



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

ADOPTIONS (AMENDMENT) ACT 2016

Introduced by:

HON. MINISTER AMENTA MATTHEW

Received:

HON. SPEAKER KENNETH A. KEDI

BILL NO. 35 P.L. 2016- 21

**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
37TH CONSTITUTIONAL REGULAR SESSION, 2016**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

ADOPTIONS (AMENDMENT) ACT 2016

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ADOPTIONS (AMENDMENT) ACT 2016

AN ACT to amend the *Adoptions Act, 2002* (26 MIRC Ch. 8) to establish a Fund for the operations of the Central Adoption Agency, update provisions to comply with international standards, and other related matters.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

§1. Short Title

This Act may be cited as the Adoptions (Amendment) Act 2016.

§2. Amendment

(1) Section 803 of the Adoption Act is amended as follows:

§803. Definitions.

(1) As applied in this Chapter:

- (e) “**agency**” means any domestic or foreign government or state social affairs services entity duly empowered by law to place minor children for adoption, including foreign adoptions, including duly licensed and approved adoption agencies of the receiving state;
- (h) “**child**” means, for the purposes of this Chapter, a person under 18 years of age.

(2) Section 806 of the Adoption Act is amended as follows:

§806. Duties of the Authority.

- (1) The Central Adoption Authority shall:
 - (c) Provide case management services to natural parents and children, including:
 - (iii) Coordinating with licensed and approved agencies of the receiving state in monitoring the quality of applications, to determine that prospective parents are eligible and suited to adopt, and providing a recommendation to the Court on individual applications,
 - (v) Shall take, directly or through public authorities or other bodies duly accredited in the receiving state, all appropriate measures, in particular to, collect, preserve and exchange information about the prospective adoptive parents, so far as is necessary to complete the adoption; provide each other with general evaluation reports about inter-country adoption.

- (3) Section 811 of the Adoption Act is amended as follows:

§811. Eligibility to petition for adoption.

- (1) Any person of the age of majority with a sound mind and good character, whether married or single, or a husband and wife jointly, may petition to adopt a child.

- (4) Section 812 of the Adoption Act is amended as follows:

§812. Adoption Petition.

- (3) The adoption petition shall be accompanied by the following documents:
 - (i) an original signed letter from the petitioner's primary physician who has a history of treating the petitioner for at least 10 years, attesting to the physical and mental health and capability of the petitioner to adopt and raise a child and clearing the adoptive parents of any communicable diseases.

(5) Section 813 of the Adoption Act is amended as follows:

§813. Consent to Adoption.

- (1) Unless consent is specified as unnecessary under respective subsections hereof, a petition to adopt a child may be granted only if the following written consents have been obtained.
 - (a) Consent of the natural parent(s);
 - (b) If the child to be adopted is not in the custody or care of either parent, consent of the person(s) who have primary guardianship or custody if the child pursuant to a court Order or to Marshallese culture.
- (2) Such consent shall be based on the following factors:
 - (a) Consent was not induced by payment or compensation of any kind;
 - (b) Consent of the mother, where required, was given only after the birth of the child(ren);
 - (c) With regard to the age and degree of maturity of the child:
 - (i) he/she has been counselled and duly informed of the effects of the adoption and of his/her consent thereto;
 - (ii) consideration was given to his/her wishes and opinions; and
 - (iii) his/her consent, where required, have been freely given and expressed in writing.
- (3) Subsection (1) of this Section is subject to the determination by the Central Adoption Authority that, after possibilities for placement of the child within the Republic have been given due consideration, an inter-country adoption is in the child's best interests.

(6) Section 827 of the Adoption Act is amended as follows:

§827. Content of decree; specific provisions.

The adoption decree, in addition to establishing a parent-child relationship, granting a name change if requested, and other provisions, shall include a requirement that the adoptive parents arrange for at least one post-adoption home visit during the first six months of the adoption and to file a Post-

Adoption Report with the Central Adoption Authority at the conclusion of the six months period as well as other Post-Adoption Reports every four year until the child reaches 18 years old.

(7) Section 830 of the Adoption Act is amended as follows:

§830. Criminal penalties.

Any person that violates any provisions of this Chapter or commits an offense as prescribed by this Chapter, shall be guilty of an offense, and shall, upon conviction, be liable to a fine not exceeding \$10,000 or, to a minimum term of imprisonment twelve (12) months, or both.

§831. Fees.

- (1) The petitioners shall be responsible for all administrative fees and expenses incurred in the adoption action.
- (2) The Minister shall, by regulations made under this Chapter, prescribe fees in relation to any matter arising from this Chapter.
- (3) All fees prescribed and collected under this Chapter must be paid to the Ministry of Finance and deposited into the Adoption Assistance Fund.

(8) Section 831 of the Adoption Act is amended by inserting a new section as follows:

§831A. Adoption Assistance Fund

- (1) The Adoption Assistance Fund is established as a special revenue account within the National Treasury and under the control and supervision of the Ministry of Finance, which must provide for its administration in accordance with the Financial Management Act of 1990.
- (2) The sources of the Fund consist of :
 - (a) money appropriated by the Nitijela in respect of the functions of the Central Adoption Authority;
 - (b) Administrative fees collected under Section 831 of this Act;
 - (c) other moneys provided by the Cabinet for the work of the Central Adoption Authority by way of grant or otherwise;and

- (d) money paid to Government by any person or body, whether in or outside the Marshall Islands, for the work of the Central Adoption Authority.
- (3) If the sum available in the Fund is not sufficient to meet the purposes stated in section 41(4):
 - (a) the Minister of Internal Affairs may request the Nitijela to provide finance for the implementation of this Act in addition to the annual appropriation; and
 - (b) the Cabinet may:
 - (i) make available monies from the Contingencies Fund or by reprogramming; and
 - (ii) seek assistance from international and other sources.
- (4) Money made available and received under subsection (3) must be credited to the Fund.
- (5) This Section does not limit the authority of the Cabinet to apply for, administer or expend any grants, gifts, or payments or pass-through funds for the purpose of this Act.
- (6) Fines payable under this Act are to be paid to the Ministry of Finance and deposited into the General Fund of the Marshall Islands.
- (7) The Fund must be used to contribute to the expenses, including capital expenses, of the Central Adoption Authority.
- (8) The Secretary of Finance shall maintain proper accounts and records of the Fund, and the accounts are to be provided to the Nitijela by the Minister of Finance pursuant to Article VIII, Section 5(4), of the Constitution.

§3. **Effective Date**

This Act shall take effect in accordance with the Constitution and the Rules of Procedures for the Nitijela.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 35 was passed by the Nitijela of the Republic of the Marshall Islands on the 26th day of September 2016; and
2. That I am satisfied that Nitijela Bill No: 35 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 18th day of October 2016.



Hon. Kenneth A. Kedi
Speaker
Nitijela of the Marshall Islands

Attest:



Morean Watak
Clerk
Nitijela of the Marshall Islands