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**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
39TH CONSTITUTION REGULAR SESSION, 2018**



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Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

ADOPTIONS (AMENDMENT) ACT, 2018

5

Index

6

Section **Page**

7

§101. Short Title3

8

§102. Amendments.....3

9

§103. Effective Date.....19

10

11

12

13

14

15

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**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
39TH CONSTITUTION REGULAR SESSION, 2018**



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Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

ADOPTIONS (AMENDMENT) ACT, 2018

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A BILL FOR AN ACT to amend the Adoptions Act, 2002.

6

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

7

§101. Short Title.

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This Act may be cited as the *Adoptions (Amendment) Act 2018*.

9

§102. Amendments.

10

The Adoptions Act, 2002, amended to read as follows:

11

§801. Short title.

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This Chapter may be cited as the *“Adoptions Act 2002.”*

13

§802. Applicability.

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(1) This Chapter applies to the adoption of all resident children in the Marshall Islands, except:

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(a1) to adoptions finalized in accordance with Marshallese customary laws; ~~or~~

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(~~b~~2) to the confirmation of adoptions finalized in accordance with Marshallese customary laws, in the High Court of the Republic of the Marshall Islands;

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(~~c~~3) to adoptions that have been granted prior to the effective date of this Chapter; or

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(~~d~~4) to adoption proceedings that have been filed prior to the effective date of this Chapter.

24

§803. Definitions.

- (1) As applied ~~used~~ in this Chapter:
 - (a) ~~“abuse” means, to inflict intentional, physical and emotional harm on the child causing noticeable injury to the child or attempting to cause such injury;~~
 - (b) ~~“Sexual Assault” means, to inflict physical, mental and emotional harm in the child by physical conduct that is sexual in nature, against the person of the child;~~
 - (c) ~~“abandonment” means the failure to provide financial support to the child; or knowingly failing to provide a normal parent-child relationship with the child for a period of six or more months, and deliberately failing to arrange for the provision of care and supervision of a child by another adult or adults who are willing and able to care for the child.~~
 - (d1) “adoption” means the termination of all parental rights and responsibilities of the natural birth parent(s) to their child and the attaching of all such rights and responsibilities to the adoptive parents.;
 - (e2) “agency” means any ~~domestic or foreign~~ government or state social ~~affairs~~ services entity duly empowered by law to place minor children for adoption, ~~including domestic or foreign adoptions~~, including duly licensed and approved adoption agencies of the receiving state.;
 - (f3) “birth family” means members of the child’s biological family on both paternal and maternal sides, and includes the birth parents, birth grandparents, and birth aunts and uncles of the ~~subject child in an adoption proceeding.~~ child to be adopted;
 - (4) ~~“birth parent” means the biological father or biological mother of the child to be adopted;~~
 - (g) ~~“Central Adoption Authority” means the agency created under Section 805 herein.~~
 - (h5) “child” means, ~~for the purposes of this Chapter,~~ a person under 18 years of age.;
 - (i6) “court” means the High Court of the Republic of the Marshall Islands.;

- 1 ~~(j) “Marshallese child” means a child who is the offspring of at~~
 2 ~~least one Marshallese citizen and who is resident of the~~
 3 ~~Republic.~~
- 4 (k7) “marriage” refers to means the relationship between a man
 5 and a woman who are a legally acknowledged couple either
 6 through law or custom of their country of residence;
- 7 ~~(l) “natural parent” means the biological father or mother of the~~
 8 ~~child to be adopted;~~
- 9 ~~(m8) “Republic” means the Republic of Marshall Islands; and~~
- 10 (n9) “solicitation” means the active encouragement or pursuit of a
 11 natural birth parent; in order to coerce his or her consent to the
 12 adoption of their child, by conduct that is prohibited under
 13 this Chapter or any other Act.
- 14 ~~(o) “Ministry” means the Ministry of Culture and Internal Affairs.~~

15 **§804. Exclusive Jurisdiction of the High Court.**

16 The High Court of the Republic of Marshall Islands shall have original and
 17 exclusive jurisdiction to grant ~~an~~ adoptions pursuant to this Chapter.

