

1 IN THE SENATE

BY SENATORS GREIMANN  
AND WALSH

2 SENATE BILL NO. 172

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adoptions; repealing  
7 Secs. 21-3-11 to 21-3-24, inclusive, ACLA  
8 1949 as amended; and providing for an ef-  
9 fective date."

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

11 Section 1. DEFINITIONS. As used in this Act, unless the  
12 context otherwise requires, "child" means any minor person, and  
13 "department" means the Department of Health and Welfare. Singular  
14 words may extend and be applied to several persons or things, as  
15 well as to one person or thing. Plural words may extend and be  
16 applied to one person or thing as well as to several persons or  
17 things.

18 Sec. 2. ELIGIBILITY FOR ADOPTION. Any child present within  
19 this state at the time the petition for adoption is filed, ir-  
20 respective of place of birth or place of residence, may be adopted

21 Sec. 3. ELIGIBILITY TO ADOPT. The following persons are  
22 eligible to adopt a child:

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

25 (2) An unmarried person who is at least 21 years old.

26 (3) A married person at least 21 years old who is  
27 legally separated from the other spouse.

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

SB #172

1           Sec. 4. COURT. Proceedings for adoption must be brought in  
2 the superior court.

3           Sec. 5. CONSENT TO ADOPTION. a. An adoption of a child may  
4 be decreed when there has been filed written consent to adoption  
5 executed by:

6           (1) Both parents, if living, or the surviving parent,  
7 of a legitimate child; provided, that consent shall not be re-  
8 quired from one whose parental rights have been judicially ter-  
9 minated by a court of competent jurisdiction; or

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

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

15           (4) The department, if both parents are dead, or the  
16 child has been relinquished for adoption to the department, or if  
17 the rights of the parents have been judicially terminated and  
18 custody of the child has been legally vested in the department  
19 with authority to consent to adoption of the child; or

20           (5) Any person having legal custody of a child by court  
21 order if the parental rights of the parents have been judicially  
22 terminated but in such case the court having jurisdiction of the  
23 custody of the child must consent to adoption, and a certified  
24 copy of its order shall be attached to the petition.

25           b. The consent required by Paragraphs (1), (2), (3), and  
26 (4) hereof shall be acknowledged before the judge of the probate  
27 court. When the person whose consent is necessary does not reside  
28 in the area having jurisdiction of the adoption proceedings, such  
29 person may execute the consent before a judge of the superior court

1 of this state or probate judge or judge having original probate  
2 jurisdiction of any other state or the country of his residence.

3 c. In the event the person having the legal custody or the  
4 parents of a child desired to be adopted in this state reside in a  
5 country or place other than the United States of America, the con-  
6 sent of such person to the adoption may be obtained by a written  
7 instrument signed by such person and acknowledged before an of-  
8 ficer of the legal subdivision of government of the place of his,  
9 her or their residence who is authorized to administer oaths under  
10 the laws of such country or place. Where consent is so obtained,  
11 it shall not be necessary for such person to appear before the  
12 court having jurisdiction of the adoption proceedings. If the  
13 written instrument containing such consent is written in any  
14 language other than the English language, the person adopting the  
15 child must have it translated into the English language by a per-  
16 son qualified to do so, and must file the original instrument to-  
17 gether with the translation with the court, and the translation  
18 must be sworn to as being a true and correct translation by the  
19 translator.

20 Sec. 6. CONSENT OF PARENTS. A legitimate child cannot be  
21 adopted without the consent of its parents, if living, nor an  
22 illegitimate child without the consent of its mother, if living,  
23 except that consent is not necessary from a father or mother  
24 deprived of civil rights or adjudged guilty of cruelty, and for  
25 either cause divorced, or adjudged to be an habitual drunkard, or  
26 who has been judicially deprived of the custody of the child by  
27 any court of competent jurisdiction on account of cruelty or  
28 neglect.

29 Sec. 7. ADOPTION WITHOUT CONSENT OF PARENTS. Where a parent

1 has been adjudged guilty of cruelty or extreme cruelty or gross  
2 neglect of duty and divorced or judicially deprived of the custody  
3 of a child on account of such cruelty or extreme cruelty or gross  
4 neglect of duty, or where a parent has wilfully failed, refused or  
5 neglected to contribute to the support of his child, as provided  
6 in the decree of divorce, for a period of one year next preceding  
7 the filing of a petition for adoption of such child, it shall not  
8 be necessary to procure the consent of such parent to the adoption  
9 of said child.

10 Sec. 8. APPLICATION FOR ADOPTION WITHOUT CONSENT OF PARENT.

11 Before the court hears a petition for adoption without the consent  
12 of a parent, as provided in Sec. 7 of this Act, the consenting  
13 parent, legal guardian or person having legal custody of the child  
14 to be adopted shall file an application setting out the reason  
15 that the consent of the other parent is not necessary, which ap-  
16 plication must be heard and an order entered thereon in which said  
17 child is determined to be eligible for adoption as set out in Sec.  
18 7 hereof. Said application shall be set for hearing on a day  
19 certain and notice of such application shall be given the parent  
20 whose consent is alleged to be unnecessary. The notice of the  
21 application shall contain the name of the child, or children, for  
22 whom application for adoption is made and the date said application  
23 is set for hearing and the reason that said child is eligible for  
24 adoption without the consent of such parent, and shall be served  
25 upon such parent as summons in civil cases at least 10 days prior  
26 to the hearing. If such parent resides outside the state, such  
27 notice shall be given by registered mail at least 15 days prior to  
28 the hearing. If the whereabouts of such parent is not known, and  
29 this fact be sworn to by the affidavit of the consenting parent,

1 legal guardian or person having legal custody of the child, notice  
2 by publication shall be given by publishing notice one time in the  
3 newspaper having a general circulation in the judicial district and  
4 qualified as a newspaper under the laws relating generally to  
5 service of notice by publication, which publication shall be at  
6 least 15 days prior to the date of the hearing.

