



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 88-2023

TO : ALL FAMILY COURT JUDGES AND BRANCH CLERKS OF COURT OF THE REGIONAL TRIAL COURTS

SUBJECT: RULE ON INTERNATIONAL CHILD ABDUCTION CASES

In its 18 October 2022 Resolution in **A.M. No. 22-09-15-SC** (*Rule on International Child Abduction Cases*), the Court *En Banc* **RESOLVED** to **APPROVE** the “Rule on International Child Abduction Cases,” the full text of which is appended herein as Annex “A”.

Published in the *Manila Bulletin* and the *Philippine Star* on 19 February 2023, the Resolution **shall take effect on 06 March 2023**.

Any prior circular from the Office of the Court Administrator on this matter which is contrary to the foregoing is hereby superseded.

For your information, guidance, and strict compliance.

01 March 2023

JENNY LIND R. ALDECOA-DELORINO
Deputy Court Administrator and Officer-in-Charge
Office of the Court Administrator
(Per Memorandum Order No. 32-2023
dated 27 February 2023)



Republic of the Philippines
Supreme Court
Manila

EN BANC

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

RULE ON INTERNATIONAL CHILD ABDUCTION CASES

I. GENERAL PROVISIONS

Section 1. *Scope and Applicability.* This Rule shall apply to all international child abduction and retention cases in accordance with The Hague Convention on the Civil Aspects of International Child Abduction of 1980 (HCAC), provided that the HCAC has entered into force between the Philippines and the other Contracting State.

In all matters not specifically covered by this Rule, the Rules of Court shall apply suppletorily.

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.

Section 3. *Interpretation.* This Rule shall be interpreted liberally to accomplish the basic principles of the HCAC.

Section 4. *Definition of Terms.* For purposes of this Rule:

- a. **Applicant/Petitioner.** refers to a Left Behind Parent or any authorized person, institution or any other body claiming that a child

has been wrongfully removed or retained in breach of custody rights, who applies with either the Philippine Central Authority or the court for assistance in securing the return of the child to his/her state or country of habitual residence.

- b. **Best Interests of the Child** refers to the totality of the circumstances and conditions as are most favorable and conducive to the survival, protection, and feelings of security of the child encouraging to his/her physical, psychological, moral and emotional development. It also means the best available alternative for safeguarding the growth and development of the child.
- c. **Central Authority** refers to the government agency tasked to discharge the duties imposed by the HCAC which, in the Philippines, is the Department of Justice.
- d. **Child** refers to a person below sixteen (16) years of age.
- e. **Contact/Access Order** refers to a court order awarding to the Left Behind Parent provisional rights, which include, but not limited to, visitation, taking a child for a limited period of time to a place other than the child's habitual residence, communication, and the like.
- f. **Family Court** refers to the statutory Family Courts or Regional Trial Courts specifically designated by the Supreme Court to exercise jurisdiction over international child abduction cases.
- g. **Country of Habitual Residence** refers to a country or state party to the HCAC where a child has been physically present for an amount of time sufficient for the child to attain a degree of integration in a social and family environment, providing feelings of security in familiar surroundings or environment before his/her wrongful removal or retention.
- h. **Guardian** refers to a person appointed by the Family Court whose functions during the pendency of the case may include making recommendations concerning the welfare of the child, coordinating the delivery of resources and special services to the child to help him/her cope with the stress of the legal proceedings, explaining the proceedings to the child, and performing such other actions as may be ordered by the court to promote the best interests of the child.
- i. **International Child Abduction** refers to a situation where a child has been wrongfully removed from his/her country or state of habitual residence and taken to another country or state or wrongfully retained thereat, provided that child abduction under this Rule does not contemplate a criminal prosecution under penal laws.