18 **§805. Establishment of Central Adoption Authority.**

- 19 (1) The Central Adoption Authority is hereby established.
- 20 ~~(2) The Authority shall be created within the Ministry of Culture and~~
 21 ~~Internal Affairs, and shall be responsible for the supervision of all~~
 22 ~~adoption proceedings in the Republic of the Marshall Islands except~~
 23 ~~for adoptions finalized in accordance with Marshallese customary~~
 24 ~~laws and the confirmation of adoptions finalized in accordance with~~
 25 ~~Marshallese customary laws.~~

26 **§806. Duties of the Authority.**

- 27 (1) The Central Adoption Authority shall:
- 28 (a1) ~~S~~serve as a the central receiving point agency for ~~or~~ all
 29 referrals of children to be adopted in the Republic;
- 30 (b2) conduct investigations into the backgrounds and
 31 circumstances under which an adoption is being proposed by
 32 ~~the natural~~ a birth parents;
- 33 (c3) ~~P~~provide case management services to natural birth parents
 34 and children, ~~including~~;

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- (i4) ~~Birth parent~~ provide counseling to birth parents as to options for realistic and effective parenting, including the possibility of ~~traditional customary or foreign~~ international adoption;
- (ii5) provide Ppre-natal nutrition and medical referral services to the birth mother in cooperation with other government agencies, departments, or ministries, as appropriate;
- (iii6) ~~for international adoptions, e~~oordinating coordinate 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;~~
- (7) provide a recommendation to the ~~C~~court on individual applications,;
- (iv8) ~~F~~for children, whose consent to adoption is required, provide counseling to ascertain the child’s wishes regarding adoption;
- (v9) for international adoptions, Shall take, directly or through ~~public authorities or other bodies duly accredited~~ agencies 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;
- (10) ~~provide each other with~~ to and receive from agencies in receiving states general evaluation reports about ~~inter-country~~ international adoptions;
- (d11) ~~M~~monitor post-adoption progress in coordination with ~~the foreign~~ agencies in the receiving state; and
- (e12) ~~Providing~~ provide a resource to adoptive parents for post-adoption consultation on issues related to the adoption.

§807. Legal Representation of the Central Adoption Authority.

The Central Adoption Authority shall be represented by the ~~o~~Office of the Attorney-General in all court appearances.

§808. ~~Adoption of Children.~~Other Adoptions Invalid.

Except as provided in Section 802, Tthe adoption of children in any manner other than as provided for under this Chapter, shall not be valid.

1 **§809. ~~The~~ Controlling Consideration.**

- 2 (1) In all petitions for adoption of children under this Chapter, the
3 Court shall consider first and foremost the “best interests” of the
4 child.
- 5 (2) In determining ~~the issue of~~ the “best interests of the child”, the court
6 shall consider all the ~~circumstances as set forth under Section 826,~~
7 ~~hereunder~~ factors included in Section 825 and any other matters the
8 court considers relevant to the issue.

9 **§810. Solicitation ~~is~~ Unlawful.**

- 10 (1)——It shall be unlawful and a violation of this Chapter for any person to:
- 11 (a~~1~~) solicit the birth parents of a child, guardians of a child, or
12 members of their families ~~and~~ or other relatives, to ~~put up~~
13 place a child for adoption;
- 14 (b~~2~~) facilitate contact between the prospective adoptive parents and
15 the child’s ~~natural~~ birth parents or guardians prior to the
16 signing of the consent by the ~~natural~~ birth parents or
17 guardians; and
- 18 (c~~3~~) ~~knowingly, encouraging, advising or facilitating~~ encourage,
19 advise or facilitate a person to travel outside the Republic for
20 purposes of placing that person’s child or children, whether
21 born or unborn, for adoption.

22 **§811. Eligibility to ~~p~~Petition for ~~a~~Adoption.**

- 23 (1) Any person of the age of majority with a sound mind and good
24 character, whether married or single, or a husband and wife jointly,
25 may petition to adopt a child.
- 26 (2) ~~A~~ Each petitioner shall be at least 15 years older than the child to be
27 adopted.
- 28 (3) Same sex couples are, or an individual living as a member of a same
29 sex couple is, not eligible to petition the court for the adoption of any
30 children.

