

1 IN THE HOUSE

BY THE HEALTH, WELFARE AND  
EDUCATION COMMITTEE

2 CS FOR HOUSE BILL NO. 254

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adoptions."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 Section 1. Sec. 21-3-11, ACLA 1949 is repealed and re-  
9 enacted to read as follows:

10 Sec. 21-3-11. WHO MAY ADOPT AND JURISDICTION. a. Any  
11 person not married, any husband and wife jointly, either  
12 spouse when the object of adoption is the child of the other  
13 spouse, or either husband or wife who are not living to-  
14 gether as such, may petition the superior court for the  
15 adoption of any person.

16 b. An adoption proceeding is commenced by filing a  
17 verified petition in the superior court in the judicial dis-  
18 trict in which either the petitioner or the person to be  
19 adopted resides. If brought in the judicial district of the  
20 residence of the petitioner the person to be adopted must be  
21 lawfully brought within the judicial district prior to the  
22 entry of the final decree.

23 Sec. 2. Sec. 21-3-12, ACLA 1949 as amended by Ch. 13, SLA  
24 1951, is repealed and re-enacted to read as follows:

25 Sec. 21-3-12. CONSENT REQUIRED. a. For the purposes  
26 of this Act, "minor" means any person under 19 years of age,  
27 "Department" means the Department of Health and Welfare, and  
28 "Bureau" means the Bureau of Vital Statistics.

29 b. Written consents as required by this section may

1 be filed with the petition or at any time after the petition  
2 has been filed but before the hearing as prescribed in Sec.  
3 21-3-15. Before a hearing may be had on a petition for the  
4 adoption of any person, written consents must be executed and  
5 filed by:

6 (1) The person to be adopted, if the person is 14  
7 years of age or older, but the filing of the consent does not  
8 obviate the necessity of filing other consents as required in  
9 the adoption of a minor.

10 (2) Each of the living parents, if the person to  
11 be adopted is a minor of legitimate birth or one whose birth  
12 has been subsequently legitimized, except as provided in  
13 Sec. 21-3-13.

14 (3) The mother only, if living, if the person to  
15 be adopted is a minor of illegitimate birth and not subse-  
16 quently legitimized, except as provided in Sec. 21-3-13.  
17 In adoptions of this category the consent of the natural  
18 father need not be obtained or notice given him.

19 (4) The legal guardian of the minor, if the  
20 authority to consent to an adoption has been legally acquired  
21 by the guardian.

22 (5) the executive head of the Department or his  
23 designee in cases where the minor has been committed to the  
24 Department and authority to consent has been granted the  
25 Department.

26 c. Parental rights shall be terminated at the time the  
27 minor to be adopted is placed for adoption with the Depart-  
28 ment and at that time all rights to the minor are relin-  
29 quished by the parent, parents, or legal guardian.

1           d. Every consent shall be verified as to the truth  
2 thereof and acknowledged before a notary public, or other  
3 person authorized to administer oaths, to the effect that the  
4 consent was executed voluntarily by the signer thereof.

5           Sec. 3. Sec. 21-3-13, ACLA 1949 is repealed and re-enacted  
6 to read as follows:

7           Sec. 21-3-13. CONSENT NOT REQUIRED. No consent for  
8 adoption of a minor is required as follows:

9           (1) From a parent who has been judicially deter-  
10 mined to be of unsound mind and whose parental rights have  
11 been terminated for reasons of mental illness in any judicial  
12 proceeding.

13           (2) From a parent who is imprisoned in the peni-  
14 tentiary, under sentence for a term of not less than three  
15 years, and whose parental rights have been terminated in any  
16 judicial proceeding.

17           (3) From a parent whose abandonment of a minor  
18 has been previously established and whose parental rights  
19 have been terminated in any judicial proceeding.

20           (4) From a parent judicially determined to be an  
21 unfit person to have the care and custody of the minor and  
22 whose parental rights have been terminated in any judicial  
23 proceeding.

24           Sec. 4. Sec. 21-3-14, ACLA 1949 is repealed and re-enacted  
25 to read as follows:

26           Sec. 21-3-14. PETITION. a. An adoption petition shall  
27 contain (1) allegations as to all material facts indicating  
28 that the petitioners are fit and proper persons, (2) the new  
29 name, if any, to be given the person to be adopted, and (3)

1 a statement as to whether the person or persons named as  
2 exercising actual care and custody of the minor have agreed  
3 to the adoption and are willing to relinquish custody.

4 b. The petition shall be signed and verified under oath  
5 by the proposed adopter or adopters. If the petition be by  
6 one spouse to adopt a child of the other spouse, then it must  
7 be approved under oath by such other spouse.