- j. **Left Behind Parent** refers to any person, institution, or any other body exercising rights of custody or access over the child by operation of law or by reason of a judicial or administrative decision or agreement having legal effect under the law of the said left behind parent's country or state, immediately prior to the breach of such right of custody or right of access.
- k. **Taking Parent** refers to any person, institution, or any body who wrongfully removed a child from his or her country of habitual residence, or wrongfully retained the child in another country.
- l. **Return Order** refers to a court order directing the taking parent to return the child to his/her country of habitual residence, after a determination that the child had been wrongfully removed or wrongfully retained by the taking parent.
- m. **Rights of Access** refers to visitation rights, including the right to take the child for a limited period of time to a place other than his or her habitual residence, right to communicate with the child, and the like.
- n. **Rights of Custody** refers to rights relating to the care of the child and the right to determine the child's place of residence.
- o. **Wrongful Removal of a Child** refers to act of taking a child out of his or her country or state of habitual residence in the breach of rights of custody attributed to a person, an institution or any other body under the law of the country of the child's habitual residence, which rights were actually exercised, either jointly or alone, at the time of removal, or would have been so exercised had the child not been wrongfully removed.
- p. **Wrongful Retention of a Child** refers to the retention or concealment of a child in another country in breach of the rights of custody or access attributed to a person, an institution, or any other body under the law of the country of the child's habitual residence, which rights were actually exercised, either jointly or alone, at the time of such retention or concealment, or would have been so exercised had the child not been wrongfully retained or concealed.

II. PROCEDURE

Section 5. Venue. A petition for the return of or access to a child wrongfully removed or retained shall be filed in the Family Court where the child may be found or the Family Court nearest to the province or city where the child may be found, as the case may be. If the child's location is unknown, the place where the respondent or the person keeping the child may be found, shall determine the venue.

In the event that there is no Family Court in the place where the child may be found or the Family Court nearest to the province or city where the child may be found does not have jurisdiction over the child or the respondent as the case may be, the petition shall be filed with the Regional Trial Court, applying the regular rules on venue.

Section 6. *Petition for the Return of or Access to a Child; Who may File.* The left behind parent or the petitioner claiming that a child has been wrongfully removed or retained in breach of custody rights shall file a verified petition, which may include applications for provisional remedies and protection orders, against the taking parent or the respondent for the return of or access to the child.

Section 7. *Payment of Legal Fees.* Upon the filing of the petition or other application which initiates an action or proceeding, the fees prescribed under Rule 141 of the Rules of Court shall be paid in full.

Section 8. *Pleadings Allowed; Verification.* The only pleadings allowed are the petition and the comment. Both pleadings shall be verified and comply with the requirements under Rule 7, Section 4 of the Rules of Court.

The verification may be executed by the duly authorized person or counsel. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, shall be attached to the pleading.

Section 9. *Certification against Forum Shopping.* The petition shall contain a certification against forum shopping under Rule 7, Section 5 of the Rules of Court.

Section. 10. *Contents of Petition. Mandatory Requirements.* The petition shall allege the following:

- a. The personal circumstances of the petitioner;
- b. The name, address and other personal circumstances of the respondent, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;
- c. The name, age, date of birth of the child, his/her relationship to the petitioner and respondent, and other relevant information;
- d. The child was brought to the Philippines after leaving the country of his/her alleged place of habitual residence;

- e. All available information relating to the whereabouts of the child and the identity of the person who brought the child to the Philippines and who is keeping the child;
- f. The grounds relied upon by the petitioner;
- g. The actions taken and remedies availed of by the petitioner, if any, to determine the situation or whereabouts of the child;
- h. An investigation was conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and result of the investigation;
- i. The HCAC is in force between the Philippines and the country alleged to be the child's habitual residence;
- j. An application has been filed with the Central Authority and its status, or a statement that no application was filed with the Central Authority and that the case was filed directly with the court;
- k. Whether or not there is a custody case or any action relating to custody of the child in the Philippines or abroad;
- l. The names of the affiants whose judicial affidavits will be presented to prove the petitioner's claim; and
- m. The petitioner's consent to the filing and service of pleadings, motions and other court submissions by electronic mail or through electronic means as may be authorized by the court in places where the Family Court is electronically equipped, and the petitioner's e-mail address/es and contact number/s for such purpose pursuant to the Rules of Court.

