

Introduced: 4/4/77  
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 419

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adoption and voluntary relinquish-  
7 ment of parental rights."

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

9 \* Section 1. AS 20.15.050(a)(4) is amended to read:

10 (4) a parent who has voluntarily relinquished his right to  
11 consent under AS 25.20.035 [SEC. 180 OF THIS CHAPTER];

12 \* Sec. 2. AS 20.15.060 is repealed and re-enacted to read:

13 Sec. 20.15.060. HOW CONSENT IS EXECUTED. (a) A consent which  
14 does not name or otherwise identify the adopting parent is valid if the  
15 consent is executed at any time after the birth of the child in the  
16 presence of the court or in the presence of a person authorized to take  
17 acknowledgements. However, if the consenting person desires, this con-  
18 sent shall specifically name the adopting person, and this consent is  
19 valid only for the purpose of adoption by the named adopting parent.

20 (b) All consents to adoption shall be executed in writing and  
21 shall give adequate notice that

22 (1) the person consenting to adoption has the right to con-  
23 sent to a specific person adopting the child, if the consenting person  
24 so desires;

25 (2) the person consenting to adoption has a right to appear  
26 at the adoption hearing;

27 (3) the hearing will not take place less than 30 days after  
28 the consent has been signed;

29 (4) the person consenting to adoption has the right to with-

1 draw his consent at any time before the adoption hearing or after com-  
2 mencement of the adoption hearing upon a showing of good cause;

3 (5) the consent itself does not alter the consenting person's  
4 existing rights and responsibilities toward the child;

5 (6) the adoption decree terminates the consenting person's  
6 rights and responsibilities toward the child;

7 (7) the person consenting must give his consent voluntarily;  
8 and

9 (8) relinquishment of parental rights under AS 25.20.035 is  
10 available as an alternative to consent to adoption and that the person  
11 obtaining the consent to adoption has the legal duty to explain the  
12 difference between the alternatives.

13 \* Sec. 3. AS 20.15.070(b) is amended to read:

14 (b) A consent to adoption may be withdrawn before the first  
15 evidentiary adoption hearing [ENTRY OF A DECREE OF ADOPTION, WITHIN 10  
16 DAYS,] by delivering written notice to the court. After commencement of  
17 the hearing and before entry of a decree, a consenting person must  
18 petition the court in order to withdraw his consent. The petition shall  
19 be granted only upon a showing of good cause [PERSON OBTAINING THE  
20 CONSENT, OR AFTER THE 10-DAY PERIOD, IF THE COURT FINDS, AFTER NOTICE  
21 AND OPPORTUNITY TO BE HEARD IS AFFORDED TO PETITIONER, THE PERSON  
22 SEEKING THE WITHDRAWAL, AND THE AGENCY PLACING A CHILD FOR ADOPTION,  
23 THAT THE WITHDRAWAL IS IN THE BEST INTEREST OF THE PERSON TO BE ADOPTED  
24 AND THE COURT ORDERS THE WITHDRAWAL].

25 \* Sec. 4. AS 20.15.100(b) is amended to read:

26 (b) Notice to persons specified in sec. 50 of this chapter shall  
27 include a statement of the grounds under which consent to the adoption  
28 is not required. Notice given under this section shall be adequate to  
29 give actual notice of the proceedings, taking into account education and

1 language differences which are known or reasonably ascertainable by the  
2 petitioner or the department. The notice of hearing shall contain all  
3 names by which the minor has been identified and shall state in summary  
4 form the effect of a decree of adoption. Notice shall be given in the  
5 manner appropriate under rules of civil procedure for the service of  
6 process in a civil action under Alaska law [IN THIS STATE] or in any  
7 manner the court by order directs. [NOTICE BY PUBLICATION MAY NOT BE  
8 GIVEN.] Proof of the giving of the notice shall be filed with the court  
9 before the petition is heard, subject to the time limitation in (e) of  
10 this section.

11 \* Sec. 5. AS 20.15.100(j) is amended to read:

12 (j) Appointment of an attorney to represent the minor or an attor-  
13 ney or other person to serve as guardian ad litem [A GUARDIAN AD LITEM  
14 OR ATTORNEY] for a person to be adopted who is a minor shall be made  
15 under the terms of AS 09.65.130.

16 \* Sec. 6. AS 20.15.190 is amended to read:

17 Sec. 20.15.190. ADOPTION ASSISTANCE. A [HANDICAPPED] minor  
18 eligible for adoption [IN THE PERMANENT CUSTODY OF THE DEPARTMENT IN A  
19 FOSTER HOME FOR NOT LESS THAN ONE YEAR] may not be denied the oppor-  
20 tunity for a permanent home if an adoptive placement could be achieved  
21 through financial assistance as authorized by this section. It is the  
22 purpose of adoption assistance

23 (1) to encourage and promote the adoption of children who are  
24 hard to place due to the fact that they have special needs by reason of  
25 physical or mental condition, race, ethnic background, age, membership  
26 in a sibling group, color, language, or other conditions; or

27 (2) to assist financially those persons who otherwise qualify  
28 to adopt children but cannot due to a lack of financial resources [THE  
29 ACHIEVEMENT OF THIS DEPENDS ON CONTINUED SUBSIDY BY THE STATE].

