

SC ISSUANCES

A.M. No. 02-6-02-SC

GUIDELINES ON THE IMPLICATIONS OF RA. 11642 ON THE RULE ON ADOPTION (June 20, 2022)

This particular issuance of the Supreme Court transfers the jurisdiction of courts on the issue of petitions for domestic adoption to the National Authority for Child Care (NACC). These in turn are judicial proceedings turned administrative.

Ultimately, the Rule on Adoption covering the domestic adoption of Filipino children is rendered ineffective by the Supreme Court, except insofar as petitions for adoption which have not been withdrawn from the courts pursuant to Sec. 56 of R.A. No.11642.

Another such effect of this issuance is that all pending inter-country adoption petitions filed in court pursuant to the Rule on Adoption shall be dismissed.

A.M. No 22-09-15-SC

RULE ON INTERNATIONAL CHILD ABDUCTION CASES (approved on February 16, 2022)

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I. GENERAL PROVISIONS

This particular Supreme Court Issuance provides specific rules tackling international child abduction and retention cases. The Philippines adopts the procedures laid down in the Hague Convention of International Child Abduction of 1980 (HCAC), supplementing these with the Rules of Court if certain matters are not covered by the previous instrument. This shall be applied as long as the convention has entered into force between the Philippines and the other Contracting State.

SECTION 2. OBJECTIVE. The objective of this Rule is to protect children from the harmful effects of wrongful removal or retention across international boundaries by providing an expeditious procedure designed to bring about the prompt return, of such children to the state or country of their habitual residence, based on the presumption that, save in exceptional circumstances, such wrongful removal or retention is not in the best interests of the child. The prompt return of the child is designed to restore the status of the parties which existed before such wrongful removal or retention. This Rule also aims to ensure that 'rights of custody and of access under the laws of the state or country of the child's habitual residence are effectively respected.

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II. PROCEDURE

The following pertinent procedural rules on international child abduction cases are laid down by the Supreme Court.

This issuance specifies the venue of where the petition for return of, or access to a child wrongfully removed or retained shall be filed. This is generally seen to be in the Family Court where the child is found.

It is the “left behind parent”, or petitioner who claims that a child has been removed or retained who may file this petition. The mandatory requirements and specific content of the petition are also included in the issuance. Included as well are the required annexes to the petition— some of which are proof of habitual residence prior to removal or detention, and proof that HCAC is in force between the Philippines and the country of the child’s habitual residence (such as Certifications from DFA, or the official list of contracting state parties in the Child Abduction Section of the Hague Conference on Private International Law official website). If there are public documents originating from foreign countries, these should be duly authenticated pursuant to the pertinent provisions of the Rules of Court.

Central Authorities of the alleged country of habitual residence may be coordinated with to obtain information on the child’s social background.

Home studies and social background reports may also be conducted to ascertain pertinent facts to the case.

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If the Family Court finds merit in the petition, a judgment will be rendered ordering the child to be returned to the country of habitual residence. The court may allow the taking parent to have access to the child under reasonable terms and conditions for the best interests of the child.

If prayed for and the Family Court finds sufficient basis therefor, the respondent who wrongfully removed or retained the child, or who prevented the exercise of petitioner's rights of access, may be ordered to pay the petitioner reasonable and necessary damages.

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III. PROVISIONAL REMEDIES

Orders for Temporary Right of Access and Supervised Visitation or Contact Arrangements may be granted by the Family Courts to allow the petitioner visitation of the child. But, this does not allow a change or transfer of the child's residence without the court's permission.

Another unique remedy available here are Hold Departure Orders, which are issued by courts and enforceable by the Bureau of Immigration. This prevents a child's departure from the Philippines without the Family Court's authorization. The required information is laid down by Section 36 of the issuance. This does not preclude a recall of the order if necessary for the best interests of the child.