Section 11. *Annexes to the Petition.* The following shall be attached to the petition:

- a. Duly authenticated or certified true copies of documents pertinent to the identification, relationship and other personal circumstances of the child and petitioner, such as but not limited to certificate of live birth, marriage contract, government-issued identification card and passport; and, if the petitioner is a juridical person, original or certified true copies of its registration or incorporation;
- b. Photographs of the child and the taking parent/respondent, if available;

- c. Documents establishing the child's place of habitual residence prior to the wrongful removal or retention, such as but not limited to school records, medical or dental records, residence certificate, and affidavits of disinterested persons;
- d. Certification from the Philippine Central Authority or other relevant government agencies confirming the entry of the respondent and the child into the country, if available;
- e. Proof that the HCAC is in force between the Philippines and the country of the child's habitual residence, such as Certification issued by the Department of Foreign Affairs of the Philippines or the official list of the contracting state parties in the Child Abduction Section of the Hague Conference on Private International Law official website;
- f. Duly authenticated or certified true copy of the agreement and/or judicial or administrative decision relied upon by the petitioner as basis of the petition, if any, which may include a decision or other determination that the removal or retention was wrongful and should be accompanied by an official translation in the English language. For this purpose, courts may take direct notice of the relevant laws and decisions of other Contracting States, without need of the parties to prove said laws and decisions according to the ordinary rules on evidence;
- g. Certification or affidavit emanating from a Central Authority, or other competent authority of the country or state of the child's habitual residence, or from a qualified person, concerning the relevant law of that country or state, and which should be accompanied by an official translation in English language;
- h. The judicial affidavits of the petitioner and the witnesses in support of the petition;
- i. If the petition is filed by a representative of the petitioner, a special power of attorney or secretary's certificate as proof of authorization to act on behalf of the petitioner; and
- j. Any other evidence in support of the petition.

Public documents originating from foreign countries should be duly authenticated pursuant to the pertinent provisions of the Rules of Court.

Section 12. *Prohibited Pleadings and Motions.* The following pleadings and motions are prohibited:

- a. Motion to dismiss;
- b. Motion to hear affirmative defenses;
- c. Motion for a bill of particulars;
- d. Motion for extension of time to file comment, return, preliminary conference brief, position paper and other pleadings;
- e. Motion to declare respondent in default;
- f. Counterclaim or cross-claim;
- g. Third-party complaint;
- h. Reply;
- i. Rejoinder;
- j. Intervention;
- k. Motion for reconsideration of interlocutory orders or interim relief orders;
- l. Petition for certiorari, mandamus or prohibition against any interlocutory order;
- m. Motion for new trial, or for reconsideration of a judgment on the merits, or for reopening of proceedings;
- n. Petition for relief from judgment;
- o. Memoranda;
- p. Motion to admit late judicial affidavit/s, or other evidence; and
- q. Dilatory motions for postponement. Any motion for postponement shall be presumed dilatory unless grounded on acts of God, *force majeure*, or physical inability of a counsel or witness to personally appear in court, as supported by the requisite affidavit and medical proof.

Section 13. *Filing and Service.* The rules on filing and service of pleadings, motions and other court submissions under the Rules of Court shall apply to cases covered by this Rule, unless inconsistent herewith.

Upon filing of the petition in court, the petitioner shall serve the Philippine Central Authority a copy of the petition and its supporting documents and submit to the court proof of such service.

Section 14. *Summons.* The rules on service of summons under the Rules of Court shall apply to cases covered by this Rule unless inconsistent herewith. The service of summons shall be according to the following order of preference:

- a. ***Personal Service on Respondent.*** Within three (3) calendar days from receipt of the petition and upon proof of payment of the requisite legal fees, the court shall direct the Branch Clerk of Court to issue summons and cause the personal service thereof upon the respondent.
- b. ***Substituted Service on Respondent.*** If for justifiable causes, the respondent cannot be served personally after at least two (2) attempts on two (2) consecutive dates after the issuance of the summons, service can be effected by:
 - b.1. Leaving copies of the summons at the respondent's residence with a person at least 18 years of age and of sufficient discretion residing therein;
 - b.2. Leaving the copies of the summons at the respondent's office or regular place of business with some competent person in charge thereof. A competent person includes, but is not limited to, one who customarily receives correspondences for the respondent;
 - b.3. Leaving copies of the summons, if refused entry upon making his or her authority and purpose known, with any of the officers of the homeowners' association or condominium corporation, or its chief security officer in charge of the community or the building where the respondent may be found; and
 - b.4. Sending an electronic mail to the respondent's electronic mail address, if allowed by the court.
- c. ***Respondent Temporarily Out of the Philippines.*** When a respondent who ordinarily resides within the Philippines, but who is temporarily out of the country, provided that the child is still in the Philippines, service may, by leave of court, be also effected out of the Philippines, by personal service as provided in this Rule, or by substituted service as stated in the preceding subsection, or as provided for in international conventions to which the Philippines is a party; or by publication once in a newspaper of general

circulation in the Philippines or in its website, or the official website of the Supreme Court, in which case, a copy of the summons and order of the Family Court shall also be sent by registered mail to the last known address of the respondent, or in any other manner as the Family Court may deem sufficient.

- d. ***Service upon Respondent Whose Whereabouts in the Philippines is Unknown.*** Whenever the whereabouts of the respondent in the Philippines is unknown and cannot be ascertained by diligent inquiry, within ten (10) calendar days from the commencement of the action, service may, by leave of court, be effected upon him or her by publication once in a newspaper of general circulation in the Philippines or in its website, or the official website of the Supreme Court. The respondent must file a comment within ten (10) days from the publication.

Section 15. Return. Within three (3) days from issuance of summons and receipt thereof, the sheriff or process server, or person authorized by the Family Court, shall complete its service. Within twenty-four (24) hours from service of summons, the server shall file with the Family Court and serve a copy of the return to the petitioner's counsel, personally, by registered mail, or by electronic means authorized by the Rules of Court.

Section 16. Proof of Service by Publication. If the service has been made by publication, service may be proved by the affidavit of the publisher, editor, business or advertising manager, or the certification of the Public Information Office of the Supreme Court if publication was made at the official website of the Supreme Court, to which affidavit or certification a copy of the publication shall be attached, and by an affidavit of the authorized person who deposited the copy of the summons and order for publication in the post office addressed to the respondent, with postage prepaid, by registered mail to his or her last known address.

Section 17. Dismissal of the Petition. After an examination of the allegations in the petition and such evidence attached thereto, the Family Court may dismiss the case, on its own initiative, on any of the following grounds:

- a. Lack of jurisdiction over the subject matter;
- b. When the child has attained the age of sixteen (16) years at the time of the filing of the petition;
- c. When the child is not within the Philippines at the time of the filing of the petition;

- d. Another petition for the return of the child is pending or has been filed in another Family Court or the Philippine Central Authority;
- e. A final judgment ordering the return of the child to the country of habitual residence has already been rendered by another Family Court; and
- f. failure to comply with the mandatory requirements provided under Section 9 of this Rule.

Section 18. *Verified Comment.* Within five (5) calendar days from service of summons, the respondent shall file a verified comment on the petition and serve a copy thereof on the petitioner.

The comment shall state the following:

- a. The names of the affiants whose judicial affidavits will be presented to prove the respondent's allegations. The judicial affidavits shall be attached to the comment and shall form an integral part thereof. Judicial affidavits not attached to the comment shall not be considered;
- b. The summary of the statements in the judicial affidavits;
- c. Other evidence in support of the allegations in the comment; and
- d. A statement by the respondent stating his or her consent for the service by electronic means and, if so, the respondent's e-mail addresses for such purpose.

All new matters alleged in the comment shall be deemed controverted.

Section 19. *Effect of Failure to File a Comment.* Should the respondent fail to file a comment within the period provided, the Family Court shall, within fifteen (15) days from the expiration of such period, on its own, render a judgment as may be warranted by the facts alleged in the petition and its supporting affidavits and papers, limited to what is prayed for therein.

