



## Law 5 of 1975

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LAW 5 OF 1975

(January 10)

*"Whereby Title XIII of Book One of the Civil Code is amended and other provisions are enacted."*

THE CONGRESS OF COLOMBIA

DECREES:

ARTICLE 1. Title XIII of Book One of the Civil Code shall read as follows:

"ON ADOPTION

ARTICLE 269. Any person who is capable, has reached the age of 25, is at least 15 years older than the adoptee, and is physically, mentally, and socially capable of providing a home for a minor under the age of 18 may adopt.

ARTICLE 270. The fact that the adopter has had, has, or may have legitimate, natural, or adopted children shall not be an obstacle to adoption.

ARTICLE 271. A husband and wife may adopt jointly, provided that one of them is over 25 years of age. An undivorced spouse may only adopt with the consent of the spouse with whom he or she lives. A guardian may adopt his or her ward, but must first obtain approval of the account of the ward's assets that he or she has been administering.

ARTICLE 272. Only minors under the age of 18 may be adopted, unless the adopter had personal care of the adoptee before he or she reached that age. If the minor has property, the adoption shall be carried out with the formalities required for guardians.

ARTICLE 273. A natural child may be adopted by his or her father or mother. He or she may also be adopted by his or her father or mother jointly with the other spouse. The legitimate child of one of the spouses may be adopted by the other.

ARTICLE 274. Adoption requires the consent of the parents. If one of them is absent as provided for in Articles 118 and 119, the consent of the other shall suffice. In the absence of the parents, the authorization of the guardian shall be required. Failing that, it shall be given by the guardian ad litem and, subsidiarily, by the social welfare institution duly authorized by the Colombian Institute of Family Welfare where the minor is located. If the minor is of puberty age, his or her consent shall also be required.

ARTICLE 275. Adoption requires a court ruling. Once the ruling granting the adoption is final, it shall be registered in the Civil Registry. However, the effects of the adoption shall take effect from the admission of the petition if the ruling is favorable.

ARTICLE 276. Through adoption, the adopter and the adoptee acquire the rights and obligations of a father or mother and legitimate child, with the limitations referred to in Articles 284 and 285. The adoptee shall bear the surname of the adopter, unless the biological father or mother has consented to simple adoption and it is agreed that the adoptee shall retain his or her original surname, to which he or she may add that of the adopter.

ARTICLE 277. Through simple adoption, the adoptee continues to be part of his or her biological family, retaining his or her rights and obligations therein.

ARTICLE 278. Upon full adoption, the adoptee ceases to belong to his or her blood family, subject to the impediment to marriage set forth in Article 140, paragraph 9. Consequently:

1. The parents and other blood relatives shall have no rights over the person and property of the adoptee.

2. The action to contest maternity referred to in Articles 335 to 338, the action to claim status referred to in Article 406, and any recognition or action aimed at establishing the blood relationship of the adoptee may not be exercised. Any declaration or ruling in this regard shall be null and void.

ARTICLE 279. Full adoption establishes kinship relations between the adoptee, the adopter, and the adopter's blood relatives. Simple adoption only establishes kinship between the adopter, the adoptee, and the adopter's children.

ARTICLE 280. The judge, at the request of the adopter, shall decree simple adoption or full adoption. In the judgment of full adoption, the names of the blood parents shall be omitted, if known.

ARTICLE 281. Simple adoption may be converted to full adoption if requested by the adopter. ARTICLE 282. For

the purposes of adoption, the following are considered abandoned:

1. Foundlings;
2. Minors placed in a social welfare institution, when they have not been claimed by their parents or guardians within three (3) months;
3. Minors who have been placed by their legal representative for adoption, either through the Colombian Family Welfare Institute or an institution duly authorized by the Institute.

Article 283. It is the responsibility of the Children's Ombudsman to declare a minor abandoned, following the procedure set forth in Articles 8 and 9 of Decree 1818 of 1964.

ARTICLE 284. In full adoption, the adoptee inherits from the adopter as a legitimate child; in simple adoption, as a natural child. Every adopted child is a legitimate heir of the adopter and may be favored with the fourth of improvements, in the manner in which this allocation is regulated by Article 23 of Law 45 of 1936. In intestate succession, the adoptee may be represented by his or her legitimate children.

ARTICLE 285. In full adoption, the adopter has the same inheritance rights in the adopted child's estate as the biological parents would have had. In simple adoption, the adopter shall receive the share that would have corresponded to one of the biological parents. In the absence of biological parents, the adopter shall take their place. The adopter is a legitimate heir of the adopted child.

ARTICLE 286. The Colombian Institute of Family Welfare shall provide personal care for minors under 18 years of age who require protection. In fulfilling this function, it may place them in public or private establishments which, by virtue of their organization, specialize in providing care and education for minors.