31 **§812. Adoption Petition.**

- 32 (1) All proceedings for adoption shall be commenced by the filing of a
33 petition signed and sworn to by the petitioner(s).

- 1 (2) ~~An~~ Each adoption petition shall contain, at ~~the~~ a minimum, the
 2 following information:
- 3 (a) the name(s) and address of the petitioner(s);
- 4 (b) the names of the child and biological parents(s) to be adopted;
- 5 (c) the names of the child's birth parents, if known, and if the
 6 child does not live with either of the birth parents, the names
 7 of the child's guardian(s);
- 8 (ed) the date and place of the child's birth;
- 9 (de) the date and place of the marriage of the petitioners, if
 10 applicable; and
- 11 (ef) the requested new name for the child, if any.
- 12 (3) ~~The adoption~~ Each petition shall be accompanied by the following
 13 documents:
- 14 (a) a certified copy of the child's Certificate of Live Birth ~~of the~~
 15 Child;
- 16 (b) an Affidavit of Parentage, executed by one or both of the
 17 natural birth parents or guardian(s). ~~When the child to be~~
 18 ~~adopted does not live with at least one of the biological~~
 19 ~~parents, the names of the guardian(s) shall be set out in the~~
 20 ~~affidavit.;~~
- 21 (c) an Affidavit of Relinquishment of Parental Rights and Consent
 22 to Adoption signed by the natural birth parent(s) (or
 23 guardian(s) where applicable).;
- 24 (d) an Affidavit executed by the ~~Head~~ Director of the Central
 25 ~~Adoptions~~ Authority or his/her designee, certifying that the
 26 natural birth parent(s) or guardian(s) have been counseled in
 27 all aspects of the adoption process, and that its full legal
 28 ramifications have been explained to them clearly; ~~in the~~
 29 ~~appropriate a language they understand .;~~
- 30 (e) a ~~properly conducted~~ home study evaluation of the adoptive
 31 family which, at minimum, shall include:
- 32 (i) the adoptive parents' educational background and any
 33 future plans for further education;

- 1 (ii) the adoptive parents' employment history, current
 2 employment status, and any employment changes
 3 anticipated in the foreseeable future;
- 4 (iii) the adoptive parents' income history, and future
 5 projections, if available;
- 6 (iv) the adoptive parents' history of prior marriages, if any,
 7 including the basis for divorce, the age and gender of
 8 each child, from each prior marriage, and the history of
 9 child support for and current relationship with those
 10 children;
- 11 (v) the adoptive parents' history of current marriage, if
 12 applicable;
- 13 (vi) the age and gender of each child already in the home;
- 14 (vii) ~~and~~ a detailed report of any prior adoption experiences;
- 15 (~~viii~~) the adoptive parents' participation in any civic or
 16 religious activity of prospective parents; and activities;
- 17 (~~viii~~) ~~A nationwide~~ a nationwide criminal background search
 18 in the country of residence ~~or~~ and country of citizenship
 19 of the prospective parent(s), ~~and locally in the Republic~~
 20 ~~of the Marshall Islands jurisdiction; and~~
- 21 (~~viii~~) ~~an original~~ a child abuse records search on the
 22 petitioners; or, where such is not available, a report by
 23 the local child welfare agency.
- 24 (f) a certified copy of ~~the~~ each petitioner's marriage certificate, if
 25 married, regardless of whether petitioning jointly or
 26 individually;
- 27 (g) a certified copy of each petitioner's birth certificate ~~of each~~
 28 ~~petitioner~~;
- 29 (h) a photocopy of each petitioner's passport;
- 30 (i) an original signed letter from ~~the~~ each petitioner's primary
 31 physician who either has a history of treating the petitioner for
 32 at least ~~10~~ five years or who has reviewed the petitioner's
 33 medical history for the most recent ~~ten~~ five years, attesting to
 34 the physical and mental health and capability of the petitioner
 35 to adopt and raise a child and clearing the ~~adoptive parents~~
 36 petitioner of any communicable diseases; and

(j) a written determination by the Central Adoption Authority that, after possibilities for placement of the child within the Republic have been given due consideration, an international adoption is in the child's best interest.