Section 20. *Motion to Dismiss Not Allowed.* A motion to dismiss the petition is not allowed. The respondent may, however, raise the grounds under Section 17 of this Rule or any other ground as affirmative defense/s in the comment.

Affirmative defenses not pleaded in the comment shall be deemed waived.

Section 21. *Social Background and Home Study Reports.* Upon the filing of the petition, the Family Court may, if necessary, request the

Philippine Central Authority to coordinate with the Central Authority of the alleged country of habitual residence in order to obtain information on the social background of the child at least three (3) calendar days before the scheduled preliminary conference.

Upon the filing of the comment, the Family Court may order the court social worker or a government-accredited social worker of the place where the child and respondent may be found to submit a home study and social background report of the child and the respondent at least three (3) calendar days before the scheduled preliminary conference.

With or without the reports, the preliminary conference shall proceed as scheduled.

Section 22. *Videoconference.* As far as practicable, and if the Family Court finds that the conduct of a videoconference hearing will be beneficial to the fair, speedy, and efficient administration of justice, the Family Court, on its own initiative or upon motion, may set the case for a videoconference hearing at any stage of the proceedings, following the Guidelines on the Conduct of Videoconferencing (A.M. No. 20-12-01-SC) or any other alternative videoconferencing platform approved by the Supreme Court.

Section 23. *Preliminary Conference.* The preliminary conference shall be set within ten (10) calendar days from receipt of the comment.

Section 24. *Effect of Non-appearance at the Preliminary Conference.* If the petitioner or authorized representative and counsel fail to appear at the preliminary conference despite due notice, the Family Court shall dismiss the petition.

If the respondent or authorized representative and counsel fail to appear at the preliminary conference despite due notice, the Family Court shall, within fifteen (15) calendar days, render judgment as may be warranted by the facts alleged in the petition and its attachments, limited to what is prayed for therein.

Section 25. *Filing and Contents of Preliminary Conference Brief.* The parties shall file with the Family Court and serve on the adverse party in such a way as to ensure receipt, at least three (3) calendar days before the scheduled preliminary conference, their respective preliminary conference briefs, which shall contain, among others:

1. Statement as to the willingness of the parties to enter into an amicable settlement which shall include among other terms, the return and/or access to the child;
2. A summary of admitted facts;

3. A summary of disputed facts and proposals for stipulations on the same;
4. A statement of factual and legal issues; and
5. A list of testimonial, object, and other documentary evidence offered in support of the party's claims or defenses, and their markings, if any.

Failure to submit a preliminary conference brief within the period given shall have the same effect as failure to appear at the preliminary conference.

Section 26. *Settlement During the Preliminary Conference.* On the date set for the preliminary conference, the judge shall initiate an amicable settlement between the parties. If the parties reach an agreement, the Family Court shall require them to execute a compromise agreement on the same day and once approved, the Family Court shall render judgment on the basis thereof. Otherwise, the Family Court shall proceed with the preliminary conference which shall be terminated on the same day.

Section 27. *Preliminary Conference Order.* Upon the termination of the preliminary conference, the Family Court shall issue forthwith a Preliminary Conference Order which shall be immediately served upon the parties and counsels on the same day.

The Family Court may, in the same Preliminary Conference Order, declare the case submitted for judgment if, on the basis of the pleadings and their attachments, as well as the stipulations and admissions made by the parties, judgment may be rendered without need of submission of position papers within fifteen (15) calendar days from issuance of the order.

Section 28. *Submission of Position Papers.* If no settlement is reached or no summary judgment may be rendered in accordance with the foregoing provision, the Family Court shall require the parties to submit their respective position papers within a non-extendible period of five (5) calendar days from termination of the preliminary conference. No additional judicial affidavits or evidence shall be allowed even if filed with the position papers. If the Family Court finds it necessary to clarify certain material facts, it may issue an order specifying the matters to be clarified, and require the parties to submit additional evidence within a non-extendible period of five (5) calendar days from receipt of said order, provided that it shall not toll the period for the rendition of judgment.

