

1 IN THE SENATE

BY MESSRS. GILBERT AND BRADSHAW

2 SENATE BILL NO.35

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to provide a code for the adoption
7 of persons, prescribing the conditions and
8 procedure therefor, and the effect of
9 adoption and its annulment; to make uniform
10 the law in relation to adoption and to
11 repeal Article 2 of Chapter 3, Title 21,
12 ACLA 1949, as amended."

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

14 Section 1. Definitions. As used in this Act, unless the
15 context otherwise requires, "child" means any minor person, and
16 "agency" means any person, authority or agency legally empowered
17 to place children for adoption. Singular words may extend and be
18 applied to several persons or things, as well as to one person or
19 thing. Plural words may extend and be applied to one person or
20 thing as well as to several persons or things.

21 Sec. 2. Eligibility for adoption. Any child present within
22 this State at the time the petition for adoption is filed, irres-
23 pective of place of birth or place of residence, may be adopted.

24 Sec. 3. Eligibility to adopt. The following persons are
25 eligible to adopt a child:

26 (1) A husband and wife jointly, or either the husband
27 or wife if the other spouse is a parent of the child.

28 (2) An unmarried person who is at least twenty-one (21)
29 years old.

1 (3) A married person at least twenty-one years old who
2 is legally separated from the other spouse.

3 (4) In the case of an illegitimate child, its unmarried
4 father or mother.

5 Sec. 4. . . . Court. Proceedings for adoption must be brought
6 in the probate court, or any specially created court having juris-
7 diction where the petitioners reside.

8 Sec. 5. Consent to adoption. An adoption of a child may be
9 decreed when there has been filed written consent to adoption ex-
10 ecuted by:

11 (1) Both parents, if living, or the surviving parent,
12 of a legitimate child; provided, that consent shall not be re-
13 quired from one whose parental rights have been judicially
14 terminated by a court of competent jurisdiction; or

15 (2) The mother alone, if the child is illegitimate; or

16 (3) The legal guardian of the person of the child if
17 both parents are dead, or if the rights of the parents have been
18 terminated by judicial proceedings and such guardian has authority
19 by order of the court appointing him to consent to the adoption;
20 or

21 (4) The executive head of an agency if both parents are
22 dead, or if the child has been relinquished for adoption to such
23 agency, or if the rights of the parents have been judicially
24 terminated and custody of the child has been legally vested in
25 such agency with authority to consent to adoption of the child;
26 or

27 (5) Any person having legal custody of a child by
28 court order if the parental rights of the parents have been
29 judicially terminated, but in such case the court having juris-

1 diction of the custody of the child must consent to adoption, and
2 a certified copy of its order shall be attached to the petition.

3 The consent required by subparagraphs (1), (2), (3), and (4)
4 hereof shall be acknowledged before the judge of the probate court.
5 Provided, that when the person whose consent is necessary does not
6 reside in the area having jurisdiction of the adoption proceedings,
7 such person may execute such consent before the probate judge of
8 this State or probate judge or judge having original probate juris-
9 diction of any other state of the county of his residence.

10 (6) In the event the person having the legal custody
11 or the parents of a child desired to be adopted in this State re-
12 side in a country or place other than the United States of America,
13 the consent of such person to the adoption may be obtained by a
14 written instrument signed by such person and acknowledged before
15 an officer of the legal subdivision of government of the place of
16 his, her or their residence who is authorized to administer oaths
17 under the laws of such country or place. Where consent is so
18 obtained, it shall not be necessary for such person to appear be-
19 fore the county court having jurisdiction of the adoption proceed-
20 ings. If the written instrument containing such consent is written
21 in any language other than the English language, the person adopt-
22 ing the child must have it translated into the English language by
23 a person qualified so to do, and must file the original instrument
24 together with the translation with the court, and the translation
25 must be sworn to as being a true and correct translation by the
26 translator.

27 Sec.6. Consent of parents. A legitimate child cannot be
28 adopted without the consent of its parents, if living, nor an
29 illegitimate child without the consent of its mother, if living,

1 except that consent is not necessary from a father or mother de-
2 prived of civil rights or adjudged guilty of cruelty, and for
3 either cause divorced, or adjudged to be an habitual drunkard, or
4 who has been judicially deprived of the custody of the child by
5 any court of competent jurisdiction on account of cruelty or
6 neglect.

7 Sec. 7. Adoption without consent of parents. Where a
8 parent has been adjudged guilty of cruelty or extreme cruelty or
9 gross neglect of duty and divorced or judicially deprived of the
10 custody of a child on account of such cruelty or extreme cruelty
11 or gross neglect of duty, or where a parent has wilfully failed,
12 refused or neglected to contribute to the support of his child,
13 as provided in the decree of divorce, for a period of one (1)
14 year next preceding the filing of a petition for adoption of
15 such child, it shall not be necessary to procure the consent of
16 such parent to the adoption of said child.