7 Sec. 9. EFFECT OF ACT ON PRIOR ADOPTIONS. This Act shall not  
8 invalidate any adoption heretofore granted by any court.

9 Sec. 10. WITHDRAWAL OF CONSENT. Withdrawal of any consent  
10 filed in connection with a petition for adoption hereunder shall  
11 not be permitted, except that the court, after notice and oppor-  
12 tunity to be heard is given to the petitioner by the person seek-  
13 ing to withdraw consent and notice to the department if participat-  
14 ing in the adoption proceedings, may, if it finds that the best  
15 interest of the child will be furthered thereby, issue a written  
16 order permitting the withdrawal of such consent. The entry of the  
17 final decree of adoption renders any consent irrevocable.

18 Sec. 11. CONSENT OF CHILD. Consent of the child, if 12  
19 years of age, or over, shall be required. Such consent shall be  
20 given before the court in such form as the court shall direct.

21 Sec. 12. PETITION FOR ADOPTION. a. A petition for adoption  
22 shall be filed in duplicate, verified by the petitioners, and  
23 shall specify:

24 (1) The full names, ages and places of residence of the  
25 petitioners and, if married, the place and date of the marriage.

26 (2) When the petitioners acquired or intend to  
27 acquire custody of the child and from what person or agency.

28 (3) The date and place of birth of the child and sex  
29 and race.

1 (4) The name used for the child in the proceeding and,  
2 if a change in name is desired, the new name.

3 (5) That it is the desire of the petitioners that the  
4 relationship of parent and child be established between them and  
5 the child.

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

8 (7) Facts, if any, which excuse consent on the part of  
9 the parents, or either of them, to the adoption.

10 b. Any written consent required by this Act may be attached  
11 to the petition, or may be filed, after the filing of the petition,  
12 with the consent of the court.

13 Sec. 13. INVESTIGATION. Upon the filing of a petition for  
14 adoption, the court may order an investigation to be made by the  
15 department in the manner prescribed by the court.

16 Sec. 14. FINAL DECREE. Upon examination of any report re-  
17 quired and after hearing, the court may issue a final decree giving  
18 the care and custody of the child to the petitioners if the court  
19 determines that the adoption is in the best interest of the child.

20 Sec. 15. EFFECT OF FINAL DECREE. a. After the final decree  
21 of adoption is entered, the relation of parent and child and all  
22 the rights, duties and other legal consequences of the natural  
23 relation of child and parent shall thereafter exist between such  
24 adopted child and the adoptive parents adopting such child and the  
25 kindred of the adoptive parents. From the date of the final decree  
26 of adoption, the child shall be entitled to inherit real and per-  
27 sonal property from and through the adoptive parents in accordance  
28 with the statutes of descent and distribution, and the adoptive  
29 parents shall be entitled to inherit real and personal property

1 from and through the child in accordance with said statutes.

2 b. After a final decree of adoption is entered, the natural  
3 parents of the adopted child, unless they are the adoptive parents  
4 or the spouse of an adoptive parent, shall be relieved of all  
5 parental responsibilities for said child and have no rights over  
6 such adopted child or to his property by descent and distribution.

7 Sec. 16. CONFIDENTIAL CHARACTER OF HEARINGS AND RECORDS. a.  
8 Unless the court shall otherwise order, all hearings held in pro-  
9 ceedings under this Act shall be confidential and shall be held in  
10 closed court without admittance of any person other than interested  
11 parties and their counsel.

12 b. All papers and records pertaining to the adoption shall  
13 be kept as a permanent record of the court and withheld from in-  
14 spection. No person shall have access to such records except on  
15 order of the judge of the court in which the decree of adoption  
16 was entered, for good cause shown.

17 c. All files and records pertaining to said adoption pro-  
18 ceedings shall be confidential and withheld from inspection except  
19 upon order of the court for good cause shown.

20 Sec. 17. CERTIFICATES. Substitute birth certificates shall  
21 be provided in the manner prescribed by the Vital Statistics Act.

22 Sec. 18. APPEALS. An appeal may be taken from any final  
23 order, judgment or decree rendered hereunder to the supreme court  
24 by any person aggrieved thereby, in the manner provided for appeals  
25 from said court in civil matters.

26 Sec. 19. FOREIGN DECREES. When the relationship of parent  
27 and child has been created by a decree of adoption of a court of  
28 any other state or nation, the rights and obligations of the  
29 parties as to matters within the jurisdiction of this state shall

1 be determined by Sec. 15 of this Act.

2       Sec. 20. ADOPTION OF ADULTS. An adult person may be adopted  
3 by any other adult person, with the consent of the person to be  
4 adopted or his guardian, if the court shall approve, and with the  
5 consent of the spouse, if any, of an adoptive parent, filed in  
6 writing with the court. The provisions of Secs. 1 to 14, in-  
7 clusive, of this Act shall not apply to the adoption of a compe-  
8 tent adult person. A petition therefor shall be filed with the  
9 superior court. After a hearing on the petition and after such  
10 investigation as the court deems advisable, if the court finds  
11 that it is to the best interests of the people involved, a decree  
12 of adoption may be entered which shall have the legal consequences  
13 stated in Sec. 15.

14       Sec. 21. SAVING CLAUSE. Any proceeding in which an  
15 adoption petition has been filed before the effective date of this  
16 Act is not affected by any provision of this Act.

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29