Section 29. *Period to Render Judgment.* The Family Court shall render judgment within fifteen (15) calendar days from receipt of the parties' respective position papers or the lapse of such period for submission, whichever is earlier, but in no case shall the entire proceedings exceed ninety

(90) calendar days from the filing of the petition. The parties, however, are not precluded from seeking clarification from the court regarding the reason for the delay, when judgment has not been rendered after six (6) weeks from the filing of the petition.

Section 30. Judgment. If the Family Court finds merit in the petition, it shall render judgment ordering the return of the child to his or her country of habitual residence. In the same judgment, 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 expenses made for locating and returning the child.

Section 31. Grounds for Denial of Petition for Return. – The Family Court shall deny the petition if it is established that:

- a. The person, institution, or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention;
- b. The person, institution, or other body having the care of the person of the child had consented to or subsequently acquiesced in the removal or retention;
- c. There is a grave risk that the return will expose the child to physical or psychological harm or otherwise place the child in an intolerable situation;
- d. The child objects to being returned and has attained an age and degree of maturity at which it is appropriate to consider the child's views.

In paragraphs a to d above, the Family Court shall take into account any information on the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence;

- e. The child is already sixteen (16) years of age;
- f. The petition is lodged after one (1) year from the date of wrongful removal or retention and the child is now settled in his or her new environment;
- g. The child has been taken to another State; and

- h. The return would not be permitted by the fundamental principles of the Philippines relating to the protection of human rights and fundamental freedoms;

In determining the return of the child, the Family Court shall give paramount consideration to the best interests of the child.

Section 32. *No Judgment on the Merits of Rights of Custody.* The Family Court where the petition for the return of the child is filed shall not decide on the merits of rights of custody.

A decision concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

Section 33. *Other Cases Involving the Child.* – If a separate case relating to the custody of the same child is pending before any court, the proceedings therein shall be suspended until after the petition for the return of the child has been determined with finality.

If a decision in a separate case relating to custody of the same child involving the same parties has been rendered by a Philippine court or foreign court, this decision shall not be a ground for refusing to return the child. The Family Court, however, may take into account the reason for that decision.

Section 34. *Finality of Judgment.* The judgment is final and immediately executory. However, an aggrieved party may file a special civil action for certiorari under Rule 65 of the Rules of Court.

III. PROVISIONAL REMEDIES

Section 35. *Order for Temporary Right of Access and Supervised Visitation or Contact Arrangement with the Child.*¹ The Family Court may, upon motion or on its own initiative, provide temporary access rights to the petitioner or grant supervised visitation of or contact with the child with the assistance of the court social welfare officer, unless the Family Court finds the petitioner unfit or disqualified or that it may be prejudicial to the interest of the child.

There shall be no change or transfer of residence of the child without the prior permission from the Family Court.

Section 36. *Hold Departure Order.* The Family Court, upon application under oath, may issue *ex parte* a hold departure order, addressed to the Bureau of Immigration, directing it not to allow the departure of the child from the Philippines without the permission of the Family Court. The Family Court issuing the hold departure order shall furnish a copy thereof

¹ New Zealand Care of Children Act 2004 on Parenting Order (Sec. 48).

through electronic means to the Department of Foreign Affairs, Bureau of Immigration, and the Philippine Central Authority within twenty-four (24) hours from its issuance.

The hold departure order shall contain the following information:²

- a. The complete name (including the middle name), date of birth, and the last known whereabouts of the child against whom the hold departure order is issued;
- b. The complete title and docket number of the petition in which the hold departure order was issued;
- c. The specific nature of the petition;
- d. The date of the hold departure order; and
- e. A recent photograph, if available, of the child.

The Family Court may recall the hold departure order only upon verified motion of any of the parties and after summary hearing, subject to such terms and conditions as may be necessary for the best interests of the child.

