntarily relinquish parental rights at any stage of an abuse or neglect case under this Act, without having to be represented by counsel. This consent shall be given under oath, in writing, or appearing before a judge of the Court. The judge shall be required to verify that relinquishment is free, voluntary, and made with full knowledge of the legal consequences. Once the foregoing has been established, the Court shall accept the relinquishment.”

### CHAPTER VIII

#### ADOPTION SUBSTANTIVE ASPECTS

Section 46.- Articles 130, 131, 132, 133, 134, 135, 136, 137, 138, and 166A of the Civil Code of Puerto Rico of 1930, as amended, are hereby repealed and new Articles 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, and 166A of the

Puerto Rico Civil Code of 1930, as amended, are hereby adopted to read as follows:

“Article 130.- Requirements of Adoptive Party.

The adoptive party shall meet the following requirements as of the filing date the petition for adoption:

(1) Be of legal age, except in the case of a married couple or a couple in a domestic partnership adopting jointly, in which case it shall be sufficient for one of them to be of legal age, allowing the other adoptive party to be a minor, but never younger than eighteen (18) years of age.

(2) Have legal capacity to act.

(3) Be at least fourteen (14) years older than the adoptee.

In those cases where a spouse or domestic partner wishes to adopt the child of his spouse or partner, it shall be sufficient that, as of the filing date the petition for adoption, the adoptive party has been married to or has been the domestic partner of the father or mother of the adoptee for at least two (2) years, or that the spouse or domestic partner of the adoptive party is at least fourteen (14) years older than the adoptee.

Article 131.- Who May Not Adopt.

A person declared judicially incompetent may not adopt until competency is restored. A person sentenced to a term of imprisonment may not adopt until sentence is served.

Article 132.- Who May and Who May Not be Adopted.

(1) Unemancipated minors and minors emancipated by court order or with the consent of the father, mother, or parents with parental rights, may be adopted.

(2) Who may not be adopted.- Persons who have reached age of majority as of the date a decree of adoption is issued, even if they were minors at the time the petition for adoption was filed, may not be adopted. However, an unmarried emancipated minor or a person of legal age may be adopted, under any of the following circumstances:

a. When the adoptee has lived in the home of the adoptive party prior to reaching eighteen (18) years of age and said situation has not change as of the filing date of the petition for adoption. In such cases, the father, mother, or both who are registered in the Vital Statistics Registry shall not be notified because their parental rights ended when the adoptee reached the age of majority.

b. When the adoptee is an emancipated minor who has never been married.

(3) Presently or formerly married persons, even if they are minors.

(4) An ascendant of the adoptee who is related by blood or affinity.

(5) A guardian by his ward.

(6) A ward by his guardian or a guardian by his ward, until the date on which general guardianship and final account are approved by a final and binding court order. Any decree of adoption issued in contravention of the provisions of this Article shall be null and void.

Article 133.- Number of Adoptive Parties, Joint or Individual Adoption.

An adoptive party who is single may adopt individually. Adoptive parties who are a married couple or domestic partners may adopt jointly.

Married couples or domestic partners may adopt individually in any of the following cases:

1. When wishing to adopt the minor child of the other spouse or partner.

2. When the legal capacity of the adoptive party's spouse has been restricted by court order, and for the duration of said restriction, in which case, the other spouse shall be notified of the petition.

The Court shall have discretion to resolve situations such as those provided in this Article, always guiding its decision by the welfare and best interests of the minor.

Article 134.- Persons Called upon to Consent to Adoption.

The following persons shall give consent to adoption before the Court:

- (1) The adoptive party or parties.
- (2) An adoptee who is older than ten (10) years of age.
- (3) The father, mother, or parents of the adoptee who, at the time of the adoption, hold parental rights, as well as the father or mother who has lost parental rights to the minor as a result of a divorce decree. Said consent shall not be required in the following cases:

(a) When both parents or one of the parents have been deprived of their parental rights to the minor pursuant to Articles 164 through 166B of the Civil Code of Puerto Rico, and pursuant to any other legal provisions in effect that apply to these cases.

(b) When the adoptee is a minor who has been emancipated by court order or with the consent of the father, mother or parents with parental rights; and the adoptee is duly qualified for adoption.

(c) When the father, mother, or parents called upon to consent are judicially declared incompetent, when their whereabouts are unknown, or when they are declared absent from the jurisdiction of Puerto Rico.

- (4) The father or mother who, as of the filing date of the petition, has acknowledged paternity or maternity of the minor to be adopted.

(5) When an unemancipated minor to be adopted, whose father, mother, or parents have been deprived of parental rights, has been placed in the custody and care of the Secretary of the Department of the Family.

(6) The special guardian or guardian ad litem appointed to consent to the adoption.