8 c. A consent filed concurrently with the petition shall  
9 be deemed to be an admission of all the material allegations  
10 of the petition and a waiver of service of process and notice  
11 of hearing as well as a consent to the exercise of jurisdic-  
12 tion. Consents filed after filing of petition must embody  
13 an acceptance of service of petition and notice of hearing  
14 and waiver of further notice.

15 Sec. 5. Sec. 21-3-15, ACLA 1949 is repealed and re-enacted  
16 to read as follows:

17 Sec. 21-3-15. HEARING, NOTICE AND INVESTIGATION. a.  
18 Upon the filing of a petition and consents as required by this  
19 Act, the court shall by order fix the place and time of hear-  
20 ing, which shall be not less than 30 days after the entry  
21 thereof. Notice of the time and place of the hearing and a  
22 copy of the petition shall be served on the custodian of the  
23 minor not later than 20 days before the date set for the hear-  
24 ing unless a consent to adoption by the custodian is filed  
25 prior to the mailing of the notice. Notice of the hearing  
26 shall also be mailed to the Department not later than 30 days  
27 before the date set for hearing. All notices of the hearing  
28 required by this Act shall be accompanied by a true copy of  
29 the petition when service is made. Prior to hearing, a return

1 by affidavit as to personal service or mailing of notice shall  
2 be filed in the action showing compliance herewith.

3 b. Any time after the filing of a petition for adoption  
4 the court may order an investigation to be made by the Depart-  
5 ment or by a representative designated by the court, and may  
6 order that a report of the investigation be filed with the  
7 court within the time fixed by the court. The investigation  
8 may include any information regarding the circumstances and  
9 conditions which may have a bearing on the adoption as  
10 directed by the court order.

11 Sec. 6. Sec. 21-3-16, ACLA 1949 is amended to read as  
12 follows:

13 Sec. 21-3-16. FILING OBJECTIONS AND CONTINUANCE OF  
14 HEARING. Any interested person may file objection to the  
15 granting of any adoption, but such objection shall not be  
16 considered by the Court unless the person filing the same  
17 shall appear and testify in support of the objection when any  
18 parent, person having custody of the minor [CHILD], or person  
19 seeking adoption of a minor [CHILD] shall require the presence  
20 at such hearing of the person making the objection, and in  
21 such event such person making such objection may be subjected  
22 to cross-examination. Any interested person for good cause  
23 shown may apply for a continuance of said hearing, and the  
24 Court may defer, delay or continue any hearing in the fur-  
25 therance of justice upon good cause being shown for such  
26 delay or continuance.

27 Sec. 7. Sec. 21-3-17, ACLA 1949 is amended to read as  
28 follows:

29 Sec. 21-3-17. HEARING. A hearing in chambers shall be

1 had upon the petition at the time and place duly specified,  
2 and be conducted as in a proceeding of an equitable nature.  
3 Such proceeding shall be without a jury and the rules of  
4 evidence may be relaxed. The general public shall be exclu-  
5 ded, but for good and sufficient reasons compatible with the  
6 best interest of the minor [CHILD], the Court may permit any  
7 person or persons to be present.

8 Sec. 8. Sec. 21-3-18, ACLA 1949 is amended to read as  
9 follows:

10 Sec. 21-3-18. DECREE AND ORDER. a. Upon the conclusion  
11 of such hearing, the Court shall enter its decree either grant-  
12 ing or denying the petition, as follows: If the Court is  
13 satisfied with the identity and relations of the persons, and  
14 that the petitioner is of sufficient ability and in all re-  
15 spects a fit and proper person to bring up the minor [CHILD],  
16 and all other requirements of this Act have been met, the  
17 petition shall be granted; otherwise the petition shall be  
18 denied and the Court shall determine the matter of custody of  
19 the minor. The decree will be final unless reversed on appeal  
20 to the supreme court [DISTRICT COURT].

21 b. Appeal may be taken in the manner provided for  
22 appeals from the superior court in other civil matters [HAD AS  
23 IN OTHER PROBATE CASES], and the Department [OF PUBLIC WEL-  
24 FARE] may exercise said right of appeal in any case where the  
25 minor [CHILD] has been previously committed to its custody  
26 [AND STATED IN SECTION 2(E) HEREOF]. If the decree grants  
27 adoption, and, in the event of appeal the decree [,] is sus-  
28 tained [BY THE DISTRICT COURT], it shall be final. A final  
29 decree shall, however, be subject to the provisions of

1 Section 21-3-19 [9 HEREOF] before becoming absolute. This  
2 decree so entered shall become effective as of the date the  
3 petition for adoption was filed, and shall contain an order  
4 granting custody of the minor [CHILD] to the adoptive parent  
5 or parents, and, if same has been requested, the issuance  
6 and filing of a substitute birth certificate as hereinafter  
7 provided.