(4) ~~In the case where the prospective parents~~ If the petitioners are citizens and domiciles of a foreign country, the Home Study Report anticipated evaluation required by sSection 812(3)(e) herein, shall be conducted by the appropriate or responsible state or government an agency in their the petitioners' country of citizenship or domicile.

(5) ~~In the case of a resident adoption,~~ If the petitioners are citizens and residents of the Republic, the Home Study Report anticipated evaluation required by sSection 812(3)(e) herein, shall be conducted by the Central Adoption Authority.

§813. Consent to Adoption.

(1) ~~Unless consent is specified as unnecessary under respective subsections hereof~~ not required pursuant to Section 816, a petition to adopt a child may be granted only if the following written consents have been obtained:

- (a) consent of the natural birth parents(s);
- (b) if the child to be adopted is not in the custody or care of either birth parent, consent of the person(s) who have primary guardianship or custody of the child pursuant to a court Order or pursuant to Marshallese culture; and
- (c) if the child to be adopted is older than 12 years of age, consent of the child.

(2) ~~Such consent shall be based on the following factors~~ In order for a consent to be valid, it must be shown:

- (a) that the consent was not induced by payment or compensation of any kind;
- (b) that the person giving consent was not under the influence of mind altering drugs, alcohol or other chemicals which impaired that person's judgment or clarity of thought at the time consent was given;
- (c) that the consent was freely and knowingly and voluntarily given;

- 1 (~~bd~~) ~~Consent of the mother, where required, for a birth mother's~~
 2 ~~consent, that the consent was given only after the birth of the~~
 3 ~~child(ren); and~~
- 4 (~~ce~~) ~~With regard to the age and degree of maturity of the child for a~~
 5 ~~child's consent, that the child was~~
- 6 (~~i~~) ~~— he/she has been counselled~~ counseled and duly
 7 informed of the effects of the adoption and of his/her
 8 consent thereto;
- 9 (~~ii~~) ~~and that~~ consideration was given to ~~his/her~~ the child's
 10 wishes and opinions;~~and~~
- 11 (~~iii~~) ~~his/her consent where required, have been freely given~~
 12 ~~and expressed in writing.;~~
- 13 (~~3~~) ~~Subsection (1) of this Section is subject to the determination by the~~
 14 ~~Central Adoption Authority that, after possibilities for placement of~~
 15 ~~the child within the Republic have been given due consideration, an~~
 16 ~~inter-country adoption is in the child's best interest.~~

17 **§814. Duty to Advise ~~natural~~ Birth ~~p~~Parents/~~g~~Guardians.**

- 18 (1) The ~~C~~court shall ensure that the person(s) whose consent is required,
 19 fully understand(s) the consequences of the adoption.
- 20 (2) In all phases of the adoption process, the ~~natural~~ birth parent(s) or
 21 guardian(s) shall be entitled to the services of the Central Adoption
 22 Authority.
- 23 (3) The Central Adoption Authority may however recommend legal
 24 representation for the ~~natural~~ birth parent(s) or guardians(~~s~~) of the
 25 child depending on the circumstances of each case.
- 26 (4) In all phases of representation, the ~~natural~~ birth parent(s) or
 27 guardian(s) of a the child shall have interpretation of the proceedings
 28 into their primary language.
- 29 (5) All documents presented to the ~~natural~~ birth parent(s) or guardian(s)
 30 shall be translated into their primary language. If the ~~natural~~ birth
 31 parent(s) or guardian(s) are illiterate, they shall have a thorough
 32 explanation of the contents of the documents, including the consent
 33 documents, by an officer of the Central Adoption Authority or an
 34 attorney, prior to signing any such document. The ~~Head~~ Director of

the Central Adoption Authority or his/her designee, shall attest to this fact in the affidavit referred to in ~~s~~Section 812(3)(d) ~~above~~.

§815. Certification by the Central Adoption Authority.