17 Sec. 8. Application for adoption without consent of parent.
18 Before the court hears a petition for adoption without the con-
19 sent of a parent, as provided in Section 7 of this Act, the con-
20 senting parent, legal guardian or person having legal custody of
21 the child to be adopted shall file an application setting out the
22 reason that the consent of the other parent is not necessary,
23 which application must be heard and an order entered thereon in
24 which said child is determined to be eligible for adoption as set
25 out in Section 7 hereof. Said application shall be set for hear-
26 ing on a day certain and notice of such application shall be
27 given the parent whose consent is alleged to be unnecessary.
28 The notice of the application shall contain the name of the child,
29 or children, for whom application for adoption is made and the

1 date said application is set for hearing and the reason that said
2 child is eligible for adoption without the consent of such parent,
3 and shall be served upon such parent as summons in civil cases at
4 least ten (10) days prior to the hearing. Provided, that if such
5 parent resides outside of the county, such notice shall be given
6 by registered mail at least fifteen (15) days prior to the hear-
7 ing. Provided, that if the whereabouts of such parent is not
8 known, and this fact be sworn to by the affidavit of the consent-
9 ing parent, legal guardian or person having legal custody of the
10 child, notice by publication shall be given by publishing notice
11 one (1) time in the newspaper having a general circulation in the
12 county and qualified as a newspaper under the laws relating gen-
13 erally to service of notice by publication, which publication
14 shall be at least fifteen (15) days prior to the date of the hear-
15 ing.

16 Sec. 9. Effect of Act on prior adoptions. This Act shall
17 not invalidate any adoption heretofore granted by any court.

18 Sec. 10. Withdrawal of consent. Withdrawal of any consent
19 filed in connection with a petition for adoption hereunder shall
20 not be permitted, except that the court, after notice and
21 opportunity to be heard is given to the petitioner by the person
22 seeking to withdraw consent and notice to any agency participat-
23 ing in the adoption proceedings, may, if it finds that the best
24 interest of the child will be furthered thereby, issue a written
25 order permitting the withdrawal of such consent. The entry of
26 the interlocutory or final decree of adoption renders any consent
27 irrevocable.

28 Sec. 11. Consent of child. Consent of the child, if twelve
29 (12) years of age or over, shall be required. Such consent shall

1 be given before the court in such form as the court shall direct.

2 Sec. 12. Petition for adoption.

3 (1) A petition for adoption shall be filed in duplicate,
4 verified by the petitioners, and shall specify:

5 (a) The full names, ages and places of residence
6 of the petitioners and, if married, the place and date of
7 the marriage.

8 (b) When the petitioners acquired or intend to
9 acquire custody of the child and from what person or agency.

10 (c) The date and place of birth of the child and
11 sex and race.

12 (d) The name used for the child in the proceed-
13 ing and, if a change in name is desired, the new name.

14 (e) That it is the desire of the petitioners that
15 the relationship of parent and child be established between
16 them and the child.

17 (f) A full description and statement of value of
18 all property owned or possessed by the child, if any.

19 (g) Facts, if any, which excuse consent on the
20 part of the parents, or either of them, to the adoption.

21 (2) Any written consent required by this Act may be
22 attached to the petition, or may be filed, after the filing of
23 the petition, with the consent of the court.

24 Sec. 13. Investigation.

25 (1) Upon the filing of a petition for adoption, the
26 court shall order an investigation to be made (a) by the agency
27 having custody or legal guardianship of the child, or (b) in
28 other cases, by the State Department of Public Welfare, or (c)
29 by a person qualified by training or experience, designated by

1 the court, and shall further order that a report of such investi-
2 gation shall be filed with the court by the designated investi-
3 gator within the time fixed by the court and in no event more
4 than sixty (60) days from the issuance of the order for investi-
5 gation, unless time therefor is extended by the court. Such
6 investigation shall include the conditions and antecedents of the
7 child for the purpose of determining whether he is a proper sub-
8 ject for adoption; appropriate inquiry to determine whether the
9 proposed home is a suitable one for the child; and any other
10 circumstances and conditions which may have a bearing on the
11 adoption and of which the court should have knowledge; and, in
12 this entire matter of investigation, the court is specifically
13 authorized to exercise judicial knowledge.

14 (2) The court may order agencies named in subsection
15 (1) of this section located in one or more counties to make sep-
16 arate investigations on separate parts of the inquiry, as may be
17 appropriate.

18 (3) The report of such investigation shall become a
19 part of the files in the case and shall contain a definite
20 recommendation for or against the proposed adoption and state
21 reasons therefor.

22 Sec. 14. Waiver of interlocutory decree and waiting period.
23 If the child is related by blood to one of the petitioners, or is
24 a stepchild of the petitioner, or the court finds that the best
25 interests of the child will be furthered thereby, the court, after
26 examination of the report required in Section 13, in its dis-
27 cretion, may waive the entry of an interlocutory decree and the
28 waiting period of six (6) months provided in Section 15 and grant
29 a final decree of adoption, if satisfied that the adoption is for

1 the best interests of the child.