8 Sec. 9. Sec. 21-3-19, ACLA 1949 is amended to read as  
9 follows:

10 Sec. 21-3-19. WHEN FINAL DECREE ABSOLUTE [, WHEN].  
11 Within six months after the entry of the final decree any  
12 parent who has not received actual notice of the adoption  
13 proceeding in time to appear or object thereto may move to  
14 vacate the decree, and for an award of the custody of the  
15 adopted minor [CHILD] to him; providing, that such motion  
16 shall not be entertained unless accompanied by an affidavit  
17 disclosing good grounds for objection to the adoption. If it  
18 appears to the satisfaction of the Court that there are good  
19 grounds and sufficient reasons for setting aside the adoption  
20 and if the allegations of the affidavit are true, the Court  
21 may order a hearing upon said motion, fix a time and place  
22 therefor, specify the parties to be notified which shall in-  
23 clude all interested parties present at the original proceed-  
24 ing with ample time for their appearance, and upon such hear-  
25 ing the Court may deny the motion or grant the same by setting  
26 aside the adoption and make a re-determination of who shall  
27 have the custody of said minor [CHILD]. No such motion shall  
28 be granted unless the person filing the same is a fit and  
29 proper person and otherwise entitled to the exclusive custody

1 of such minor [CHILD] as shown by the evidence at such hear-  
2 ing. Appeal may be taken as from a final decree.

3 Sec. 10. Sec. 21-3-20, ACLA 1949 as repealed and re-enacted  
4 by Ch. 66, SLA 1951, is amended to read as follows:

5 Sec. 21-3-20. SUBSTITUTE BIRTH CERTIFICATE. a. [(A)]

6 As soon as the final decree of adoption and change of name  
7 has been entered in any Court of competent jurisdiction, the  
8 adoptive [FOSTER] parents may request the Bureau [OF VITAL  
9 STATISTICS] to prepare a substitute certificate of birth for  
10 the child so adopted, if born in Alaska. [( ) If born in  
11 another state, this request should be sent to that state [,]  
12 where the birth certificate is on file. ( )] If adopted in  
13 Alaska, the official Record of Adoption sent by the Court  
14 [U. S. COMMISSIONER] to the Bureau [OF VITAL STATISTICS] is  
15 sufficient evidence that the adoption is final. If adopted  
16 outside Alaska, the adoptive [FOSTER] parents must request  
17 the Court which granted the adoption to send a certified copy  
18 of the decree to the Bureau.

19 b. Upon receipt of the request and necessary statis-  
20 tical particulars of the adoptive [FOSTER] parents, the  
21 Bureau shall prepare a substitute birth certificate for the  
22 person [CHILD] so adopted. The substitute certificate shall  
23 contain the name of the person adopted [CHILD] as determined  
24 in the decree, the names of the adoptive [FOSTER] parents,  
25 and the statistical particulars concerning the adoptive  
26 [FOSTER] parents as of the time of this birth. The date and  
27 place of birth, the attendant's name, and the recording dates  
28 shall remain the same as on the original. Nothing shall be  
29 entered on the substitute certificate concerning the natural

1 parents of the person adopted [CHILD], nor concerning the  
2 legitimacy of the birth, nor shall anything appear on the  
3 certificate stating that it is a substitute birth certificate  
4 The intent of this section is to enable the preparation of a  
5 birth certificate for the adopted person [CHILD] as nearly as  
6 possible like that of other persons [CHILDREN].

7 c. [(B)] The Bureau [OF VITAL STATISTICS] immediately  
8 upon completion of such substitute certificate shall seal the  
9 original record of birth, together with all records pertain-  
10 ing to the adoption, and thereafter the original record so  
11 sealed may be opened only upon demand of the person [CHILD]  
12 so adopted upon his having attained his majority, if he is a  
13 minor, or upon order of any Court of competent jurisdiction.  
14 The substitute certificate shall be filed in place of the  
15 original so removed, and a copy of the substitute certificate  
16 sent to the magistrate or other authorized local official  
17 [U. S. COMMISSIONER] having on file the copy of this same  
18 original certificate. Such magistrate or other authorized  
19 local official [U. S. COMMISSIONER] shall forthwith enter the  
20 copy of the substitute certificate in his files in place of  
21 the copy of the original on file. Upon such filing of the  
22 substitute birth certificate, the magistrate or other authori-  
23 zed local official [COMMISSIONER] shall seal the copy of the  
24 original birth certificate, and it may thereafter be opened  
25 only upon the same conditions as hereinabove prescribed for  
26 the Bureau [OF VITAL STATISTICS].