(7) The parents who are minors, but older than eighteen (18) years of age and who are married to each other as of the filing date of the petition for adoption.

(8) The biological grandparents when the biological parents are unemancipated minors. In their absence, the Court shall appoint a guardian ad litem for the biological parents.

Article 135.- Authority to Recommend Unemancipated Minors under the Custody and Care of the People Puerto Rico for Adoption.

The Secretary of the Department of the Family may initiate, on behalf of an adoptive party, the adoption process of a minor who is a ward of the Department, when the Secretary finds it is in the best interests and welfare of the minor; provided, that the parents or guardians have relinquished parental rights or guardianship, or when the Court has terminated parental rights or guardianship on the grounds set out in this Code.

Article 136.- Number of Adoptees.

The adoptive party or parties may adopt one or more minors, simultaneously or successively, provided, that they meet the requirements established by law and such adoption is in the best interest and welfare of the adoptee.

Article 137.- Effects and Consequences of a Final Decree of Adoption.

Upon the entry of a decree of adoption, the adoptee shall be legally treated as the child of the adoptive party, with all the legal rights, duties, and obligations it entails. When a decree of adoption becomes final, the legal relationship between

each of the adoptee's former biological or adoptive family and the adoptee terminates.

The adoptee shall retain all rights acquired prior to the date of entry of the decree of adoption as a result of his relationship with the former family. The determination of filiation of the adoptee occurring after the entry of the decree of adoption shall not affect the adoption already in effect, nor the adoptee and his adoptive family.

Article 138.- Continuity of Relationship with Former Family.

The provisions of Article 137 notwithstanding, the legal relationship between the adoptee and his former paternal or maternal family shall continue when the adoptee is the child of the spouse of the adoptive party, even if the father or mother has died by the filing date of the petition for adoption, or when the adoptee only has one parent and is adopted by a person other than the father or mother who acknowledged paternity or maternity of the minor.

The termination and extinguishment of the legal relationship between the adoptee and his former family, and the establishment of such a relationship with the family of the adoptive party shall be understood to be without prejudice to the regulations on legal impediments and prohibitions against marriage in Puerto Rico. An adoptee shall not marry a relative of his former family, under the same circumstances the adoptee would not have been able to marry said relative if the adoption had not taken place.

The adoptee shall be criminally liable for offenses against the family and civil status with regard to his former biological family as provided in the code of laws in effect, as though the decree of adoption had not been entered, if it is proven that the adoptee had knowledge of his kinship with the victim of incest.

The adoptee shall acquire the family names of the adoptive party or the adoptive couple, unless the Court, for good cause, determines otherwise.

Article 166A.- Grounds for Terminating, Restricting, or Suspending Parental Rights.

The grounds, whether by action or inaction, for terminating, restricting, or suspending parental rights to a child are the following:

(1) To cause or place the physical, mental, emotional, and moral health of the minor at increased risk of predictable harm or prejudice.

(2) To allow or tolerate another person to engage in the conduct set forth in subsection (1) of this Section.

(3) To fail to comply with the duties or to exercise the powers provided in subsection (1) of Article 153 of the Civil Code of Puerto Rico. Such duties include, but are not limited to, the duty of having the minor in his company according to the law, supervising his education and development, adequately providing sustenance, clothing, shelter, education or healthcare, according to his wealth or with the means provided by the State or any natural or juridical person. Healthcare includes any treatment required for any physical, mental, or emotional health condition of the minor. No person shall be deprived of parental rights by reason of the legitimate practice of religious beliefs. However, when due to these reasons above, the person fails to provide specific medical treatment prescribed to the minor, the Court may order the provision of adequate healthcare to the minor, and as appropriate, deprive the person of de jure or de facto custody, or even of parental rights when the health of the minor so requires.

(4) To fail to perform his duty to supervise and care for the minor under the de jure or de facto custody of another person:

(a) If, having the capacity and the means to do so, he has not assumed custody and care of the minor in his own home.

(b) If he has failed to provide a reasonable amount for the support of the minor according to his financial means.

(c) If he has failed to regularly visit the minor or to maintain continuing contact or communication with the minor or with the minor's de jure or de facto guardian.

The mere fact of being confined to a penal or healthcare institution, or of residing outside of Puerto Rico, situations that limit physical access and the communication of a father or mother, shall not constitute as such, a violation of these provisions; without prejudice to the provisions of subsections (3) and (6) of this Article.

(5) To engage in voluntary abandonment of the minor, without good cause, requiring the intervention of a state or municipal agency or the Court, or any other person, for failure to comply with his obligations as a father or mother. Abandonment shall be presumed to occur when the minor is found under circumstances that the identity of his parents cannot be ascertained or when the parents' identity is known but their whereabouts are unknown despite diligent search; and the parents have not come forward to claim the minor within thirty (30) days after being located.