2 Sec. 15. Interlocutory decree--Hearing--Final decree. Upon
3 examination of the report required in Section 13 and after hear-
4 ing, the court may issue an interlocutory decree giving the care
5 and custody of the child to the petitioners, pending the further
6 order of the court. Thereafter the investigator shall observe the
7 child in his proposed adoptive home and report in writing to the
8 court on any circumstances or conditions which may have a bearing
9 on the granting of a final adoption decree. After six (6) months
10 from the date of the interlocutory decree the petitioners may
11 apply to the court for a final decree of adoption. The court
12 shall thereupon set a time and place for final hearing. Notice
13 of the time and date of the hearing shall be served on the State
14 Department of Public Welfare, in those cases where said Department
15 has original custody, or the investigator. The investigator
16 shall file with the court a written report of its findings and
17 recommendations and certify that the required examination has been
18 made since the granting of the interlocutory decree. After hear-
19 ing on said application, at which the petitioners and the child
20 shall appear unless the presence of the child is waived by the
21 court, the court may enter a final decree of adoption, if satis-
22 fied that the adoption is for the best interests of the child.

23 Sec.16. Effect of final decree.

24 (1) After the final decree of adoption is entered, the
25 relation of parent and child and all the rights, duties and other
26 legal consequences of the natural relation of child and parent
27 shall thereafter exist between such adopted child and the adop-
28 tive parents adopting such child and the kindred of the adoptive
29 parents. From the date of the final decree of adoption, the

1 child shall be entitled to inherit real and personal property from
2 and through the adoptive parents in accordance with the statutes
3 of descent and distribution, and the adoptive parents shall be
4 entitled to inherit real and personal property from and through
5 the child in accordance with said statutes.

6 (2) After a final decree of adoption is entered, the
7 natural parents of the adopted child, unless they are the adoptive
8 parents or the spouse of an adoptive parent, shall be relieved of
9 all parental responsibilities for said child and have no rights
10 over such adopted child or to his property by descent and dis-
11 tribution.

12 Sec. 17. Confidential character of hearings and records.

13 (1) Unless the court shall otherwise order, all hear-
14 ings held in proceedings under this Act shall be confidential and
15 shall be held in closed court without admittance of any person
16 other than interested parties and their counsel.

17 (2) All papers and records pertaining to the adoption
18 shall be kept as a permanent record of the court and withheld from
19 inspection. No person shall have access to such records except on
20 order of the judge of the court in which the decree of adoption
21 was entered, for good cause shown.

22 (3) All files and records pertaining to said adoption
23 proceedings shall be confidential and withheld from inspection
24 except upon order of the court for good cause shown.

25 Sec. 18. Certificates.

26 (1) For each adoption or annulment of adoption, the
27 clerk of the court shall prepare, within thirty (30) days after
28 the decree becomes final, certificate of such decree on a form
29 furnished by the Bureau of Vital Statistics; and before the 15th

1 day of each calendar month the clerk shall forward to the Bureau
2 of Vital Statistics the certificates prepared by him during the
3 preceding calendar month, if adoptions in said court have been
4 effected.

5 (2) The Bureau of Vital Statistics, upon receipt of a
6 certified copy of an order or decree of adoption, shall prepare
7 a supplementary certificate in the new name of the adopted person,
8 and seal and file the original certificate of birth with said
9 certified copy attached thereto. Such sealed documents may be
10 opened by the Bureau of Vital Statistics only upon the demand of
11 the adopted person, if of legal age, or adoptive parents, by an
12 order of the court. Upon receipt of a certified copy of a court
13 order of annulment of adoption, the state Bureau of Vital Statis-
14 tics shall restore the original certificate to its original place
15 in the files.

16 Sec. 19. Appeals. An appeal may be taken from any final
17 order, judgment or decree rendered hereunder to the Supreme Court
18 by any person aggrieved thereby, in the manner provided for
19 appeals from said court in civil matters.

20 Sec. 20. Foreign decrees. When the relationship of parent
21 and child has been created by a decree of adoption of a court of
22 any other state or nation, the rights and obligations of the
23 parties as to matters within the jurisdiction of this State shall
24 be determined by Section 16 of this Act.

25 Sec. 21. Adoption of adults. An adult person may be adopt-
26 ed by any other adult person, with the consent of the person to
27 be adopted or his guardian, if the court shall approve, and with
28 the consent of the spouse, if any, of an adoptive parent, filed
29 in writing with the court. The provisions of Sections 1 to 15,

1 both inclusive, of this Act shall not apply to the adoption of a
2 competent adult person. A petition therefor shall be filed with
3 the probate court in the area where the adoptive parents reside.
4 After a hearing on the petition and after such investigation as
5 the court deems advisable, if the court finds that it is to the
6 best interests of the people involved, a decree of adoption may
7 be entered which shall have the legal consequences stated in
8 Section 16.

9 Sec. 22. Construction of Act. This Act shall be so inter-
10 preted and construed as to effectuate its general purpose to make
11 uniform the law of these states which enact it; provided that
12 nothing in this Act shall affect the validity of any order or
13 decree of adoption heretofore made.

14 Sec. 23. Citation of Act. This Act may be cited as the
15 Uniform Adoption Act.
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