27 d. [(C)] Upon request for issuance of a certified copy  
28 of a birth certificate after the substitute certificate has  
29 been filed, the magistrate or other authorized local official

1 [U. S. COMMISSIONER] or the Bureau [OF VITAL STATISTICS], as  
2 the case may be, shall as a matter of course issue a certi-  
3 fied copy of the substitute birth certificate and such certi-  
4 fied copy shall be accepted in all Courts and places as prima  
5 facie evidence of the date and place of birth of the person  
6 therein named.

7 e. [(D)] In all cases where a final decree of adoption  
8 is set aside, as provided elsewhere in this Act, the Court  
9 taking such action shall immediately notify the Bureau [OF  
10 VITAL STATISTICS] concerning such action. The Bureau shall,  
11 in such cases, remove the substitute certificate and replace  
12 it with the original certificate which had been sealed away.  
13 The Bureau shall notify the proper magistrate or other  
14 authorized local official [U. S. COMMISSIONER] to do likewise  
15 Sec. 11. Sec. 21-3-21, ACLA 1949 is amended to read as

16 follows:

17 Sec. 21-3-21. EFFECT OF ADOPTION [ADOPTION TERMINATES  
18 RELATIONSHIP OF PARENT AND CHILD]. a. By a decree of adop-  
19 tion, the natural parents, other than a spouse of an adopter,  
20 shall be divested of all legal rights and obligations in  
21 respect to such person adopted [CHILD], and the person adopted  
22 [CHILD] shall be divested of rights of inheritance from the  
23 natural parents and shall be free from all legal obligations  
24 of obedience and maintenance in respect to them, and shall be,  
25 to all intents and purposes, and as to all legal incidents,  
26 the child, legal heir, and lawful issue of his or her adopter  
27 or adopters. The person adopted shall be [, ] entitled to all  
28 rights and privileges, including the right of inheritance,  
29 which includes but is not limited to those rights provided in

1        Sections 59-4-1 and 59-4-3, ACLA 1949, and the right to take  
2        testamentary disposition, and shall be subject to all the  
3        obligations of a child of the adopter or adopters as though  
4        begotten by them in lawful wedlock.

5        b. An adopter or adopters and the spouse of an adopted  
6        person [CHILD], and their respective kin, shall have the  
7        rights of inheritance from such adopted person [CHILD] as pre-  
8        scribed by the statutes of descent and distribution for  
9        natural parents, spouse and their respective kin to the ex-  
10       clusion of the adopted person's [CHILD'S] natural parents and  
11       kin, and any prior adopter or adopters and their kin; pro-  
12       vided, that in cases where a natural parent is the spouse of  
13       an adopter, such natural and adoptive [ADOPTED] parent and  
14       kin shall inherit the same as natural parents and their kin.

15       Sec. 12. Sec. 21-3-22, ACLA 1949 is amended to read as  
16 follows:

17        Sec 21-3-22. RECORDS TO BE SEALED. All records of any  
18        proceedings hereunder shall, after final termination, be  
19        sealed and shall not thereafter be open to inspection by any  
20        person except upon order of the Court, for good cause shown  
21        and thereafter shall be again sealed as before.

22        [ORIGINAL BIRTH RECORDS NOW ON FILE IN THE OFFICE OF THE  
23        REGISTRAR OF VITAL STATISTICS OF ANY CHILD ADOPTED SINCE 1913,  
24        SHALL BE SEALED AND SUBSTITUTE BIRTH CERTIFICATE ISSUED BY  
25        SAID REGISTRAR IN THE MANNER AND FORM PRESCRIBED IN SECTION  
26        10 HEREIN, AND TRANSMITTED TO THE ADOPTERS.]

27        Sec. 13. Sec. 21-3-24, ACLA 1949 is repealed and re-enacted  
28 to read as follows:

29        Sec. 21-3-24. RETROSPECTIVE EFFECT. In all adoption

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proceedings, whether held before or after the effective date of this Act, the magistrate or other authorized local official shall, upon the request of the adoptive parent or parents or person adopted, send a certified copy of the adoption decree to the Bureau. The Bureau shall issue a substitute birth certificate in the manner provided by this Act.

Sec. 14. The rule that statutes in derogation of common law are to be strictly construed does not apply to the adoption laws of this state and this Act shall be liberally construed to accomplish the purposes herein stated.

Sec. 15. Any proceeding in which an adoption petition has been filed prior to the effective date of this Act is not affected by the provisions of this Act.

Sec. 16. No person or persons may offer, give or receive any money or other consideration or thing of value in connection with the placing of any minor for adoption, or in connection with a consent to adoption, or with a petition for adoption except such charges and fees as may be approved by the court. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine not exceeding \$200.00.