(1) In addition to the matters referred to ~~under in s~~Section 812(3)(d) and ~~s~~Section 814(5) ~~above~~, ~~The Head~~ the Director of the Central Adoption Authority shall also certify that:

- (~~a~~1) the ~~natural birth~~ parent(s) or guardian(s) are not in a state of mind which would raise the question of their judgment or clarity of thought; and
- (~~b~~2) the ~~natural birth~~ parent(s) or guardian(s) understand the permanency of adoption, and that ~~neither of them was they~~ are not acting under duress, coercion, or belief of financial, material, or opportunity gain from the adoption of the child.

~~(2) No valid consent may be obtained if either of the natural parent(s) or guardian(s) is under the influence of mind altering drugs, alcohol or other chemicals which may impair judgment or clarity of thought.~~

§816. Consent not Required.

(1) ~~Notwithstanding the consent provisions above, it~~ It is not necessary to obtain the consent of the following persons:

- (a) ~~In the case~~ where the child to be adopted was conceived out of wedlock, and the parent who does not have custody of the child has failed to acknowledge the child, provide for the child, assist in the upbringing of the child, or develop a relationship with the child, such parent’s consent is not required;
- (b) ~~In the case~~ where the child to be adopted was born out of wedlock and the ~~natural birth~~ father of the child ~~could not be~~ has not been identified or determined, the consent of such a father is not required;
- (c) ~~Where~~ the child was conceived as a result of a sexual assault or ~~any~~ other sex crime against the ~~natural birth~~ mother, the assailant’s consent is not required;
- (d) ~~in the case~~ where a ~~natural~~ parent is unable to care for the child by reason of severe mental illness established by the testimony of a qualified physician, the consent of such parent

1 is not required. ~~Such mental illness may be established by the~~
 2 ~~testimony of a qualified physician;~~

3 (e) ~~In the case~~ where the ~~natural birth~~ parents have both
 4 abandoned the child and the child is in the custody or
 5 guardianship of another person, ~~such~~ the birth parents'
 6 consent is not required; and

7 (f) ~~in the case where the natural parent(s)'~~ where a birth parent's
 8 parental rights have been terminated by a court ~~O~~order, such
 9 ~~parents'~~ parent's consent is not required.

10 (2) ~~The court may, upon request of the petitioners and prior to the final~~
 11 ~~hearing, conduct a hearing to determine whether a person's consent~~
 12 ~~is not required pursuant to this Section.~~

13 §817. Revocation of Consent.

14 (1) ~~The natural parent(s) or guardians, as the case may be, Any person~~
 15 ~~who has given consent to an adoption may revoke his/her consent to~~
 16 ~~the adoption~~ at any time during the proceedings, provided that such
 17 revocation is communicated to the court prior to the filing of the
 18 order granting the adoption.

19 (2) Such revocation may be effected by:
 20 (a) ~~the delivery of~~ delivering a written revocation to the ~~C~~ourt at
 21 ~~any time during the adoption proceedings, and prior to the~~
 22 ~~filing of the Order granting the adoption; or~~
 23 (b) by orally revoking ~~the~~ his/her consent in open court, ~~at any~~
 24 ~~time during the proceedings prior to the filing of the Order~~
 25 ~~granting adoption.~~

26 §818. Children Eligible for Adoption.

27 ~~In all cases, the~~ The petitioners may petition to adopt any child, provided
 28 that ~~such a~~ the child has not attained the age of ~~16~~ 18 years.

29 §819. ~~Consent and~~ Representation of the Child.

30 (1) ~~Depending on the circumstances of each particular case, t~~The court
 31 ~~shall have the discretion to~~ may appoint an attorney or guardian ad
 32 ~~litem, to act for and on behalf of the interests of~~ the child, who is the
 33 subject of the adoption proceedings.

~~(2) If the child to be adopted is twelve years of age or older, that child shall be examined by the Court as to the child's understanding of the adoption, prior to the child issuing his or her consent.~~

~~(3) If a child of twelve (12) years or older objects to the adoption, such objection is controlling.~~

~~(4) If a child who is younger than twelve years of age objects, the Court shall determine whether adoption is in the child's best interest, but the child's objection shall not be controlling.~~

§820. ~~Determination of Consent~~Reserved.

~~Where necessary, a motion for a determination that consent of a parent is not necessary, pursuant to the preceding provisions of this Chapter shall be heard by the Court prior to the final hearing, at the instance of the petitioner(s).~~

§821. ~~Certification~~Certificate of Readiness for Final Hearing.