(6) To exploit the minor by coercing him to engage in any act for profit or any other benefit.

(7) To fail to comply with the service plan to return a minor to his home, effectively offered and provided by the State agency responsible for the protection of minors, or by another person designated by said agency, for the parents who have been deprived of their de jure or de facto custody by the State. In order to deprive a person of parental rights under this paragraph, the Court shall determine that the conditions that led to the separation of the minor from his parent's home continue, or that similar conditions which pose a risk to the welfare of the minor exist.



(8) To engage in conduct which, if criminally prosecuted, would constitute any of crimes listed below:

(a) Child Abuse and Neglect, Sections 58 and 59 of Act No. 246-2011, as amended, known as the ‘Child Safety, Well-being, and Protection Act,’ or any future special legislation related to the child protection.

(b) Murder, homicide, or negligent homicide and their attempts, Sections 93, 95, and 96 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(c) Offenses against bodily integrity, Sections 108 through 110 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(d) Failure to pay child support obligations, Section 117 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(e) Child abandonment, Section 118 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(f) Child kidnapping and aggravated kidnapping, Sections 120 and 158 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(g) Unlawful Deprivation of Custody, Section 121 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(h) Adoption in Exchange for Money, Section 122 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(i) Corruption of Minors, Section 123 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(j) Enticing a Child through the Use of the Internet or other Electronic Means, Section 144 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(k) Sexual Assault, Section 131 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(l) Incest, Section 131 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(m) Lascivious Acts, Section 133 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(n) Indecent Exposure, Section 136 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(o) Proxenetism, Pandering and Aggravated Human Trafficking, Section 142 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(p) Obscenity and Child Pornography, Section 143 to 152 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(q) Aggravated Deprivation of Liberty, Section 155 of Act No. 146-2012, as amended, known as the ‘Puerto Rico Penal Code.’

(r) Abuse, Aggravated Abuse, Abuse by Threat, Abuse by Deprivation of Liberty, Sexual Assault within an Intimate Relationship, Sections 3.1, 3.2, 3.3, 3.4, and 3.5 of Act No. 54 of August 15, 1989, as amended, known as the ‘Domestic Abuse Prevention and Intervention Act.’

No determination of a Court under this subsection shall affect a subsequent criminal procedure for the same acts.

(9) Have been convicted of any of the offenses listed in subsection (8) of this Section.”

CHAPTER IX  
TRANSITORY PROVISIONS, INJUNCTION,  
AND RULEMAKING AUTHORITY

Section 47.- Injunctions.

No injunctions shall be issued to prevent the application of the determinations of the Candidate Selection Panel. The determinations of the Candidate Selection Panel may only be challenged through judicial review before the Puerto Rico Court of Appeals of the corresponding judicial region, after exhausting the administrative remedies available. In case of judicial review, the Court of Appeals shall act on the same within a term not to exceed fifteen (15) calendar days.

Section 48.- Rulemaking Authority.

The Department shall adopt regulations as are necessary to enforce the purposes of this Act upon the effectiveness thereof.

Section 49.- Repeal.

Act No. 186-2009, as amended, known as the “Comprehensive Adoption Proceedings Reform Act of 2009,” is hereby repealed; Sections 612, 612A, 612B, 613A, 613B, 613C, 613D, 613E, 613F, 613G, 613H, 613I, 613J, 613K, 613L, 613M, 613N, 613O, 613P, AND 613Q of Act No. 9-1995, as amended, known as the “Special Legal Proceedings Act,” are hereby repealed and subsequent Sections are hereby renumbered.

Section 50.- Substitution.

Any law making reference to Act No. 186-2009, as amended, known as the “Comprehensive Adoption Proceedings Reform Act of 2009,” shall be construed as a reference to this Act.

Section 51.- Severability Clause.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the holding to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be null or unconstitutional.

Section 52.- This Act shall take effect sixty (60) days after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 61-2018 (H. B. 29) (Conference)** of the **2<sup>nd</sup> Regular Session** of the **18<sup>th</sup> Legislative Assembly of Puerto Rico:**

**AN ACT** to establish the “Puerto Rico Adoption Act,” in order to codify all of the substantive and procedural aspects that regulate adoptions under a single law; modernize, streamline, and uniform Puerto Rico’s adoption process; institute a diligent and expeditious adoption process whereby mothers with unwanted viable pregnancies shall be provided with the option to continue such pregnancies; to provide that the Secretary of the Department of the Family shall adopt regulations as are necessary to implement programs that facilitate adoption; set forth the public policy of the Government of Puerto Rico on the establishment of a Safe Haven system; provide for the creation of an adoption task force that shall be composed by the Department of the Family, the Department of Health, and adoption agencies; [...]

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 28<sup>th</sup> day of May, 2019.

Orlando Pagán-Ramírez  
Director