Section 37. Protection Order. During the pendency of the petition, the Family Court may, upon motion or on its own initiative, issue a Protection Order when there are indications of danger, risk of violence, abuse, neglect, or other intolerable situations involving the child, ordering any person or party to:

- a. Stay away from the child, or his or her home, school or any other specific place designated by the Family Court;
- b. Refrain from acts or omissions that create an unreasonable risk to the health, safety, or welfare of the child;
- c. Refrain from the harassment, annoyance, contact, or otherwise communicate in any form with the child, either directly or indirectly;
- d. Avoid changing or transferring the residence of the child without prior permission from the Family Court;
- e. Comply with such other measures ordered by the Family Court as may be necessary to protect the well-being of the child involved or to prevent the child's removal or concealment before the final disposition of the petition.

² A.M. No. 03-04-04-SC.

The protection order shall be enforceable anywhere in the Philippines.

Section 38. *Appointment of a Guardian Ad Litem.* – If warranted for the best interests of the child, the Family Court may, upon motion or on its own initiative, appoint a guardian *ad litem* for the child pending determination of wrongful removal or retention of said child.

Section 39. *Care of Child.* — During the pendency of the case, the Family Court may, upon motion or on its own initiative, issue provisional orders for the child's protection, care, support and other physical, emotional and psychological needs such as, but not limited to, counselling and therapy. For this purpose, the Family Court shall order the appropriate government agencies, in accordance with law to provide services for the protection and care of the child whenever the said service is necessary but not otherwise available, or there exists reasonable ground/s to believe that the said Family Court's order will be breached, or the child may be injured, or there may be other acts likely to impede the implementation of the above-mentioned provisional orders, until the return proceedings is terminated or upon further orders of the Family Court.

Section 40. *Support Pendente Lite.* Pending the determination of wrongful removal or retention, and subject to the provisions of Rule 61 of the Rules of Court, the Family Court may, upon motion, order the capable party or both parties to provide provisional support to the child.

Section 41. *Presentation and Examination of the Child.* The Family Court may, upon motion or on its own initiative, order the presentation and examination of the child in court, whenever the same is necessary to immediately determine the well-being of the child and/or to arrive at a complete resolution of the petition.

Failure to comply with the order of the court for the presentation of the child shall constitute contempt of court.

In conducting the examination of the child, the provisions of the Rule on Examination of a Child Witness (A.M. No. 004-07-SC) shall apply in a suppletory manner.

IV. FINAL PROVISIONS

Section 42. *Confidentiality of Proceedings.* The entire proceedings on the return of a child/children from the filing of petition until its termination shall be closed to the public. The records of the case shall not be released to non-parties, without the prior approval of the Family Court. (A.M. No. 03-04-04-SC)

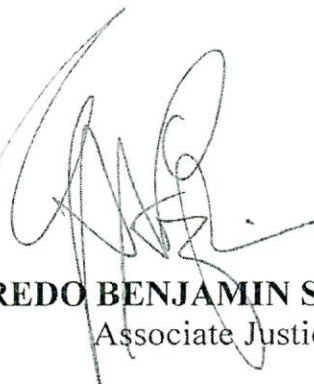
Section 43. *Effectivity.* – This Rule shall take effect fifteen (15) days following its publication in two (2) newspapers of general circulation.

NOW, THEREFORE, acting on the Letter dated September 25, 2022 of Associate Justice Amy C. Lazaro-Javier, Chairperson, Committee on Family Courts and Juvenile Concerns, the Court **RESOLVES** to **APPROVE** the “**RULE ON INTERNATIONAL CHILD ABDUCTION CASES.**”

October 18, 2022, Manila, Philippines.



ALEXANDER G. GESMUNDO
Chief Justice


MARVIC M.V.F. LEONEN
Senior Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


on official leave
RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


on official business
SAMUEL H. GAERLAN
Associate Justice



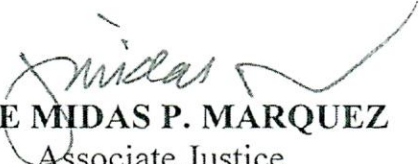
RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

on official business
MARIA FILOMENA D. SINGH
Associate Justice