(1) Upon complete filing of the contents of the petition and the accompanying other documents as required in Section 812 above by this Chapter, the Court may, upon motion of the petitioner(s):

- (a) ~~Issue a Certification~~ Certificate of Readiness for Final Hearing;
or
- (b) ~~Order~~ Order further investigation ~~on~~ of specified matters.

(2) The issuance of a Certificate for Readiness for Final Hearing is not a substitute for competent proof of all required evidence at the final adoption hearing.

§822. Notice of Hearings.

(1) Notice of all court hearings in the adoption proceedings shall be served;

- (a) on the natural parent(s) or guardian(s) of the child to be adopted;
- (b) on the prospective adoptive parents;
- (c) on the child if the child is 12 years of age or older; and
- (d) on the Central Adoption Authority, at least 7 days prior to the final hearing.

(2) Voluntary appearance ~~in court shall~~ at a hearing constitutes a waiver ~~of the requirement of service~~ of notice of the hearing.

1 **§823. Waiting period - for Final Hearing.**

2 No final hearing ~~of the adoption~~ shall be held until at least ~~thirty~~ (30) days
 3 have elapsed since the signing of the ~~Affidavit of Relinquishment of~~
 4 ~~Parental or guardianship Rights~~ Affidavit of Relinquishment of Parental
 5 Rights and Consent to Adoption by each person who is required to sign the
 6 same.

7 **§824. Required Court appearances.**

8 The child to be adopted, the ~~natural~~ birth parent(s) or guardian(s), and the
 9 petitioner(s) must appear in person before the ~~C~~ourt at the final hearing.

10 **§825. Best interests of the eChild and ~~other~~ Considerations.**

- 11 (1) No adoption shall be granted unless the court, based on clear and
 12 convincing evidence, is satisfied:
- 13 (a) ~~that the necessary consents have been obtained;~~
 14 (b) ~~that the consents were given voluntarily and not coerced by~~
 15 ~~conduct prohibited under this or any other Act;~~
 16 (c) ~~that the natural parent(s) or guardian(s) fully understand the~~
 17 ~~consequences of an adoption;~~
 18 (d) ~~most importantly,~~ that granting the adoption is in the best
 19 interests of the child;
- 20 (2) In determining ~~the issue of what is in~~ the best interests of the child,
 21 the ~~C~~ourt may, in addition to other considerations, consider, ~~inter~~
 22 alia:
- 23 (a) the child's safety, health, and welfare, and the resources
 24 available to meet those needs;
 25 (b) the child's level of development and physical and emotional
 26 needs;
 27 (c) the relationship the child has with his or her current family
 28 and the importance of continuity in the child's well-being;
 29 (d) the child's cultural, racial, linguistic and religious heritage and
 30 the fostering of a strong personal identity;
 31 (e) the child's views toward being adopted; and
 32 (f) the resources available to meet the child's ~~natural~~ needs.

§826. Effect of ~~d~~Decree.

- (1) ~~After a~~ Upon entry of the decree of adoption ~~has been granted~~, the child and the adopting parents shall hold towards each other the legal relation of parent and child and shall have all the rights and be subject to all the duties of that relationship.
- (2) ~~The natural parents of the adopted child are, as of the date of the Order granting the adoption,~~ Upon entry of the decree of adoption, ~~the birth parents shall be~~ relieved of all parental duties and responsibility for the child and shall have no rights over the child.
- (3) A child adopted under this Chapter shall have the same rights of inheritance as if he were the ~~natural~~ birth child of the adoptive parents.

§827. ~~Content of decree; specific provisions~~ Post-Adoption Reports.

- (1) ~~Each~~ The adoption decree, in addition to establishing a parent-child relationship, granting a name change if requested, and granting other ~~provisions~~ relief, shall include a requirement that the adoptive parents:
 - (a) ~~within the first six months of the adoption,~~ 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; and
 - (b) ~~every four years thereafter until the child turns 18 years of age, at the conclusion of the six months period as well as other~~ file a subsequent Post-Adoption Reports ~~every four year until the child reaches 18 years old with the Central Adoption Authority.~~
- (2) ~~Each~~ Each Post-Adoption Report shall contain a description of how the child and family are adjusting, whether bonding and attachment between the child and family are sufficient, whether the child’s health and emotional needs are being met, what the family is doing to encourage the child’s cultural heritage, and any other pertinent data sufficient to inform the birth family of the status of the child.