ARTICLE 2. The juvenile judges of the domicile or residence of the adoptable child shall hear adoption proceedings with the mandatory intervention of the juvenile defender. The adoption of persons over 18 years of age referred to in the exception in Article 272 shall be within the jurisdiction of the circuit judges.

ARTICLE 3. The adoption petition shall contain:

1. The name of the judge to whom it is addressed;
2. The name, age, domicile, or residence of the petitioner;
3. The name, age, domicile, or residence of the minor to be adopted, as well as the name and domicile of the parents or guardian, except in the case of abandoned minors;
4. The facts and reasons on which the petitioner's requests are based;
5. The legal grounds invoked;
6. The request for the evidence to be presented.

ARTICLE 4. The following shall be attached to the application: 1. Proof of the age of the adopters and the adoptee; 2. Proof of marriage, when husband and wife adopt jointly; 3. The declaration of abandonment issued by the Children's Ombudsman in the cases referred to in Article 282; 4. Certification of the validity of the operating license of the institution where the minor is housed, issued by the Colombian Institute of Family Welfare; 5. Proof of the physical, mental, and social conditions referred to in Article 269; 6. Any other evidence deemed relevant.

ARTICLE 5. Once the petition has been admitted, the Juvenile Court Judge shall proceed in accordance with the voluntary jurisdiction procedure set forth in Article 651 of the Code of Civil Procedure. The Juvenile Defender shall perform the functions assigned to the Public Prosecutor in that article. If the adopter dies before the judgment is rendered, the judge shall order notification of the existence of the proceedings to his or her heirs, applying, if necessary, Articles 81 and 318 of the Code of Civil Procedure.

ARTICLE 6. The judgment decreeing the adoption shall set forth the rights and obligations of the adopter and the adoptee; in the case of full adoption, it shall set forth all the information necessary for the entry in the civil registry to constitute the birth certificate and replace the original one, which shall become invalid. The words "full adoption" shall be placed in the margin of the certificate. The ruling may be appealed before the Superior Court of the Judicial District, where the Public Defender for Minors shall intervene, and once signed, it shall be registered in the civil registry.

ARTICLE 7. The invalidity of the judgment decreeing the adoption may be requested by means of the extraordinary appeal for review regulated by Articles 379 et seq. of the Code of Civil Procedure.

ARTICLE 8. Persons residing abroad whose adoption application has been accepted by the judge must request authorization from the Colombian Family Welfare Institute to transfer the minor to the respective country.

ARTICLE 9. Adoption petitions accepted by civil circuit judges or juvenile judges at the time this Law enters into force shall continue to be processed in accordance with the procedure in force on the date of their initiation but shall not require the execution of a public deed. However, the petitioner may dispense with the proceedings before the Civil Circuit Judge and appeal to the Juvenile Judge.

ARTICLE 10. All adoptions decreed before this Law comes into force shall be considered simple adoptions, unless the adopter requests full adoption.

ARTICLE 11. Only the Colombian Institute of Family Welfare and institutions duly authorized by it for this purpose may carry out adoption programs.

ARTICLE 12. The tax rate on death benefits or donations corresponding to adopted children shall be the same as that for the legitimate children of the deceased or donor. The tax rate for the same type of benefits corresponding to the adoptive father or mother shall be the same as that for biological parents.

ARTICLE 13. Law 140 of 1960, Articles 27 and 28 of Law 75 of 1968, Article 24 of Decree 1260 of 1970, and other provisions contrary to this Law are hereby repealed.

ARTICLE 14. This Law shall come into force on the day of its promulgation.

Issued in Bogotá, D. E., on... December 1974.

THE PRESIDENT OF THE HONORABLE SENATE OF THE REPUBLIC,

JULIO CESAR TURBAY AYALA

THE PRESIDENT OF THE HONORABLE CHAMBER OF REPRESENTATIVES,

LUIS VILLAR BORDA

THE SECRETARY GENERAL OF THE HONORABLE SENATE OF THE

REPUBLIC, AMAURY GUERRERO

THE SECRETARY GENERAL OF THE HONORABLE CHAMBER OF

REPRESENTATIVES, IGNACIO LAGUADO MONCADA.

REPUBLIC OF COLOMBIA. - NATIONAL GOVERNMENT. -

Bogotá, D.E., January 10, 1975.

PUBLISH AND EXECUTE.

ALFONSO LOPEZ MICHELSEN

THE MINISTER OF JUSTICE,

ALBERTO SANTOFIMIO BOTERO.

NOTE: Published in the Official Gazette. No. 34244. January 28, 1975.

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