1 \* Sec. 7. AS 20.15.200 is amended to read:

2           Sec. 20.15.200. INVESTIGATION. Persons who [ARE CARING FOR A  
3 HANDICAPPED MINOR ON A FOSTER PARENT BASIS AND WHO] have applied to  
4 adopt the minor and to receive payments for the care and support of the  
5 [HANDICAPPED] minor shall be evaluated as to their suitability as  
6 adoptive parents by means of an adoptive home study. This home study  
7 shall be made by the commissioner's adoption staff or on his behalf by  
8 an authorized agency which provides adoption services.

9 \* Sec. 8. AS 20.15 is amended by adding a new section to read:

10           Sec. 20.15.205. INFORMATION. The department shall disseminate  
11 information throughout the state with special emphasis to rural com-  
12 munities regarding the availability of adoptable children and financial  
13 assistance to adoptive families under this chapter.

14 \* Sec. 9. AS 20.15.210 is amended to read:

15           Sec. 20.15.210. AMOUNT AND DURATION OF SUBSIDY PAYMENTS. Upon  
16 application by the prospective adoptive parents, the amount and duration  
17 of the subsidy shall be determined by the department according to regu-  
18 lations which the department shall adopt according to the Administrative  
19 Procedure Act (AS 44.62) [THE MONTHLY PAYMENT AND THE LENGTH OF TIME FOR  
20 WHICH A SUBSIDY FOR A HANDICAPPED CHILD IS GRANTED ARE LEFT TO THE  
21 DISCRETION OF THE COMMISSIONER] and the subsidy may vary in [FROM A  
22 SMALL MONTHLY SUM TO AN] amount but may not exceed [NOT EXCEEDING] the  
23 existing rate and benefits for foster care until the child reaches the  
24 age of majority, if the need continues to exist. Subsidies shall be  
25 paid from the same public funds and in the same manner as foster care  
26 payments. The grant of subsidies made under this section shall not  
27 affect the eligibility of an adoptive child for aid under AS 47.25.790 -  
28 47.25.970, and the amount of the subsidies made under this section shall  
29 not be used in any computation of resources and needs under AS 47.25.-

1       810.

2       \* Sec. 10. AS 20.15.180 and 20.15.240(7) are repealed.

3       \* Sec. 11. AS 25.20 is amended by adding a new section to read:

4               Sec. 25.20.032. SEVERANCE OF PARENT AND CHILD RELATIONSHIP. The  
5       parent and child relationship may be severed either in an adoption  
6       proceeding under AS 20.15, in a voluntary relinquishment proceeding  
7       under sec. 35 of this chapter, or in a juvenile court proceeding under  
8       AS 47.10.010(a)(2).

9       \* Sec. 12. AS 25.20 is amended by adding a new section to read:

10              Sec. 25.20.035. VOLUNTARY RELINQUISHMENT OF PARENTAL RIGHTS AND  
11       RESPONSIBILITIES. (a) A parent may petition the court or its duly  
12       authorized representative to voluntarily relinquish his parental rights  
13       and responsibilities with reference to his child, including residual  
14       rights and responsibilities.

15                   (1) The petition for relinquishment shall state

16                           (A) the date and place of birth, if known, of the child;

17                           (B) the full name, date of birth, and place and duration  
18       of residence of the petitioner; and

19                           (C) the relationship of the petitioner to the child.

20                   (2) The court shall conduct a hearing on the petition. The  
21       court shall ascertain whether the parent relinquishing his rights and  
22       responsibilities understands the meaning of relinquishment, and, if  
23       necessary, the court shall explain to the parent the meaning and conse-  
24       quences of relinquishment and the right to withdraw the relinquishment  
25       under (5) of this subsection. If the court finds that the parent does  
26       not adequately understand the meaning of relinquishment, then it may  
27       continue the matter and order the parent to be counseled regarding the  
28       relinquishment.

29                   (3) If the court finds that voluntary relinquishment is in

1 the best interests of the petitioner and the child, it shall enter an  
2 order of voluntary relinquishment terminating the parent and child  
3 relationship, and order guardianship of the person and legal custody of  
4 the child to be transferred to the Department of Health and Social  
5 Services, a licensed child placement agency, or a willing and able  
6 relative of the child, whichever is in the best interests of the child.  
7 A copy of the court's order shall be given to the parent, and it shall  
8 also state the relinquishing parent's right to withdraw his relinquish-  
9 ment under (5) of this subsection.

10 (4) For the purpose of a proceeding under this subsection, an  
11 order of relinquishment terminating all rights and responsibilities of a  
12 parent with reference to his child or the relationship of parent and  
13 child issued by a court of competent jurisdiction in this or any other  
14 state dispenses with the consent to adoption proceedings of a parent  
15 whose rights and responsibilities or parent and child relationship are  
16 terminated by the relinquishment order and with any required notice of  
17 an adoption proceeding.

18 (5) The relinquishing parent may petition the court for  
19 vacation of the order of voluntary relinquishment within 10 days of  
20 issuance of the order upon a showing of good cause.

21 (b) As an alternative to a court order of relinquishment under (a)  
22 of this section, a parent may voluntarily relinquish his rights and  
23 responsibilities by signing a written instrument in the presence of a  
24 Department of Health and Social Services representative or a representa-  
25 tive of an agency licensed under AS 47.35.100. A copy of the relinquish-  
26 ment instrument shall be given to the relinquishing parent and it shall  
27 state the meaning of relinquishment of parental rights and responsi-  
28 bilities. Upon signature of the instrument the department or agency  
29 shall take custody of the child and shall be responsible for the care

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and custody of the child. The relinquishment may be withdrawn within 10 days after it is signed or the child is born, whichever is later, and the relinquishment is invalid unless it states that the parent has this right of withdrawal.