§828. ~~Content of the Post Adoption Report~~ Reserved.

- (1) ~~The~~ The Post Adoption report anticipated by section 827 above, shall contain a description of how the child and family are adjusting, whether bonding and attachment between the child and family are

1 sufficient, whether the child's health and emotional needs are being
 2 met, what the family is doing to encourage the child's cultural
 3 heritage, and any other pertinent data sufficient to inform the natural
 4 families of the status of the child.

5 **§829. Monetary Unlawful inducements.**

6 (1) It shall be unlawful for any person to offer:

- 7 (a) any financial remuneration;
 8 (b) ~~an~~ aid;
 9 (c) ~~any~~ gifts;
 10 (d) ~~any~~ promises of items of monetary value; or
 11 (e) future opportunities;

12 to any ~~natural parent(s) or guardians,~~ person for the purpose of
 13 inducing that ~~parent or guardian~~ person to relinquish parental rights,
 14 or consent to an adoption.

15 (2) ~~The same prohibition shall apply to the inducement of consent from a~~
 16 ~~child who is old enough to give consent.~~

17 **§830. Criminal Offenses and ~~p~~Penalties.**

18 Any person ~~that~~ who violates any provisionsg of this Chapter or commits an
 19 offense ~~as~~ prescribed by this Chapter, shall be guilty of an offense, and shall,
 20 upon conviction, be liable to pay a fine not exceeding \$10,000 or, to serve a
 21 term of imprisonment not exceeding ~~twelve~~ (12) months, or both.

22 **§831. Adoption Assistance Fund.**

23 (1) The Adoption Assistance Fund is established as a special revenue
 24 account within the National Treasury and under the control and
 25 supervision of the Ministry of Finance, which must provide for its
 26 administration in accordance with the Finance Management Act of
 27 1990.

28 (2) The sources of the Fund consist of:

- 29 (a) money appropriated by the Nitijela in respect of the functions
 30 of the Central Adoption Authority;
 31 (b) ~~A~~administrative fees collected under this Section 831 ~~of this~~
 32 ~~Act~~;
 33 (c) other moneys provided by the Cabinet for the work of the
 34 Central Adoption Authority by way of grant or otherwise; and

(d) money paid to ~~Government~~ the Republic 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). 806:

(a) the Minister of Culture and 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.

§832. Regulations.

The Cabinet may, in accordance with the Administrative Procedure Act, promulgate ~~the~~ necessary rules and regulations to give effect to the provisions of this Chapter.

§833. Adoption records.

All adoption records shall remain open for public inspection. Decrees of adoption are public records and may be examined by any person. All other documents pertaining to specific adoption proceedings that are maintained by the Central Adoption Authority or contained in adoption files

1 maintained by the court are non-public records, and may only be examined
2 pursuant to court order upon a showing of good cause.

3 **§834. ~~Transition and Repeal~~Reserved.**

4 ~~The provisions of 26 MIRC Chapter 1 Part III, in its entirety, and the~~
5 ~~Adoption Residency (Domestic Relations Amendment) Act, 1999, will~~
6 ~~continue in force, and will be deemed repealed, only on the date that the~~
7 ~~Minister responsible, certifies or declares in writing that the Central~~
8 ~~Adoption Authority has been duly established.~~

9 **§103. Effective Date.**

10 This Chapter shall take effect on the date of certification in accordance with
11 Article IV, Section 21, of the Constitution.

12

**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
39TH CONSTITUTION REGULAR SESSION, 2018**

ADOPTIONS (AMENDMENT) ACT, 2018

BILL SUMMARY

Purposes of this Bill

The purposes of this Bill for an Act to Amend the Adoption Act, 2002, 26 MIRC Chp. 8, are as follows:

§ to propose two substantive amendments (Section 812(3)(i) and Section 833);

§ to propose corrections spelling errors, numbering errors, punctuation errors and grammatical errors (throughout the proposed bill);

§ to propose the deletion of definitions of unnecessary/unused terms (Section 803);

§ to proposed consolidation of similar concepts (various Sections); and

§ to proposed repeal of the transition Section (Section 834).

Two Substantive Amendments

Section 812(3)(i). Section 812(3)(i) requires each proposed adoptive parent to obtain a certification from a physician that the person is physically and mentally capable of adopting a child and is free of communicable diseases. Current Section 812(3)(i) requires the physician to have been the person's treating physician for at least 10 years. In an increasingly mobile society, it is unlikely that a person will have the same physician for ten years or more. The proposed amendment would reduce the current ten-year period to a five-year period, and in the alternative, allow a physician make the certification based on a review of the person's medical history for the most recent five years.

Section 833. Section 833 states, "All adoption records shall remain open for public inspection." Adoption records, maintained by both the High Court and the Central Adoption Authority, contain such information as maiden and married

1 names, dates and places of birth, social security numbers, addresses, telephone
2 numbers, e-mail addresses, marriage dates and places, physical descriptions,
3 siblings' names and addresses, employment histories, educational background,
4 physical and mental health concerns, minor children's names and dates of birth,
5 insurance coverage information, information from recent tax returns, and passports.
6 In the hands of an identity thief, the above information could result in financial ruin.
7 The proposed amendment would continue to allow public access to adoption *decrees*,
8 but would prohibit access to all other information contained in adoption files unless
9 access is granted by a High Court justice upon a showing of good cause.

10 Corrections to Spelling Errors, Numbering Errors, Punctuation Errors and 11 Grammatical Errors

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14 There are hundreds of proposed changes in this category – far too many to
15 list. The purpose is to correct them without changing the substance of the existing
16 Act.

17 Deletion of Definitions of Unnecessary/unused Terms

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20 It is proposed that the definitions of the following terms in current Section
21 803 be deleted because they are either unnecessary or unused in the Act: abuse,
22 sexual abuse, abandonment, Central Adoption Authority, Marshallese child, and
23 Ministry. In addition, it is proposed that the term “natural” (as in “natural parent”)
24 be changed to “birth” (as in “birth parent”) through the Act. The Act currently
25 includes both terms, although the persons described by both terms are the same.
26 The change would result in the elimination of the term “natural parent” and the
27 inclusion of the term “birth parent” in Section 803.

28 Consolidation of Similar Concepts

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31 In order to consolidate similar concepts, it is proposed that certain concepts
32 be moved to other existing Sections. The most significant of these consolidations
33 moves provisions regarding consent that are sprinkled throughout the current Act
34 into Section 813, which is entitled “Consent to Adoption.”
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Current Section	Proposed Section
Section 812(3)(b)	Section 812(2)(c)
Section 813(3)	Section 812(3)(j)
Sections 819(2), 819(3) and 819(4)	Section 813(1)(c)
Section 815(2)	Section 813(2)(b)
Section 820	Section 816(2)
Section 825(1)(a), 825(1)(b) and 825(1)(c)	Section 813
Section 828	Section 827(2)

1 Repeal of the Transition Section

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Current Section 834, which addresses a transition period prior to the establishment of the Central Adoption Authority, is no longer necessary. It is recommended that the Section be repealed.

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OPTION: ONE SUGGESTED ISSUE FOR THE CABINET AND NITIJELA TO ADDRESS

Current Section 818 provides that only children under the age of 16 years may be adopted. That is a policy decision to be made by the Nitijela, and not by the Judiciary. However, it is suggested that the Nitijela consider changing the age limit from has not attained 16 years of age to has not attained 18 years of age. This is a suggestion only, and is not in

**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
39TH CONSTITUTION REGULAR SESSION, 2018**

ADOPTIONS (AMENDMENT) ACT, 2018

SIGNATURES

DATE: _____ **INTRODUCED BY** _____
Print Name *Signature*

DATE: _____ **INTRODUCED BY** _____
Print Name *Signature*

DATE: _____ **INTRODUCED BY** _____
Print Name *Signature*

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